

REVIEW OF TIME-BASED REQUIREMENTS PROCESS AND BUDGETING AND ACQUISITION SYSTEMS

Pub. L. 114-92, div. A, title VIII, §810, Nov. 25, 2015, 129 Stat. 890, provided that:

“(a) TIME-BASED REQUIREMENTS PROCESS.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall review the requirements process with the goal of establishing an agile and streamlined system that develops requirements that provide stability and foundational direction for acquisition programs and shall determine the advisability of providing a time-based or phased distinction between capabilities needed to be deployed urgently, within 2 years, within 5 years, and longer than 5 years.

“(b) BUDGETING AND ACQUISITION SYSTEMS.—The Secretary of Defense shall review and ensure that the acquisition and budgeting systems are structured to meet time-based or phased requirements in a manner that is predictable, cost effective, and efficient and takes advantage of emerging technological developments.”

§ 2546. Civilian management of the defense acquisition system

(a) RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for the management of the defense acquisition system and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of the defense acquisition system, including the duties enumerated and assigned to the Under Secretary elsewhere in this title.

(b) RESPONSIBILITY OF THE SERVICE ACQUISITION EXECUTIVES.—Subject to the direction of the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters pertaining to acquisition, and subject to the authority, direction, and control of the Secretary of the military department concerned, a service acquisition executive of a military department shall be responsible for the management of elements of the defense acquisition system in that military department and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of such elements of the defense acquisition system.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288.)

PRIOR PROVISIONS

A prior section 2546 was renumbered section 2556 of this title.

§ 2546a. Customer-oriented acquisition system

(a) OBJECTIVE.—It shall be the objective of the defense acquisition system to meet the needs of its customers in the most cost-effective manner practicable. The acquisition policies, directives, and regulations of the Department of Defense shall be modified as necessary to ensure the development and implementation of a customer-oriented acquisition system.

(b) CUSTOMER.—The customer of the defense acquisition system is the armed force that will have primary responsibility for fielding the system or systems acquired. The customer is represented with regard to a major defense acquisition

program by the Secretary of the military department concerned and the Chief of the armed force concerned.

(c) ROLE OF CUSTOMER.—The customer of a major defense acquisition program shall be responsible for balancing resources against priorities on the acquisition program and ensuring that appropriate trade-offs are made among cost, schedule, technical feasibility, and performance on a continuing basis throughout the life of the acquisition program.

(Added Pub. L. 114-92, div. A, title VIII, §802(a)(1), Nov. 25, 2015, 129 Stat. 878.)

§ 2547. Acquisition-related functions of chiefs of the armed forces

(a) PERFORMANCE OF CERTAIN ACQUISITION-RELATED FUNCTIONS.—The Secretary of Defense shall ensure that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps assist the Secretary of the military department concerned in the performance of the following acquisition-related functions of such department:

(1) The development of requirements for equipping the armed force concerned (subject, where appropriate, to validation by the Joint Requirements Oversight Council pursuant to section 181 of this title).

(2) Decisions regarding the balancing of resources and priorities, and associated trade-offs among cost, schedule, technical feasibility, and performance on major defense acquisition programs.

(3) The coordination of measures to control requirements creep in the defense acquisition system.

(4) The recommendation of trade-offs among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, to ensure acquisition programs deliver best value in meeting the approved military requirements.

(5) Termination of development or procurement programs for which life-cycle cost, schedule, and performance expectations are no longer consistent with approved military requirements and levels of priority, or which no longer have approved military requirements.

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

(7) 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; Pub. L. 114-92, div. A, title VIII, §802(b), Nov. 25, 2015, 129 Stat. 879.)

PRIOR PROVISIONS

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

AMENDMENTS

2015—Subsec. (a)(2) to (5). Pub. L. 114-92, §802(b)(1), (2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively. Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 114-92, §802(b)(1), (3), redesignated par. (5) as (6) and substituted “The development and management” for “The development”. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 114-92, §802(b)(1), redesignated par. (6) as (7).

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 undefinitized 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