

such comments as the Secretary may wish to make on the report.” for “to the Secretary, to the Under Secretary of Defense for Acquisition, and shall be accompanied by such comments as the Secretary of Defense may wish to make on such report.”

Subsec. (d). Pub. L. 100-180 designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99-433, §§ 101(a)(7), 110(d)(10), renumbered section 136a of this title as this section, and struck out “: appointment; powers and duties” at end of section catchline.

Subsec. (a)(2)(B). Pub. L. 99-433, § 110(g)(1), substituted “section 2432(a)(1)” for “section 139a(a)(1)”.

Subsec. (b). Pub. L. 99-500 and Pub. L. 99-591, § 101(c) [§ 903(c)(1)–(3)] and Pub. L. 99-661, § 903(c)(1)–(3), amended subsec. (b) identically, in provisions preceding par. (1) and in par. (2), inserting “and the Under Secretary of Defense for Acquisition” and, in par. (5), inserting “, to the Under Secretary of Defense for Acquisition.”

Subsec. (c). Pub. L. 99-500 and Pub. L. 99-591, § 101(c) [§ 903(c)(4)], and Pub. L. 99-661, § 903(c)(4), amended subsec. (c) identically by directing the insertion of “, to the Under Secretary of Defense for Acquisition,” after “Secretary of Defense” the first place it appears which was executed by making the insertion after “the Secretary” the first place it appears as the probable intent of Congress.

Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591, § 101(c) [§ 903(c)(5)], and Pub. L. 99-661, § 903(c)(5), amended subsec. (d) identically inserting “personally” after “Secretary of Defense”.

Pub. L. 99-348 substituted “Director of Defense Research and Engineering” for “Under Secretary of Defense for Research and Engineering”.

Subsec. (g)(1). Pub. L. 99-500 and Pub. L. 99-591, § 101(c) [§§ 903(c)(6), 910(c)], and Pub. L. 99-661, §§ 903(c)(6), 910(c), amended par. (1) identically, inserting “, the Under Secretary of Defense for Acquisition,” and substituting “10 days after transmission of the budget for the next fiscal year under section 1105 of title 31” for “January 15 immediately following the end of the fiscal year for which the report is prepared”.

Subsec. (i). Pub. L. 99-500 and Pub. L. 99-591, § 101(c) [§ 903(c)(7)], and Pub. L. 99-661, § 903(c)(7), amended section identically adding subsec. (i).

EFFECTIVE DATE

Pub. L. 98-94, title XII, § 1211(c), Sept. 24, 1983, 97 Stat. 686, provided that: “The amendments made by this section [enacting this section and amending section 5315 of Title 5, Government Organization and Employees] shall take effect on November 1, 1983.”

REVIEW AND REVISION OF POLICIES AND PRACTICES ON TEST AND EVALUATION; INCLUSION IN STRATEGIC PLAN; REPORT

Pub. L. 109-364, div. A, title II, § 231(b)–(e), Oct. 17, 2006, 120 Stat. 2132, 2133, provided that:

“(b) REVIEW AND REVISION OF POLICIES AND PRACTICES.—

“(1) REVIEW.—During fiscal year 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Operational Test and Evaluation shall review Department of Defense policies and practices on test and evaluation in order to—

“(A) reaffirm the test and evaluation principles that should guide traditional acquisition programs; and

“(B) determine how best to apply appropriate test and evaluation principles to emerging acquisition approaches.

“(2) REVISED GUIDANCE.—If the Under Secretary determines as a result of the review under paragraph (1) that a revision of the policies and practices referred to in that paragraph is necessary, the Under Secretary and the Director shall jointly issue new or revised guidance for the Department of Defense on test and evaluation to address that determination.

“(c) ISSUES TO BE ADDRESSED.—In carrying out subsection (b), the Under Secretary shall address policies and practices on test and evaluation in order to—

“(1) ensure the performance of test and evaluation activities with regard to—

“(A) items that are acquired pursuant to the authority for rapid acquisition and deployment of items in section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Pub. L. 107-314] (10 U.S.C. 2302 note);

“(B) programs that are conducted pursuant to the authority for spiral development in section 803 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2603; 10 U.S.C. 2430 note), or other authority for the conduct of incremental acquisition programs;

“(C) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

“(D) equipment that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code, but that may require limited operational test and evaluation for the purpose of ensuring the safety and survivability of such equipment and personnel using such equipment; and

“(2) ensure the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for the purpose of section 2366a of title 10, United States Code, and other applicable technology readiness requirements.

“(d) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director, Test Resource Management Center, shall ensure that the strategic plan for Department of Defense test and evaluation resources developed pursuant to section 196 of title 10, United States Code—

“(1) reflects any testing needs of the Department of Defense that are identified as a result of activities under subsection (b); and

“(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

“(e) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act [Oct. 17, 2006], the Under Secretary and the Director of Operational Test and Evaluation shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the review conducted under paragraph (1) of subsection (b), including any new or revised guidance issued pursuant to paragraph (2) of that subsection.”

§ 139a. Director of Cost Assessment and Program Evaluation

(a) APPOINTMENT.—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.

(b) INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.—(1) The Director of Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

(A) Matters assigned to the Director pursuant to this section and section 2334 of this title.

(B) Matters assigned to the Director by the Secretary pursuant to section 113 of this title.

(2) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining

the approval or concurrence of any other official within the Department of Defense.

(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:

- (1) The Deputy Director for Cost Assessment.
- (2) The Deputy Director for Program Evaluation.

(d) RESPONSIBILITIES.—The Director of Cost Assessment and Program Evaluation shall serve as the principal official within the senior management of the Department of Defense for the following:

(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section 2334 of this title.

(2) Analysis and advice on matters relating to the planning and programming phases of the Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense.

(5) Review, analysis, and evaluation of programs for executing approved strategies and policies, ensuring that information on programs is presented accurately and completely, and assessing the effect of spending by the Department of Defense on the United States economy.

(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence and in accordance with applicable policies.

(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources.

(Added Pub. L. 111–23, title I, §101(a)(1), May 22, 2009, 123 Stat. 1705, §139c; renumbered §139a and amended Pub. L. 111–383, div. A, title IX, §901(f), title X, §1075(b)(5), Jan. 7, 2011, 124 Stat. 4322, 4369; Pub. L. 112–239, div. A, title X, §1076(f)(4), Jan. 2, 2013, 126 Stat. 1952.)

PRIOR PROVISIONS

A prior section 139a was renumbered section 138b of this title.

Another prior section 139a was renumbered section 2432 of this title.

AMENDMENTS

2013—Subsec. (d)(4). Pub. L. 112–239, which directed amendment of par. (4) by inserting a period at end, was not executed to reflect the probable intent of Congress and the prior amendment by Pub. L. 111–383, §1075(b)(5). See 2011 Amendment note below.

2011—Pub. L. 111–383, §901(f), renumbered section 139c of this title as this section.

Subsec. (d)(4). Pub. L. 111–383, §1075(b)(5), which directed amendment of section 139c of this title by inserting a period at the end of subsec. (d)(4), was executed to this section, to reflect the probable intent of Congress and the renumbering of section 139c of this title as this section by Pub. L. 111–383, §901(f). See above.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(f) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

TRANSFER OF PERSONNEL AND FUNCTIONS

Pub. L. 111–23, title I, §101(c), May 22, 2009, 123 Stat. 1709, provided that:

“(1) TRANSFER OF FUNCTIONS.—The functions of the Office of Program Analysis and Evaluation of the Department of Defense, including the functions of the Cost Analysis Improvement Group, are hereby transferred to the Office of the Director of Cost Assessment and Program Evaluation.

“(2) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR INDEPENDENT COST ASSESSMENT.—The personnel of the Cost Analysis Improvement Group are hereby transferred to the Deputy Director for Cost Assessment in the Office of the Director of Cost Assessment and Program Evaluation.

“(3) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR PROGRAM ANALYSIS AND EVALUATION.—The personnel (other than the personnel transferred under paragraph (2)) of the Office of Program Analysis and Evaluation are hereby transferred to the Deputy Director for Program Evaluation in the Office of the Director of Cost Assessment and Program Evaluation.”

§ 139b. Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance

(a) DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—

(1) APPOINTMENT.—There is a Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, who shall be appointed by the Secretary of Defense from among individuals with an expertise in test and evaluation.

(2) PRINCIPAL ADVISOR FOR DEVELOPMENTAL TEST AND EVALUATION.—The Deputy Assistant Secretary shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on developmental test and evaluation in the Department of Defense.

(3) SUPERVISION.—The Deputy Assistant Secretary shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary. The Deputy Assistant Secretary may communicate views on matters within the responsibility of the Deputy Assistant Secretary directly to the Under Secretary without obtaining the approval or concurrence of any other official within the Department of Defense.