

(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-

sure that the program managers are fully responsible under the pilot programs for the performance of all such responsibilities.”

#### ENHANCED SYSTEM OF PERFORMANCE INCENTIVES

Pub. L. 103-355, title V, §5001(b), Oct. 13, 1994, 108 Stat. 3350, provided that: “Within one year after the date of the enactment of this Act [Oct. 13, 1994], the Secretary of Defense shall review the incentives and personnel actions available to the Secretary of Defense for encouraging excellence in the management of defense acquisition programs and provide an enhanced system of incentives to facilitate the achievement of goals approved or defined pursuant to section 2220(a) of title 10, United States Code. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

“(1) relate pay to performance (including the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, as added by subsection (a)); and

“(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, United States Code, as added by subsection (a).”

#### RECOMMENDED LEGISLATION

Pub. L. 103-355, title V, §5001(c), Oct. 13, 1994, 108 Stat. 3350, directed the Secretary of Defense, not later than one year after Oct 13, 1994, to submit to Congress any recommended legislation that the Secretary considered necessary to carry out this section and otherwise to facilitate and enhance management of Department of Defense acquisition programs on the basis of performance.

#### **[§ 2221. Repealed. Pub. L. 105-261, div. A, title IX, § 906(f)(1), Oct. 17, 1998, 112 Stat. 2096]**

Section, added Pub. L. 104-106, div. A, title IX, §914(a)(1), Feb. 10, 1996, 110 Stat. 412; amended Pub. L. 104-201, div. A, title X, §1008(a), Sept. 23, 1996, 110 Stat. 2633; Pub. L. 105-85, div. A, title X, §1006(a), Nov. 18, 1997, 111 Stat. 1869; Pub. L. 105-261, div. A, title X, §1069(b)(2), Oct. 17, 1998, 112 Stat. 2136, related to Fisher House trust funds. See section 2493 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Oct. 17, 1998, see section 906(f)(3) of Pub. L. 105-261, set out as an Effective Date of 1998 Amendment note under section 1321 of Title 31, Money and Finance.

#### **§ 2222. Defense business systems: business process reengineering; enterprise architecture; management**

(a) **DEFENSE BUSINESS PROCESSES GENERALLY.**—The Secretary of Defense shall ensure that defense business processes are reviewed, and as appropriate revised, through business process reengineering to match best commercial practices, to the maximum extent practicable, so as to minimize customization of commercial business systems.

(b) **DEFENSE BUSINESS SYSTEMS GENERALLY.**—The Secretary of Defense shall ensure that each covered defense business system developed, deployed, and operated by the Department of Defense—

(1) supports efficient business processes that have been reviewed, and as appropriate revised, through business process reengineering;

(2) is integrated into a comprehensive defense business enterprise architecture;

(3) is managed in a manner that provides visibility into, and traceability of, expenditures for the system; and

(4) uses an acquisition and sustainment strategy that prioritizes the use of commercial software and business practices.

#### (c) **ISSUANCE OF GUIDANCE.**—

(1) **SECRETARY OF DEFENSE GUIDANCE.**—The Secretary shall issue guidance to provide for the coordination of, and decision making for, the planning, programming, and control of investments in covered defense business systems.

(2) **SUPPORTING GUIDANCE.**—The Secretary shall direct the Deputy Chief Management Officer of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Chief Information Officer, and the Chief Management Officer of each of the military departments to issue and maintain supporting guidance, as appropriate and within their respective areas of responsibility, for the guidance of the Secretary issued under paragraph (1).

(d) **GUIDANCE ELEMENTS.**—The guidance issued under subsection (c)(1) shall include the following elements:

(1) Policy to ensure that the business processes of the Department of Defense are continuously reviewed and revised—

(A) to implement the most streamlined and efficient business processes practicable; and

(B) eliminate<sup>1</sup> or reduce the need to tailor commercial off-the-shelf systems to meet or incorporate requirements or interfaces that are unique to the Department of Defense.

(2) A process to establish requirements for covered defense business systems.

(3) Mechanisms for the planning and control of investments in covered defense business systems, including a process for the collection and review of programming and budgeting information for covered defense business systems.

(4) Policy requiring the periodic review of covered defense business systems that have been fully deployed, by portfolio, to ensure that investments in such portfolios are appropriate.

(5) Policy to ensure full consideration of sustainability and technological refreshment requirements, and the appropriate use of open architectures.

(6) Policy to ensure that best acquisition and systems engineering practices are used in the procurement and deployment of commercial systems, modified commercial systems, and defense-unique systems to meet Department of Defense missions.

#### (e) **DEFENSE BUSINESS ENTERPRISE ARCHITECTURE.**—

(1) **BLUEPRINT.**—The Secretary, working through the Deputy Chief Management Officer of the Department of Defense, shall develop

<sup>1</sup> So in original. Probably should be preceded by “to”.