

quirements and levels of priority, or which no longer have approved military requirements.

(5) The development of career paths in acquisition for military personnel (as required by section 1722a of this title).

(6) The assignment and training of contracting officer representatives when such representatives are required to be members of the armed forces because of the nature of the contract concerned.

(b) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to affect the assignment of functions under section 3014(c)(1)(A), section 5014(c)(1)(A), or section 8014(c)(1)(A) of this title, except as explicitly provided in this section.

(c) **DEFINITIONS.**—In this section:

(1) The term “requirements creep” means the addition of new technical or operational specifications after a requirements document is approved by the appropriate validation authority for the requirements document.

(2) The term “requirements document” means a document produced in the requirements process that is provided for an acquisition program to guide the subsequent development, production, and testing of the program and that—

(A) justifies the need for a materiel approach, or an approach that is a combination of materiel and non-materiel, to satisfy one or more specific capability gaps;

(B) details the information necessary to develop an increment of militarily useful, logistically supportable, and technically mature capability, including key performance parameters; or

(C) identifies production attributes required for a single increment of a program.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289; amended Pub. L. 112-239, div. A, title IX, §951(c), Jan. 2, 2013, 126 Stat. 1891.)

PRIOR PROVISIONS

A prior section 2547 was renumbered section 2557 of this title.

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112-239, §951(c)(1), substituted “of requirements for equipping the armed force concerned” for “of requirements relating to the defense acquisition system”.

Subsec. (a)(3) to (6). Pub. L. 112-239, §951(c)(2), (3), added pars. (3) and (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

§ 2548. Performance assessments of the defense acquisition system

(a) **PERFORMANCE ASSESSMENTS REQUIRED.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Director of Procurement and Acquisition Policy, and the Director of the Office of Performance Assessment and Root Cause Analysis, shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent performance assessments of elements of the defense acquisition system for the purpose of—

(1) determining the extent to which such elements of the defense acquisition system deliver value to the Department of Defense, taking into consideration the performance elements identified in subsection (b);

(2) assisting senior officials of the Department of Defense in identifying and developing lessons learned from best practices and shortcomings in the performance of such elements of the defense acquisition system; and

(3) assisting senior officials of the Department of Defense in developing acquisition workforce excellence under section 1701a of this title.

(b) **AREAS CONSIDERED IN PERFORMANCE ASSESSMENTS.**—(1) Each performance assessment conducted pursuant to subsection (a) shall consider, at a minimum—

(A) the extent to which acquisitions conducted by the element of the defense acquisition system under review meet applicable cost, schedule, and performance objectives; and

(B) the staffing and quality of the acquisition workforce and the effectiveness of the management of the acquisition workforce, including workforce incentives and career paths.

(2) The Secretary of Defense shall ensure that the performance assessments required by this section are appropriately tailored to reflect the diverse nature of the work performed by each element of the defense acquisition system. In addition to the mandatory areas under paragraph (1), a performance assessment may consider, as appropriate, specific areas of acquisition concern, such as—

(A) the selection of contractors, including—

(i) the extent of competition and the use of exceptions to competition requirements;

(ii) compliance with Department of Defense policies regarding the participation of small business concerns and various categories of small business concerns, including the use of contract bundling and the availability of non-bundled contract vehicles;

(iii) the quality of market research;

(iv) the effective consideration of contractor past performance; and

(v) the number of bid protests, the extent to which such bid protests have been successful, and the reasons for such success;

(B) the negotiation of contracts, including—

(i) the appropriate application of section 2306a of this title (relating to truth in negotiations);

(ii) the appropriate use of contract types appropriate to specific procurements;

(iii) the appropriate use of performance requirements;

(iv) the appropriate acquisition of technical data and other rights and assets necessary to support long-term sustainment and follow-on procurement; and

(v) the timely definitization of any un-definitized contract actions; and

(C) the management of contractor performance, including—

(i) the assignment of appropriately qualified contracting officer representatives and other contract management personnel;

- (ii) the extent of contract disputes, the reasons for such disputes, and the extent to which they have been successfully addressed;
- (iii) the appropriate consideration of long-term sustainment and energy efficiency objectives; and
- (iv) the appropriate use of integrated testing.

(c) CONTENTS OF GUIDANCE.—The guidance issued pursuant to subsection (a) shall ensure that each element of the defense acquisition system is subject to a performance assessment under this section not less often than once every four years, and shall address, at a minimum—

- (1) the designation of elements of the defense acquisition system that are subject to performance assessment at an organizational level that ensures such assessments can be performed in an efficient and integrated manner;
- (2) the frequency with which such performance assessments should be conducted;
- (3) goals, standards, tools, and metrics for use in conducting performance assessments;
- (4) the composition of the teams designated to perform performance assessments;
- (5) any phase-in requirements needed to ensure that qualified staff are available to perform performance assessments;
- (6) procedures for tracking the implementation of recommendations made pursuant to performance assessments;
- (7) procedures for developing and disseminating lessons learned from performance assessments; and
- (8) procedures for ensuring that information from performance assessments are retained electronically and are provided in a timely manner to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of the Office of Performance Assessment and Root Cause Analysis as needed to assist them in performing their responsibilities under this section.

(d) PERFORMANCE GOALS UNDER GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The annual performance plan prepared by the Department of Defense pursuant to section 1115 of title 31 shall include appropriate performance goals for elements of the defense acquisition system.

(e) REPORTING REQUIREMENTS.—Beginning with fiscal year 2012—

- (1) the annual report prepared by the Secretary of Defense pursuant to section 1116 of title 31 shall address the Department’s success in achieving performance goals established pursuant to such section for elements of the defense acquisition system; and
- (2) the annual report prepared by the Director of the Office of Performance Assessment and Root Cause Analysis pursuant to section 2438(f) of this title shall include information on the activities undertaken by the Department pursuant to such section, including a summary of significant findings or recommendations arising out of performance assessments.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289; amended Pub. L.

112-239, div. A, title X, §1076(d)(5), (f)(30), Jan. 2, 2013, 126 Stat. 1951, 1953.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (d), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 2548 was renumbered section 2558 of this title.

AMENDMENTS

- 2013—Subsec. (a). Pub. L. 112-239, §1076(f)(30)(A)(i), substituted “The Secretary” for “Not later than 180 days after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Secretary” in introductory provisions.
- Subsec. (a)(3). Pub. L. 112-239, §1076(f)(30)(A)(ii), inserted period at end.
- Subsec. (d). Pub. L. 112-239, §1076(f)(30)(B), inserted “and” after “Government Performance” in heading and substituted “The” for “Beginning with fiscal year 2012, the” in text.
- Subsec. (e)(1). Pub. L. 112-239, §1076(f)(30)(C), struck out “, United States Code,” after “title 31”.
- Subsec. (e)(2). Pub. L. 112-239, §1076(d)(5), substituted “section 2438(f) of this title” for “section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2430 note),”.

CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

Sec. 2551.	Equipment and barracks: national veterans’ organizations.
2552.	Equipment for instruction and practice: American National Red Cross.
2553.	Equipment and services: Presidential inaugural ceremonies.
2554.	Equipment and other services: Boy Scout Jamborees.
2555.	Transportation services: international Girl Scout events.
2556.	Shelter for homeless; incidental services.
2557.	Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance.
2558.	National military associations: assistance at national conventions.
2559.	Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services.
2560.	Aircraft and vehicles: limitation on leasing to non-Federal agencies.
2561.	Humanitarian assistance.
2562.	Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs.
2563.	Articles and services of industrial facilities: sale to persons outside the Department of Defense.
2564.	Provision of support for certain sporting events.
2564a.	Provision of assistance for adaptive sports programs for members of the armed forces.
2565.	Nuclear test monitoring equipment: furnishing to foreign governments.