

Subsec. (l). Pub. L. 110-417, §1407(1), redesignated subsec. (l) as (k).

2006—Subsec. (d)(2). Pub. L. 109-304 substituted “sections 57101-57104 and chapter 573 of title 46” for “sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund”.

Subsec. (f)(1). Pub. L. 109-163 substituted “A vessel built in a foreign ship yard may not be” for “Not more than a total of five vessels built in foreign ship yards may be” and inserted “, unless specifically authorized by law” before period at end.

2003—Subsec. (l)(4), (5). Pub. L. 108-136 redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “The term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2001—Subsec. (d)(1). Pub. L. 107-107 struck out “for fiscal years after fiscal year 1993” after “Department of Defense” in introductory provisions.

2000—Subsec. (k)(1). Pub. L. 106-398, §1 [[div. A], title X, §1011(1)], inserted at end “As consideration for a contract with the head of an agency under this subsection, the company entering into the contract shall agree with the Secretary of Defense to make any vessel covered by the contract available to the Secretary, fully crewed and ready for sea, at any time at any port determined by the Secretary, and for whatever duration the Secretary determines necessary.”

Subsec. (k)(2)(E). Pub. L. 106-398, §1 [[div. A], title X, §1011(2)], added subpar. (E).

Subsec. (k)(6). Pub. L. 106-398, §1 [[div. A], title X, §1011(3)], added par. (6).

1999—Subsec. (k). Pub. L. 106-65, §1015(a)(2), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 106-65, §1014(b), substituted “that is any of the following:” for “that is—” in introductory provisions, substituted “A” for “a” and a period for the semicolon in subpars. (A) and (B), “An” for “an” and a period for the semicolon in subpar. (C), “An” for “an” and a period for “; or” in subpar. (D), and “A” for “a” in subpar. (E), and added subpars. (F) to (I).

Subsec. (l). Pub. L. 106-65, §1015(a)(1), redesignated subsec. (k) as (l).

Subsec. (l)(4)(B). Pub. L. 106-65, §1067(1), substituted “Committee on Armed Services” for “Committee on National Security”.

Subsec. (l)(5). Pub. L. 106-65, §1015(b), added par. (5).

1996—Subsec. (c)(1). Pub. L. 104-106, §1014(a)(1)(A), substituted “only for the following purposes:” for “only for—”.

Subsec. (c)(1)(A). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Construction” for “construction” and “vessels.” for “vessels;”.

Subsec. (c)(1)(B). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Operation” for “operation” and “purposes.” for “purposes;”.

Subsec. (c)(1)(C). Pub. L. 104-106, §1014(a)(1)(B), (D), substituted “Installation” for “installation” and “States.” for “States; and”.

Subsec. (c)(1)(D). Pub. L. 104-106, §1014(a)(1)(B), substituted “Research” for “research”.

Subsec. (c)(1)(E). Pub. L. 104-106, §1014(a)(1)(E), added subpar. (E).

Subsec. (i). Pub. L. 104-106, §1014(a)(2), inserted “(other than subsection (c)(1)(E))” after “Nothing in this section”.

Subsec. (j). Pub. L. 104-106, §1502(a)(15)(A), substituted “the congressional defense committees” for “the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives”.

Subsec. (k)(4). Pub. L. 104-106, §1502(a)(15)(B), added par. (4).

1992—Subsec. (c)(2). Pub. L. 102-396 substituted “in amounts authorized by law” for “for programs, projects, and activities and only in amounts authorized

in, or otherwise permitted under, an Act other than an appropriations Act”. See Codification note above.

### § 2218a. National Sea-Based Deterrence Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Sea-Based Deterrence Fund”.

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the Fund shall be available for obligation and expenditure only for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(2) Funds in the Fund may not be used for a purpose or program unless the purpose or program is authorized by law.

(d) DEPOSITS.—There shall be deposited in the Fund all funds appropriated to the Department of Defense for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(e) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the Fund pursuant to subsection (d) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

(f) AUTHORITY TO ENTER INTO ECONOMIC ORDER QUANTITY CONTRACTS.—(1) The Secretary of the Navy may use funds deposited in the Fund to enter into contracts known as “economic order quantity contracts” with private shipyards and other commercial or government entities to achieve economic efficiencies based on production economies for major components or subsystems. The authority under this subsection extends to the procurement of parts, components, and systems (including weapon systems) common with and required for other nuclear powered vessels under joint economic order quantity contracts.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(g) AUTHORITY TO BEGIN MANUFACTURING AND FABRICATION EFFORTS PRIOR TO SHIP AUTHORIZATION.—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into contracts for advance construction of national sea-based deterrence vessels to support achieving cost savings through workload management, manufacturing efficiencies, or workforce stability, or to phase fabrication activities within shipyard and manage sub-tier manufacturer capacity.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(h) **AUTHORITY TO USE INCREMENTAL FUNDING TO ENTER INTO CONTRACTS FOR CERTAIN ITEMS.**—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into incrementally funded contracts for advance procurement of high value, long lead time items for nuclear powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(i) **BUDGET REQUESTS.**—Budget requests submitted to Congress for the Fund shall separately identify the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(j) **DEFINITIONS.**—In this section:

(1) The term “Fund” means the National Sea-Based Deterrence Fund established by subsection (a).

(2) The term “national sea-based deterrence vessel” means any vessel owned, operated, or controlled by the Department of Defense that carries operational intercontinental ballistic missiles.

(Added Pub. L. 113–291, div. A, title X, §1022(a)(1), Dec. 19, 2014, 128 Stat. 3486; amended Pub. L. 114–92, div. A, title X, §1022(a), Nov. 25, 2015, 129 Stat. 965.)

#### AMENDMENTS

2015—Subsecs. (f) to (j). Pub. L. 114–92 added subsecs. (f) to (h) and redesignated former subsecs. (f) and (g) as (i) and (j), respectively.

#### [§ 2219. Renumbered § 2491c]

#### § 2220. Performance based management: acquisition programs

(a) **ESTABLISHMENT OF GOALS.**—The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

(b) **EVALUATION OF COST GOALS.**—The Under Secretary of Defense (Comptroller) shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

(Added Pub. L. 103–355, title V, §5001(a)(1), Oct. 13, 1994, 108 Stat. 3349; amended Pub. L. 104–106, div. A, title XV, §1503(a)(20), div. D, title XLIII, §4321(b)(1), Feb. 10, 1996, 110 Stat. 512, 671; Pub. L. 105–85, div. A, title VIII, §841(a), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 107–314, div. A, title X, §1041(a)(8), Dec. 2, 2002, 116 Stat. 2645.)

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314, §1041(a)(8)(B), (C), struck out par. (1) designation and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 107–314, §1041(a)(8)(A), (C), redesignated subsec. (a)(2) as (b) and struck out heading and

text of former subsec. (b). Text read as follows: “The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of October 13, 1994. The Secretary shall use data from existing management systems in making the assessment.”

Subsec. (c). Pub. L. 107–314, §1041(a)(8)(A), struck out heading and text of subsec. (c). Text read as follows: “Whenever the Secretary of Defense, in the assessment required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

“(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

“(2) identify suitable actions to be taken, including termination, with respect to such programs.”

1997—Subsec. (b). Pub. L. 105–85 substituted “whether major acquisition programs” for “whether major and nonmajor acquisition programs”.

1996—Subsec. (a)(2). Pub. L. 104–106, §1503(a)(20), substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

Subsec. (b). Pub. L. 104–106, §4321(b)(1), substituted “October 13, 1994” for “the date of the enactment of the Federal Acquisition Streamlining Act of 1994”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by section 4321(b)(1) of Pub. L. 104–106, see section 4401 of Pub. L. 104–106, set out as a note under section 2302 of this title.

#### PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS

Pub. L. 105–261, div. A, title VIII, §816, Oct. 17, 1998, 112 Stat. 2088, provided that:

“(a) **DESIGNATION OF PILOT PROGRAMS.**—The Secretary of Defense, acting through the Secretaries of the military departments, shall designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support.

“(b) **RESPONSIBILITIES OF PROGRAM MANAGERS.**—The program manager for each acquisition program designated as a pilot program under this section shall have the responsibility for ensuring that the product support functions for the program are properly carried out over the entire life cycle of the program.

“(c) **REPORT.**—Not later than February 1, 1999, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on the pilot programs. The report shall contain the following:

“(1) A description of the acquisition programs designated as pilot programs under subsection (a).

“(2) For each such acquisition program, the specific management actions taken to ensure that the program manager has the responsibility for oversight of the performance of the product support functions.

“(3) Any proposed change to law, policy, regulation, or organization that the Secretary considers desirable, and determines feasible to implement, for en-