

REPORTS TO CONGRESS ON FAILURE TO COMPLY WITH  
RECOMMENDATIONS

Pub. L. 112-239, div. A, title IX, §904(h), Jan. 2, 2013, 126 Stat. 1868, provided that:

“(1) REPORT REQUIRED.—Not later than 60 days after the end of each fiscal year, from fiscal year 2013 through fiscal year 2018, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each case in which a major defense acquisition program, in the preceding fiscal year—

“(A) proceeded to implement a test and evaluation master plan notwithstanding a decision of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation to disapprove the developmental test and evaluation plan within that plan in accordance with former section 139b(a)(5)(B) of title 10, United States Code; or

“(B) proceeded to initial operational testing and evaluation notwithstanding a determination by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation on the basis of an assessment of operational test readiness that the program is not ready for operational testing.

“(2) MATTERS COVERED.—

“(A) For each program covered by paragraph (1)(A), the report shall include the following:

“(i) A description of the specific aspects of the developmental test and evaluation plan that the Deputy Assistant Secretary determined to be inadequate.

“(ii) An explanation of the reasons why the program disregarded the Deputy Assistant Secretary’s recommendations with regard to those aspects of the developmental test and evaluation plan.

“(iii) The steps taken to address those aspects of the developmental test and evaluation plan and address the concerns of the Deputy Assistant Secretary.

“(B) For each program covered by paragraph (1)(B), the report shall include the following:

“(i) An explanation of the reasons why the program proceeded to initial operational testing and evaluation notwithstanding the findings of the assessment of operational test readiness.

“(ii) A description of the aspects of the approved testing and evaluation master plan that had to be set aside to enable the program to proceed to initial operational testing and evaluation.

“(iii) A description of how the program addressed the specific areas of concern raised in the assessment of operational test readiness.

“(iv) A statement of whether initial operational testing and evaluation identified any significant shortcomings in the program.

“(3) ADDITIONAL CONGRESSIONAL NOTIFICATION.—Not later than 30 days after any decision to conduct developmental testing on a major defense acquisition program without an approved test and evaluation master plan in place, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide to the congressional defense committees a written explanation of the basis for the decision and a timeline for getting an approved plan in place.”

OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES

Pub. L. 109-364, div. A, title IX, §905, Oct. 17, 2006, 120 Stat. 2353, as amended by Pub. L. 110-181, div. A, title IX, §905, Jan. 28, 2008, 122 Stat. 275, provided that:

“(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

“(1) any commander of a combatant command who is authorized by section 166b, 167, or 167a of title 10, United States Code, to exercise acquisition authority; and

“(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

“(b) GUIDANCE.—

“(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

“(A) is in compliance with department-wide acquisition policy; and

“(B) is coordinated with acquisition programs of the military departments.

“(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

“(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

“(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].”

IMPROVEMENT IN DEFENSE RESEARCH AND  
PROCUREMENT LIAISON WITH ISRAEL

Pub. L. 100-456, div. A, title X, §1006, Sept. 29, 1988, 102 Stat. 2040, as amended by Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: “The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.”

§ 133b. Under Secretary of Defense for Acquisition and Sustainment

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Acquisition and Sustainment, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive system development, engineering, production, or management background and experience with managing complex programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief acquisition and sustainment officer of the Department of Defense with the mission of delivering and sustaining timely, cost-effective capabilities for the armed forces (and the Department);

(2) establishing policies on, and supervising, all elements of the Department relating to acquisition (including system design, develop-

ment, and production, and procurement of goods and services) and sustainment (including logistics, maintenance, and materiel readiness);

(3) establishing policies for access to, and maintenance of, the defense industrial base and materials critical to national security, and policies on contract administration;

(4) serving as—

(A) the principal advisor to the Secretary on acquisition and sustainment in the Department;

(B) the senior procurement executive for the Department for the purposes of section 1702(c) of title 41; and

(C) the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive;

(5) overseeing the modernization of nuclear forces and the development of capabilities to counter weapons of mass destruction, and serving as the chairman of the Nuclear Weapons Council and the co-chairman of the Council on Oversight of the National Leadership Command, Control, and Communications System;

(6) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Under Secretary has responsibility, except that the Under Secretary shall exercise advisory authority over service acquisition programs for which the service acquisition executive is the milestone decision authority; and

(7) to the extent directed by the Secretary, exercising overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

(c) PRECEDENCE IN DEPARTMENT OF DEFENSE.—

(1) PRECEDENCE IN MATTERS OF RESPONSIBILITY.—With regard to all matters for which the Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense, and the Under Secretary of Defense for Research and Engineering.

(2) PRECEDENCE IN OTHER MATTERS.—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, the Chief Management Officer, the Under Secretary of Defense for Research and Engineering, and the Secretaries of the military departments.

(Added Pub. L. 114-328, div. A, title IX, § 901(b), Dec. 23, 2016, 130 Stat. 2340; amended Pub. L. 115-91, div. A, title IX, §§ 902, 910(c)(3), Dec. 12, 2017, 131 Stat. 1511, 1518.)

#### PRIOR PROVISIONS

A prior section 133b was renumbered section 138a of this title.

Another prior section 133b was renumbered section 118 of this title.

#### AMENDMENTS

2017—Subsec. (b)(6). Pub. L. 115-91, § 902, substituted “advisory authority” for “supervisory authority”.

Subsec. (c)(1). Pub. L. 115-91, § 910(c)(3)(A), inserted “the Chief Management Officer of the Department of Defense,” after “the Deputy Secretary of Defense.”

Subsec. (c)(2). Pub. L. 115-91, § 910(c)(3)(B), inserted “the Chief Management Officer,” after “the Deputy Secretary.”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, § 902, Dec. 12, 2017, 131 Stat. 1511, provided that the amendment made by section 902 is effective Feb. 1, 2018, and immediately after the coming into effect of the amendment made by section 901(b) of Pub. L. 114-328 (enacting this section).

Pub. L. 115-91, div. A, title IX, § 910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(3) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114-328 (see Tables for classification).

#### EFFECTIVE DATE

Pub. L. 114-328, div. A, title IX, § 901(b), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

### § 134. Under Secretary of Defense for Policy

(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) The Under Secretary shall assist the Secretary of Defense—

(A) in preparing written policy guidance for the preparation and review of contingency plans; and

(B) in reviewing such plans.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.

(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.

(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Secretaries of the military departments.

(Added Pub. L. 99-433, title I, § 105(1), Oct. 1, 1986, 100 Stat. 997; amended Pub. L. 99-500, § 101(c) [title X, § 903(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, § 101(c) [title X, § 903(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-661, div. A, title IX, formerly title IV,