AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ''$100,000'' for ''$50,000''.

1996—Subsec. (c). Pub. L. 104–106 inserted heading and substituted ''particular beverage'' for ''particular drink'' and ''beverage was'' for ''drink was''.

1994—Subsec. (c). Pub. L. 103–355 added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

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

OPERATION OF STARS AND STRIPES BOOKSTORES OVERSEAS BY MILITARY EXCHANGES

Pub. L. 103–160, div. A, title III, § 353, Nov. 30, 1993, 107 Stat. 1627, provided that:

''(a) REQUIREMENT.—The Secretary of Defense shall provide for the commencement, not later than October 1, 1994, of the operation of Stars and Stripes bookstores outside of the United States by the military exchanges.

''(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out subsection (a).''

CHAPTER 144—MAJOR DEFENSE ACQUISITION PROGRAMS

AMENDMENTS

2017—Pub. L. 115–91, div. A, title VIII, §§ 832(a)(2), 834(a)(2), 835(a)(2), title X, § 1081(a)(37), Dec. 12, 2017, 131 Stat. 1468, 1470, 1471, 1596, added items 2439, 2442, and 2443 and substituted ''Risk management and mitigation in major defense acquisition programs and major systems'' for ''Risk reduction in major defense acquisition programs and major systems'' in item 2431b.

2016—Pub. L. 114–328, div. A, title VIII, §§ 842(c)(2), 849(c)(2), Dec. 23, 2016, 130 Stat. 2290, 2294, struck out item 2434 ''Independent cost estimates'' and added item 2441.

2015—Pub. L. 114–92, div. A, title VIII, §§ 821(a)(2), 822(a)(2), 831(c)(2), Nov. 25, 2015, 129 Stat. 900, 901, 912, added items 2431a and 2431b and substituted ''Independent cost estimates'' for ''Independent cost estimates; operational manpower requirements'' in item 2434.

2011—Pub. L. 111–383, div. A, title IX, § 901(k)(2)(B), Jan. 7, 2011, 124 Stat. 4326, added item 2438.

2009—Pub. L. 111–23, title II, § 206(a)(2), May 22, 2009, 123 Stat. 1728, added item 2433a.

2008—Pub. L. 110–417, [div. A], title VIII, § 811(a)(2), Oct. 14, 2008, 122 Stat. 4521, added item 2430a.

2004—Pub. L. 108–375, div. A, title VIII, § 805(a)(2), Oct. 28, 2004, 118 Stat. 2009, added item 2437.

2003—Pub. L. 108–136, div. A, title VIII, § 822(a)(2), Nov. 24, 2003, 117 Stat. 1547, added item 2436.

1994—Pub. L. 103–355, title III, §§ 3005(b), 3006(b), 3007(b), Oct. 13, 1994, 108 Stat. 3331, substituted ''Baseline description'' for ''Enhanced program stability'' in item 2435 and struck out items 2438 ''Major programs: competitive phototyping'' and 2439 ''Major programs: competitive alternative sources''.

1993—Pub. L. 103–160, div. A, title VIII, § 828(a)(4), Nov. 30, 1993, 107 Stat. 1713, struck out items 2436 ''Defense enterprise programs'' and 2437 ''Defense enterprise programs: milestone authorization''.

1992—Pub. L. 102–484, div. A, title VIII, § 821(a)(2), div. D, title XLII, § 4216(b)(2), Oct. 23, 1992, 106 Stat. 2460, 2670, added items 2438 and 2440 and redesignated former item 2438 as 2439.

1987—Pub. L. 100–26, § 7(b)(1), (2)(B), (9)(B), Apr. 21, 1987, 100 Stat. 279, 280, substituted ''Major Defense Acquisition Programs'' for ''Oversight of Cost Growth in Major Programs'' in chapter heading, added item 2430, and transferred former item 2305a from chapter 137 and redesignated it as item 2438.

1986—Pub. L. 99–661, div. A, title XII, § 1208(c)(2), Nov. 14, 1986, 100 Stat. 3976, inserted ''; operational manpower requirements'' in item 2434.

Pub. L. 99–500, § 101(c) [title X, §§ 904(a)(2), 905(a)(2), 906(a)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–134, 1783–135, 1783–137, and Pub. L. 99–591, § 101(c) [title X, §§ 904(a)(2), 905(a)(2), 906(a)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–134, 3341–135, 3341–137; Pub. L. 99–661, div. A, title IX, formerly title IV, §§ 904(a)(2), 905(a)(2), 906(a)(2), Nov. 14, 1986, 100 Stat. 3914–3916, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273, added items 2435 to 2437.

Pub. L. 99–433, title I, § 101(a)(4), Oct. 1, 1986, 100 Stat. 994, added chapter heading and analysis of sections for chapter 144, consisting of sections 2431 to 2434.

§ 2430. Major defense acquisition program defined

(a)(1) Except as provided under paragraph (2), in this chapter, the term ''major defense acquisition program'' means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

(B) in the case of a program that is not a program for the acquisition of an automated information system (either a product or a service), that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than $1,800,000,000 (based on fiscal year 1990 constant dollars).

(2) In this chapter, the term ''major defense acquisition program'' does not include—

(A) an acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2302 note); or

(B) an acquisition program for a defense business system (as defined in section 2222(i)(1) of this title) carried out using the acquisition guidance issued pursuant to section 883(e) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2223a note).

(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(1)(B) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(c) For purposes of subsection (a)(1)(B), the Secretary shall consider, as applicable, the following:

(1) The estimated level of resources required to fulfill the relevant joint military requirement, as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

(2) The cost estimate referred to in section 2366a(a)(6) of this title.

(3) The cost estimate referred to in section 2366b(a)(1)(C) of this title.

(4) The cost estimate within a baseline description as required by section 2435 of this title.

(d)(1) The milestone decision authority for a major defense acquisition program reaching Milestone A after October 1, 2016, shall be the service acquisition executive of the military department that is managing the program, unless the Secretary of Defense designates, under paragraph (2), another official to serve as the milestone decision authority.

(2) The Secretary of Defense may designate an alternate milestone decision authority for a program with respect to which—

(A) subject to paragraph (5), the Secretary determines that the program is addressing a joint requirement;

(B) the Secretary determines that the program is best managed by a Defense Agency;

(C) the program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under section 2433 of this title;

(D) the program is critical to a major interagency requirement or technology development effort, or has significant international partner involvement; or

(E) the Secretary determines that an alternate official serving as the milestone decision authority will best provide for the program to achieve desired cost, schedule, and performance outcomes.

(3)(A) After designating an alternate milestone decision authority under paragraph (2) for a program, the Secretary of Defense may revert the position of milestone decision authority for the program back to the service acquisition executive upon request of the Secretary of the military department concerned. A decision on the request shall be made within 180 days after receipt of the request from the Secretary of the military department concerned.

(B) If the Secretary of Defense denies the request for reversion of the milestone decision authority back to the service acquisition executive, the Secretary shall report to the congressional defense committees on the basis of the Secretary's decision that an alternate official serving as milestone decision authority will best provide for the program to achieve desired cost, schedule, and performance outcomes. No such reversion is authorized after a program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under section 2433 of this title, except in exceptional circumstances.

(4)(A) For each major defense acquisition program, the Secretary of the military department concerned and the Chief of the armed force concerned shall, in each Selected Acquisition Report required under section 2432 of this title, certify that program requirements are stable and funding is adequate to meet cost, schedule, and performance objectives for the program and identify and report to the congressional defense committees on any increased risk to the program since the last report.

(B) The Secretary of Defense shall review the acquisition oversight process for major defense acquisition programs and shall limit outside requirements for documentation to an absolute minimum on those programs where the service acquisition executive of the military department that is managing the program is the milestone decision authority and ensure that any policies, procedures, and activities related to oversight efforts conducted outside of the military departments with regard to major defense acquisition programs shall be implemented in a manner that does not unnecessarily increase program costs or impede program schedules.

(5) The authority of the Secretary of Defense to designate an alternative milestone decision authority for a program with respect to which the Secretary determines that the program is addressing a joint requirement, as set forth in paragraph (2)(A), shall apply only for a major defense acquisition program that reaches Milestone A after October 1, 2016, and before October 1, 2019.

(Added Pub. L. 100–26, §7(b)(2)(A), Apr. 21, 1987, 101 Stat. 279; amended Pub. L. 102–484, div. A, title VIII, §817(b), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 104–106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 111–23, title II, §206(b), May 22, 2009, 123 Stat. 1728; Pub. L. 113–291, div. A, title X, §1071(f)(18), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–92, div. A, title VIII, §825(a), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114–328, div. A, title VIII, §§807(b), 847(a), Dec. 23, 2016, 130 Stat. 2261, 2292; Pub. L. 115–91, div. A, title VIII, §831, title X, §1081(a)(38), Dec. 12, 2017, 131 Stat. 1467, 1596.)

AMENDMENTS

2017—Subsec. (a)(1)(B). Pub. L. 115–91, §831(1), inserted ''in the case of a program that is not a program for the acquisition of an automated information system (either a product or a service),'' after ''(B)''.

Subsec. (a)(2). Pub. L. 115–91, §831(2)(A), substituted ''include—'' for ''include'', inserted subpar. (A) designation before ''an acquisition program'', and added subpar. (B).

Subsecs. (b), (c). Pub. L. 115–91, §1081(a)(38), substituted ''subsection (a)(1)(B)'' for ''subsection (a)(2)''.

2016—Subsec. (a). Pub. L. 114–328, §847(a), designated existing provisions as par. (1), substituted ''Except as provided under paragraph (2), in this chapter'' for ''In this chapter'', redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d)(2)(A). Pub. L. 114–328, §807(b)(1), inserted ''subject to paragraph (5),'' before ''the Secretary determines''.

Subsec. (d)(5). Pub. L. 114–328, §807(b)(2), added par. (5).

2015—Subsec. (d). Pub. L. 114–92 added subsec. (d).

2014—Subsec. (c)(2). Pub. L. 113–291 substituted ''section 2366a(a)(6)'' for ''section 2366a(a)(4)''.

2009—Subsec. (a)(2). Pub. L. 111–23, §206(b)(1), inserted '', including all planned increments or spirals,'' after ''an eventual total expenditure for procurement''.

Subsec. (c). Pub. L. 111–23, §206(b)(2), added subsec. (c).

1999—Subsec. (b). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (b). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and House of Representatives''.

1992—Pub. L. 102–484 designated existing provisions as subsec. (a), in par. (2) substituted ''$300,000,000'' for ''$200,000,000'', ''1990'' for ''1980'' in two places, and ''$1,800,000,000'' for ''$1,000,000,000'', and added subsec. (b).

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title VIII, §807(b), Dec. 23, 2016, 130 Stat. 2261, provided that the amendment made by section 807(b) is effective January 1, 2017.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–92, div. A, title VIII, §825(c)(3), Nov. 25, 2015, 129 Stat. 908, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 133 of this title] shall take effect on October 1, 2016.''

FIRE SUPPRESSANT AND FUEL CONTAINMENT STANDARDS FOR CERTAIN VEHICLES

Pub. L. 114–328, div. A, title I, §142, Dec. 23, 2016, 130 Stat. 2040, provided that:

''(a) GUIDANCE REQUIRED.—

''(1) The Secretary of the Army shall issue guidance regarding fire suppressant and fuel containment standards for covered vehicles of the Army.

''(2) The Secretary of the Navy shall issue guidance regarding fire suppressant and fuel containment standards for covered vehicles of the Marine Corps.

''(b) ELEMENTS.—The guidance regarding fire suppressant and fuel containment standards issued pursuant to subsection (a) shall—

''(1) meet the survivability requirements applicable to each class of covered vehicles;

''(2) include standards for vehicle armor, vehicle fire suppression systems, and fuel containment technologies in covered vehicles; and

''(3) balance cost, survivability, and mobility.

''(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of the Army and the Secretary of the Navy shall each submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes—

''(1) the policy guidance established pursuant to subsection (a), set forth separately for each class of covered vehicle; and

''(2) any other information the Secretaries determine to be appropriate.

''(d) COVERED VEHICLES.—In this section, the term 'covered vehicles' means ground vehicles acquired on or after October 1, 2018, under a major defense acquisition program (as such term is defined in section 2430 of title 10, United States Code), including light tactical vehicles, medium tactical vehicles, heavy tactical vehicles, and ground combat vehicles.''

IMPLEMENTATION OF PROCEDURES FOR DESIGNATION OF MILESTONE DECISION AUTHORITIES

Pub. L. 114–92, div. A, title VIII, §825(c)(1), (2), Nov. 25, 2015, 129 Stat. 908, provided that:

''(1) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementing subsection (d) of section 2430 of title 10, United States Code, as added by subsection (a) of this section.

''(2) GUIDANCE.—The Deputy Chief Management Officer of the Department of Defense, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the service acquisition executives, shall issue guidance to ensure that by not later than October 1, 2016, the acquisition policy, guidance, and practices of the Department of Defense conform to the requirements of subsection (d) of section 2430 of title 10, United States Code, as added by subsection (a) of this section. The guidance shall be designed to ensure a streamlined decisionmaking and approval process and to minimize any information requests, consistent with the requirement of paragraph (4)(A) of such subsection (d).''

TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM DEFINITION PERIODS

Pub. L. 114–92, div. A, title VIII, §826, Nov. 25, 2015, 129 Stat. 908, as amended by Pub. L. 114–328, div. A, title VIII, §862(a), Dec. 23, 2016, 130 Stat. 2302, provided that:

''(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program definition period of major defense acquisition programs.

''(b) PROGRAM DEFINITION PERIOD.—For the purposes of this section, the term 'program definition period', with respect to a major defense acquisition program, means the period beginning with initiation of the program and ending with Milestone B approval (or Key Decision Point B approval in the case of a space program).

''(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall provide that the program manager for the program definition period of a major defense acquisition program is responsible for—

''(1) bringing technologies to maturity and identifying the manufacturing processes that will be needed to carry out the program;

''(2) ensuring continuing focus during program development on meeting stated mission requirements and other requirements of the Department of Defense;

''(3) recommending trade-offs between program cost, schedule, and performance for the life-cycle of the program;

''(4) developing a business case for the program; and

''(5) ensuring that appropriate information is available to the milestone decision authority to make a decision on Milestone B approval (or Key Decision Point B approval in the case of a space program), including information necessary to make the certification required by section 2366a of title 10, United States Code.

''(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary of Defense shall ensure that each program manager for the program definition period of a major defense acquisition program—

''(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

''(2) is provided the resources and support (including systems engineering expertise, cost-estimating expertise, and software development expertise) needed to meet such responsibilities; and

''(3) is assigned to the program manager position for such program until such time as such program receives Milestone B approval (or Key Decision Point B approval in the case of a space program), unless removed for cause or due to exceptional circumstances.

''(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition, Technology, and Logistics, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program definition period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire period covered by such paragraph.''

TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS FOR PROGRAM EXECUTION PERIODS

Pub. L. 114–92, div. A, title VIII, §827, Nov. 25, 2015, 129 Stat. 909, as amended by Pub. L. 114–328, div. A, title VIII, §862(b), Dec. 23, 2016, 130 Stat. 2302, provided that:

''(a) REVISED GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the tenure and accountability of program managers for the program execution period of major defense acquisition programs.

''(b) PROGRAM EXECUTION PERIOD.—For purposes of this section, the term 'program execution period', with respect to a major defense acquisition program, means the period beginning with Milestone B approval (or Key Decision Point B approval in the case of a space program) and ending with declaration of initial operational capability.

''(c) RESPONSIBILITIES.—The revised guidance required by subsection (a) shall—

''(1) require the program manager for the program execution period of a major defense acquisition program to enter into a performance agreement with the manager's immediate supervisor for such program within six months of assignment, that—

''(A) establishes expected parameters for the cost, schedule, and performance of the program consistent with the business case for the program;

''(B) provides the commitment of the supervisor to provide the level of funding and resources required to meet such parameters; and

''(C) provides the assurance of the program manager that such parameters are achievable and that the program manager will be accountable for meeting such parameters; and

''(2) provide the program manager with the authority to—

''(A) consult on the addition of new program requirements that would be inconsistent with the parameters established in the performance agreement entered into pursuant to paragraph (1);

''(B) recommend trade-offs between cost, schedule, and performance, provided that such trade-offs are consistent with the parameters established in the performance agreement entered into pursuant to paragraph (1); and

''(C) develop such interim goals and milestones as may be required to achieve the parameters established in the performance agreement entered into pursuant to paragraph (1).

''(d) QUALIFICATIONS, RESOURCES, AND TENURE.—The Secretary shall ensure that each program manager for the program execution period of a defense acquisition program—

''(1) has the appropriate management, engineering, technical, and financial expertise needed to meet the responsibilities assigned pursuant to subsection (c);

''(2) is provided the resources and support (including systems engineering expertise, cost estimating expertise, and software development expertise) needed to meet such responsibilities; and

''(3) is assigned to the program manager position for such program during the program execution period, unless removed for cause or due to exceptional circumstances.

''(e) WAIVER AUTHORITY.—The service acquisition executive, in the case of a major defense acquisition program of a military department, or the Under Secretary of Defense for Acquisition, Technology, and Logistics, in the case of a Defense-wide or Defense Agency major defense acquisition program, may waive the requirement in paragraph (3) of subsection (d) upon a determination that the program execution period will take so long that it would not be appropriate for a single individual to serve as program manager for the entire program execution period.''

PENALTY FOR COST OVERRUNS

Pub. L. 114–92, div. A, title VIII, §828, Nov. 25, 2015, 129 Stat. 910, as amended by Pub. L. 115–91, div. A, title VIII, §825(a), Dec. 12, 2017, 131 Stat. 1466, provided that:

''(a) IN GENERAL.—For each of fiscal years 2018 through 2022, the Secretary of each military department shall pay a penalty for cost overruns on the covered major defense acquisition programs of the military department.

''(b) CALCULATION OF PENALTY.—For the purposes of this section:

''(1) The amount of the cost overrun on any major defense acquisition program or subprogram in a fiscal year is the difference between the current program acquisition unit cost for the program or subprogram and the program acquisition unit cost for the program as shown in the original Baseline Estimate for the program or subprogram, multiplied by the quantity of items to be purchased under the program or subprogram, as reported in the final Selected Acquisition Report for the fiscal year in accordance with section 2432 of title 10, United States Code.

''(2) Cost overruns for covered major defense acquisition programs that are joint programs of more than one military department shall be allocated among the military departments in percentages determined by the Under Secretary of Defense for Acquisition and Sustainment.

''(3) The cumulative amount of cost overruns for a military department in a fiscal year is the sum of the cost overruns for all covered major defense acquisition programs of the department in the fiscal year (including cost overruns allocated to the military department in accordance with paragraph (2)).

''(4) The cost overrun penalty for a military department in a fiscal year is three percent of the cumulative amount of cost overruns of the military department in the fiscal year, as determined pursuant to paragraph (3).

''(c) TOTAL COST OVERRUN PENALTY.—Notwithstanding the amount of a cost overrun penalty determined in (b), the total cost overrun penalty for a military department (including any cost overrun penalty for joint programs of military departments) for a fiscal year may not exceed $50,000,000.

''(d) TRANSFER OF FUNDS.—

''(1) REDUCTION OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OR PROCUREMENT ACCOUNTS.—Not later than 60 days after the end of each of fiscal years 2018 through 2022, the Secretary of each military department shall reduce the research, development, test, and evaluation or procurement accounts of the military department by the amount determined under paragraph (2), and remit such amount to the Secretary of Defense.

''(2) DETERMINATION OF AMOUNTS.—The reductions to research, development, test, and evaluation or procurement accounts of a military department referred to in paragraph (1) are the reductions to such accounts necessary to equal, when combined, the cost

overrun penalty for the fiscal year for such department determined pursuant to subsection (b)(4).

''(3) CREDITING OF FUNDS.—Any amount remitted under paragraph (1) shall be credited to the Rapid Prototyping Fund established pursuant to section 804 of this Act [set out as a note under section 2302 of this title].

''(e) COVERED PROGRAMS.—A major defense acquisition program is covered under this section if the original Baseline Estimate was established for such program under paragraph (1) or (2) of section 2435(d) of title 10, United States Code, on or after May 22, 2009 (which is the date of the enactment of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23)).''

[Pub. L. 115–91, div. A, title VIII, § 825(b), Dec. 12, 2017, 131 Stat. 1466, provided that: ''The requirements of section 828 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. 2430 note), as in effect on the day before the date of the enactment of this Act [Dec. 12, 2017], shall continue to apply with respect to fiscal years beginning on or before October 1, 2016.'']

IMPROVING ANALYTIC SUPPORT TO SYSTEMS ACQUISITION AND ALLOCATION OF ACQUISITION, INTELLIGENCE, SURVEILLANCE AND RECONNAISSANCE ASSETS

Pub. L. 113–291, div. A, title X, § 1058, Dec. 19, 2014, 128 Stat. 3501, provided that:

''(a) GUIDANCE.—Not later than 120 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall review and issue or revise guidance to components of the Department of Defense to improve the application of operations research and systems analysis to—

''(1) the requirements process for acquisition of major defense acquisition programs and major automated information systems; and

''(2) the allocation of intelligence, surveillance, and reconnaissance systems to the combatant commands.

''(b) BRIEFING OF CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall brief—

''(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on any guidance issued or revised under subsection (a); and

''(2) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on any guidance issued or revised under subsection (a)(2) relevant to intelligence.''

LIMITATION ON USE OF COST-TYPE CONTRACTS

Pub. L. 112–239, div. A, title VIII, § 811, Jan. 2, 2013, 126 Stat. 1828, provided that:

''(a) PROHIBITION WITH RESPECT TO PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall modify the acquisition regulations of the Department of Defense to prohibit the Department from entering into cost-type contracts for the production of major defense acquisition programs.

''(b) EXCEPTION.—

''(1) IN GENERAL.—The prohibition under subsection (a) shall not apply in the case of a particular cost-type contract if the Under Secretary of Defense for Acquisition, Technology, and Logistics provides written certification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that a cost-type contract is needed to provide a required capability in a timely and cost-effective manner.

''(2) SCOPE OF EXCEPTION.—In any case for which the Under Secretary grants an exception under paragraph (1), the Under Secretary shall take affirmative steps to make sure that the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purposes of the exception. A written certification under paragraph (1) shall be accompanied by an explanation of the steps taken under this paragraph.

''(c) DEFINITIONS.—In this section:

''(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning given the term in section 2430(a) of title 10, United States Code.

''(2) PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'production of a major defense acquisition program' means the production and deployment of a major system that is intended to achieve an operational capability that satisfies mission needs, or any activity otherwise defined as Milestone C under Department of Defense Instruction 5000.02 or related authorities.

''(3) CONTRACT FOR THE PRODUCTION OF A MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'contract for the production of a major defense acquisition program'—

''(A) means a prime contract for the production of a major defense acquisition program; and

''(B) does not include individual line items for segregable efforts or contracts for the incremental improvement of systems that are already in production (other than contracts for major upgrades that are themselves major defense acquisition programs).

''(d) APPLICABILITY.—The requirements of this section shall apply to contracts for the production of major defense acquisition programs entered into on or after October 1, 2014.''

ESTIMATES OF POTENTIAL TERMINATION LIABILITY OF CONTRACTS FOR THE DEVELOPMENT OR PRODUCTION OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 112–239, div. A, title VIII, § 812, Jan. 2, 2013, 126 Stat. 1829, provided that:

''(a) DEPARTMENT OF DEFENSE REVIEW.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review relevant acquisition guidance and take appropriate actions to ensure that program managers for major defense acquisition programs are preparing estimates of potential termination liability for covered contracts, including how such termination liability is likely to increase or decrease over the period of performance, and are giving appropriate consideration to such estimates before making recommendations on decisions to enter into or terminate such contracts.

''(b) COMPTROLLER GENERAL OF THE UNITED STATES REPORT.—

''(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the extent to which the Department of Defense is considering potential termination liability as a factor in entering into and in terminating covered contracts.

''(2) MATTERS TO BE ADDRESSED.—The report required by paragraph (1) shall include, at a minimum, an assessment of the following:

''(A) The extent to which the Department of Defense developed estimates of potential termination liability for covered contracts entered into before the date of the enactment of this Act and how such termination liability was likely to increase or decrease over the period of performance before making decisions to enter into or terminate such contracts.

''(B) The extent to which the Department considered estimates of potential termination liability for such contracts and how such termination liability was likely to increase or decrease over the period of performance as a risk factor in deciding whether to enter into or terminate such contracts.

''(c) COVERED CONTRACTS.—For purposes of this section, a covered contract is a contract for the development or production of a major defense acquisition program for which potential termination liability could reasonably be expected to exceed $100,000,000.

''(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2430(a) of title 10, United States Code.''

ASSESSMENT, MANAGEMENT, AND CONTROL OF OPERATING AND SUPPORT COSTS FOR MAJOR WEAPON SYSTEMS

Pub. L. 112–81, div. A, title VIII, § 832, Dec. 31, 2011, 125 Stat. 1504, as amended by Pub. L. 112–239, div. A, title X, § 1076(a)(12), Jan. 2, 2013, 126 Stat. 1948, which required guidance and maintenance of a database on operating and support costs for major weapon systems, was repealed by Pub. L. 115–91, div. A, title VIII, § 836(b)(1), Dec. 12, 2017, 131 Stat. 1473. See section 2337a of this title.

MANAGEMENT OF MANUFACTURING RISK IN MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–383, div. A, title VIII, § 812, Jan. 7, 2011, 124 Stat. 4264, as amended by Pub. L. 112–81, div. A, title VIII, § 834, Dec. 31, 2011, 125 Stat. 1506, provided that:

''(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall issue comprehensive guidance on the management of manufacturing risk in major defense acquisition programs.

''(b) ELEMENTS.—The guidance issued under subsection (a) shall, at a minimum—

''(1) require the use of manufacturing readiness levels or other manufacturing readiness standards as a basis for measuring, assessing, reporting, and communicating manufacturing readiness and risk on major defense acquisition programs throughout the Department of Defense;

''(2) provide guidance on the definition of manufacturing readiness levels or other manufacturing readiness standards and how manufacturing readiness levels or other manufacturing readiness standards should be used to assess manufacturing risk and readiness in major defense acquisition programs;

''(3) specify manufacturing readiness levels or other manufacturing readiness standards that should be achieved at key milestones and decision points for major defense acquisition programs;

''(4) provide for the tailoring of manufacturing readiness levels or other manufacturing readiness standards to address the unique characteristics of specific industry sectors or weapon system portfolios;

''(5) identify tools and models that may be used to assess, manage, and reduce risks that are identified in the course of manufacturing readiness assessments for major defense acquisition programs; and

''(6) require appropriate consideration of the manufacturing readiness and manufacturing readiness processes of potential contractors and subcontractors as a part of the source selection process for major defense acquisition programs.

''(c) MANUFACTURING READINESS EXPERTISE.—The Secretary shall ensure that—

''(1) the acquisition workforce chapter of the annual strategic workforce plan required by [former] section 115b of title 10, United States Code, includes an assessment of the critical manufacturing readiness knowledge and skills needed in the acquisition workforce and a plan of action for addressing any gaps in such knowledge and skills; and

''(2) the need of the Department for manufacturing readiness knowledge and skills is given appropriate consideration, comparable to the consideration given to other program management functions, as the Department identifies areas of need for funding through the Defense Acquisition Workforce Development Fund established in accordance with the requirements of section 1705 of title 10, United States Code.

''(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2430(a) of title 10, United States Code.''

DEVELOPMENTAL TEST AND EVALUATION AND SYSTEMS ENGINEERING IN THE MILITARY DEPARTMENTS AND DEFENSE AGENCIES

Pub. L. 111–23, title I, § 102(b), May 22, 2009, 123 Stat. 1714, as amended by Pub. L. 111–383, div. A, title VIII, § 813(a), title IX, § 901(*l*)(1), Jan. 7, 2011, 124 Stat. 4265, 4326, provided that:

''(1) PLANS.—The service acquisition executive of each military department and each Defense Agency with responsibility for a major defense acquisition program shall develop and implement plans to ensure the military department or Defense Agency concerned has provided appropriate resources for each of the following:

''(A) Developmental testing organizations with adequate numbers of trained personnel in order to—

''(i) ensure that developmental testing requirements are appropriately addressed in the translation of operational requirements into contract specifications, in the source selection process, and in the preparation of requests for proposals on all major defense acquisition programs;

''(ii) participate in the planning of developmental test and evaluation activities, including the preparation and approval of a developmental test and evaluation plan within the test and evaluation master plan for each major defense acquisition program; and

''(iii) participate in and oversee the conduct of developmental testing, the analysis of data, and the preparation of evaluations and reports based on such testing.

''(B) Development planning and systems engineering organizations with adequate numbers of trained personnel in order to—

''(i) support key requirements, acquisition, and budget decisions made for each major defense acquisition program prior to Milestone A approval and Milestone B approval through a rigorous systems analysis and systems engineering process;

''(ii) include a robust program for improving reliability, availability, maintainability, and sustainability as an integral part of design and development within the systems engineering master plan for each major defense acquisition program; and

''(iii) identify systems engineering requirements, including reliability, availability, maintainability, and lifecycle management and sustainability requirements, during the Joint Capabilities Integration Development System process, and incorporate such systems engineering requirements into contract requirements for each major defense acquisition program.

''(2) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act [May 22, 2009], and not later than February 15 of each year from 2011 through 2014, the service acquisition executive of each military department and each Defense Agency with responsibility for a major defense acquisition program shall submit to the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and the Deputy Assistant Secretary of Defense for Systems Engineering a report on the extent to which—

''(A) such military department or Defense Agency has implemented, or is implementing, the plan required by paragraph (1); and

''(B) additional authorities or resources are needed to attract, develop, retain, and reward developmental test and evaluation personnel and systems engineers with appropriate levels of hands-on experience and technical expertise to meet the needs of such military department or Defense Agency.

''(3) ASSESSMENT OF REPORTS BY DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND

EVALUATION AND DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—Each annual report from 2010 through 2014 submitted to Congress by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and the Deputy Assistant Secretary of Defense for Systems Engineering under section 139d(c) [now 139b(d)] of title 10, United States Code (as added by subsection (a)), shall include an assessment by the Deputy Assistant Secretaries of Defense of the reports submitted by the service acquisition executives to the Deputy Assistant Secretaries of Defense under paragraph (2).''

PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title I, § 103, May 22, 2009, 123 Stat. 1715, which authorized the Secretary of Defense to designate a senior official as responsible for performance assessments and root cause analyses for major defense acquisition programs, was transferred to chapter 144 of this title and redesignated as section 2438 by Pub. L. 111–383, div. A, title IX, § 901(d), Jan. 7, 2011, 124 Stat. 4321.

ACQUISITION STRATEGIES TO ENSURE COMPETITION THROUGHOUT THE LIFECYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title II, § 202, May 22, 2009, 123 Stat. 1720, as amended by Pub. L. 112–81, div. A, title VIII, § 837, Dec. 31, 2011, 125 Stat. 1509; Pub. L. 112–239, div. A, title VIII, § 825, Jan. 2, 2013, 126 Stat. 1833, provided that:

''(a) ACQUISITION STRATEGIES TO ENSURE COMPETITION.—The Secretary of Defense shall ensure that the acquisition strategy for each major defense acquisition program includes—

''(1) measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level (at such tier or tiers as are appropriate) of such program throughout the life-cycle of such program as a means to improve contractor performance; and

''(2) adequate documentation of the rationale for the selection of the subcontract tier or tiers under paragraph (1).

''(b) MEASURES TO ENSURE COMPETITION.—The measures to ensure competition, or the option of competition, for purposes of subsection (a)(1) may include measures to achieve the following, in appropriate cases if such measures are cost-effective:

''(1) Competitive prototyping.

''(2) Dual-sourcing.

''(3) Unbundling of contracts.

''(4) Funding of next-generation prototype systems or subsystems.

''(5) Use of modular, open architectures to enable competition for upgrades.

''(6) Use of build-to-print approaches to enable production through multiple sources.

''(7) Acquisition of complete technical data packages.

''(8) Periodic competitions for subsystem upgrades.

''(9) Licensing of additional suppliers.

''(10) Periodic system or program reviews to address long-term competitive effects of program decisions.

''(c) ADDITIONAL MEASURES TO ENSURE COMPETITION AT SUBCONTRACT LEVEL.—The Secretary shall take actions to ensure competition or the option of competition at the subcontract level on major defense acquisition programs by—

''(1) where appropriate, breaking out a major subsystem, conducting a separate competition for the subsystem, and providing the subsystem to the prime contractor as Government-furnished equipment;

''(2) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems;

''(3) providing for government surveillance of the process by which prime contractors consider such sources and determine whether to conduct such development or construction in-house or through a subcontract; and

''(4) providing for the assessment of the extent to which a contractor has given full and fair consideration to qualified sources other than the contractor in sourcing decisions as a part of past performance evaluations.

''(d) CONSIDERATION OF COMPETITION THROUGHOUT MAINTENANCE AND SUSTAINMENT OF MAJOR WEAPON SYSTEMS AND SUBSYSTEMS.—Whenever a decision regarding source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system or subsystem of a major weapon system, the Secretary shall take actions to ensure that, to the maximum extent practicable and consistent with statutory requirements, contracts for such maintenance and sustainment, or for components needed for such maintenance and sustainment, are awarded on a competitive basis and give full consideration to all sources (including sources that partner or subcontract with public or private sector repair activities).

''(e) APPLICABILITY.—

''(1) STRATEGY AND MEASURES TO ENSURE COMPETITION.—The requirements of subsections (a) and (b) shall apply to any acquisition plan for a major defense acquisition program that is developed or revised on or after the date that is 60 days after the date of the enactment of this Act [May 22, 2009].

''(2) ADDITIONAL ACTIONS.—The actions required by subsections (c) and (d) shall be taken within 180 days after the date of the enactment of this Act.''

PROTOTYPING REQUIREMENTS FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title II, § 203, May 22, 2009, 123 Stat. 1722, as amended by Pub. L. 111–383, div. A, title VIII, § 813(b), Jan. 7, 2011, 124 Stat. 4265, which directed the Secretary of Defense to make certain modifications to Department of Defense guidelines related to competitive prototyping for major defense acquisition programs and waivers, was repealed by Pub. L. 114–92, div. A, title VIII, § 822(b), Nov. 25, 2015, 129 Stat. 902.

ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title II, § 207(a)–(c), May 22, 2009, 123 Stat. 1728, 1729, provided that:

''(a) REVISED REGULATIONS REQUIRED.—Not later than 270 days after the date of the enactment of this Act [May 22, 2009], the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to provide uniform guidance and tighten existing requirements for organizational conflicts of interest by contractors in major defense acquisition programs.

''(b) ELEMENTS.—The revised regulations required by subsection (a) shall, at a minimum—

''(1) address organizational conflicts of interest that could arise as a result of—

''(A) lead system integrator contracts on major defense acquisition programs and contracts that follow lead system integrator contracts on such programs, particularly contracts for production;

''(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major defense acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

''(C) the award of major subsystem contracts by a prime contractor for a major defense acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

''(D) the performance by, or assistance of, contractors in technical evaluations on major defense acquisition programs;

''(2) ensure that the Department of Defense receives advice on systems architecture and systems engineering matters with respect to major defense acquisition programs from federally funded research and development centers or other sources independent of the prime contractor;

''(3) require that a contract for the performance of systems engineering and technical assistance functions for a major defense acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development or construction of a weapon system under the program; and

''(4) establish such limited exceptions to the requirement in paragraphs (2) and (3) as may be necessary to ensure that the Department of Defense has continued access to advice on systems architecture and systems engineering matters from highly-qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.

''(c) CONSULTATION IN REVISION OF REGULATIONS.—

''(1) RECOMMENDATIONS OF PANEL ON CONTRACTING INTEGRITY.—Not later than 90 days after the date of the enactment of this Act [May 22, 2009], the Panel on Contracting Integrity established pursuant to section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2320) [10 U.S.C. 2304 note] shall present recommendations to the Secretary of Defense on measures to eliminate or mitigate organizational conflicts of interest in major defense acquisition programs.

''(2) CONSIDERATION OF RECOMMENDATIONS.—In developing the revised regulations required by subsection (a), the Secretary shall consider the following:

''(A) The recommendations presented by the Panel on Contracting Integrity pursuant to paragraph (1).

''(B) Any findings and recommendations of the Administrator for Federal Procurement Policy and the Director of the Office of Government Ethics pursuant to section 841(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4539) [41 U.S.C. 2303 note].''

CONFIGURATION STEERING BOARDS FOR COST CONTROL UNDER MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 110–417, [div. A], title VIII, §814, Oct. 14, 2008, 122 Stat. 4528, as amended by Pub. L. 114–92, div. A, title VIII, §830, Nov. 25, 2015, 129 Stat. 912; Pub. L. 115–91, div. A, title VIII, §826, Dec. 12, 2017, 131 Stat. 1467, provided that:

''(a) CONFIGURATION STEERING BOARDS.—Each Secretary of a military department shall establish one or more boards (to be known as a 'Configuration Steering Board') for the major defense acquisition programs of such department.

''(b) COMPOSITION.—

''(1) CHAIR.—Each Configuration Steering Board under this section shall be chaired by the service acquisition executive of the military department concerned.

''(2) PARTICULAR MEMBERS.—Each Configuration Steering Board under this section shall include a representative of the following:

''(A) The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(B) The Chief of Staff of the Armed Force concerned.

''(C) Other Armed Forces, as appropriate.

''(D) The Joint Staff.

''(E) The Comptroller of the military department concerned.

''(F) The military deputy to the service acquisition executive concerned.

''(G) The program executive officer for the major defense acquisition program concerned.

''(H) Other senior representatives of the Office of the Secretary of Defense and the military department concerned, as appropriate.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Configuration Steering Board for a major defense acquisition program under this section shall be responsible for the following:

''(A) Monitoring changes in program requirements and ensuring the Chief of Staff of the Armed Force concerned, in consultation with the Secretary of the military department concerned, approves of any proposed changes that could have an adverse effect on program cost or schedule.

''(B) Preventing unnecessary changes to program requirements and system configuration that could have an adverse impact on program cost or schedule.

''(C) Mitigating the adverse cost and schedule impact of any changes to program requirements or system configuration that may be required.

''(D) Ensuring that the program delivers as much planned capability as possible, at or below the relevant program baseline.

''(2) DISCHARGE OF RESPONSIBILITIES.—In discharging its responsibilities under this section with respect to a major defense acquisition program, a Configuration Steering Board shall—

''(A) review and approve or disapprove any proposed changes to program requirements or system configuration that have the potential to adversely impact program cost or schedule; and

''(B) review and recommend proposals to reduce program requirements that have the potential to improve program cost or schedule in a manner consistent with program objectives.

''(3) PRESENTATION OF RECOMMENDATIONS ON REDUCTION IN REQUIREMENTS.—Any recommendation for a proposed reduction in requirements that is made by a Configuration Steering Board under paragraph (2)(B) shall be presented to appropriate organizations of the Joint Staff and the military departments responsible for such requirements for review and approval in accordance with applicable procedures.

''(4) ANNUAL CONSIDERATION OF EACH MAJOR DEFENSE ACQUISITION PROGRAM.—

''(A) ANNUAL MEETING.—Except as provided in subparagraph (B), the Secretary of the military department concerned shall ensure that a Configuration Steering Board under this section meets to consider each major defense acquisition program of such military department at least once each year.

''(B) EXCEPTION.—If the service acquisition executive of the military department concerned determines, in writing, that there have been no changes to the program requirements of a major defense acquisition program during the preceding year, the Configuration Steering Board for such major defense acquisition program is not required to meet as described in subparagraph (A).

''(5) CERTIFICATION OF COST AND SCHEDULE DEVIATIONS DURING SYSTEM DESIGN AND DEVELOPMENT.—For a major defense acquisition program that received an initial Milestone B approval during fiscal year 2008, a Configuration Steering Board may not approve any proposed alteration to program requirements or system configuration if such an alteration would—

''(A) increase the cost (including any increase for expected inflation or currency exchange rates) for system development and demonstration by more than 25 percent; or

''(B) extend the schedule for key events by more than 15 percent of the total number of months between the award of the system development and demonstration contract and the scheduled Milestone C approval date,

unless the Under Secretary of Defense for Acquisition, Technology, and Logistics certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and includes in the certification supporting rationale, that approving such alteration to program requirements or system

configuration is in the best interest of the Department of Defense despite the cost and schedule impacts to system development and demonstration of such program.

''(d) APPLICABILITY.—

''(1) IN GENERAL.—The requirements of this section shall apply with respect to any major defense acquisition program that is commenced before, on, or after the date of the enactment of this Act [Oct. 14, 2008].

''(2) CURRENT PROGRAMS.—In the case of any major defense acquisition program that is ongoing as of the date of the enactment of this Act, a Configuration Steering Board under this section shall be established for such program not later than 60 days after the date of the enactment of this Act.

''(e) GUIDANCE ON AUTHORITIES OF PROGRAM MANAGERS AFTER MILESTONE B.—

''(1) [Amended section 853(d)(2) of Pub. L. 109–364, set out below.]

''(2) APPLICABILITY.—The Secretary of Defense shall modify the guidance described in section 853(d) of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Pub. L. 109–364; set out below] in order to take into account the amendment made by paragraph (1) not later than 60 days after the date of the enactment of this Act [Oct. 14, 2008].

''(f) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2430(a) of title 10, United States Code.''

PRESERVATION OF TOOLING FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 110–417, [div. A], title VIII, § 815, Oct. 14, 2008, 122 Stat. 4530, provided that:

''(a) GUIDANCE REQUIRED.—Not later than 270 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall issue guidance requiring the preservation and storage of unique tooling associated with the production of hardware for a major defense acquisition program through the end of the service life of the end item associated with such a program. Such guidance shall—

''(1) require that the milestone decision authority approve a plan, including the identification of any contract clauses, facilities, and funding required, for the preservation and storage of such tooling prior to Milestone C approval;

''(2) require that the milestone decision authority periodically review the plan required by paragraph (1) prior to the end of the service life of the end item, to ensure that the preservation and storage of such tooling remains adequate and in the best interest of the Department of Defense;

''(3) provide a mechanism for the Secretary to waive the requirement for preservation and storage of unique production tooling, or any category of unique production tooling, if the Secretary—

''(A) makes a written determination that such a waiver is in the best interest of the Department of Defense; and

''(B) notifies the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the waiver upon making such determination; and

''(4) provide such criteria as necessary to guide a determination made pursuant to paragraph (3)(A).

''(b) DEFINITIONS.—In this section:

''(1) MAJOR DEFENSE ACQUISITION PROGRAM.—The term 'major defense acquisition program' has the meaning provided in section 2430 of title 10, United States Code.

''(2) MILESTONE DECISION AUTHORITY.—The term 'milestone decision authority' has the meaning provided in section 2366a(f)(2) [now 2366b(g)(3)] of such title.

''(3) MILESTONE C APPROVAL.—The term 'Milestone C approval' has the meaning provided in section 2366(e)(8) of such title.''

DUTIES OF PRINCIPAL MILITARY DEPUTIES

Pub. L. 110–181, div. A, title IX, § 908(d), Jan. 28, 2008, 122 Stat. 278, as amended by Pub. L. 114–92, div. A, title VIII, § 802(c), Nov. 25, 2015, 129 Stat. 879, provided that: ''Each Principal Military Deputy to a service acquisition executive shall be responsible for—

''(1) keeping the Chief of Staff of the Armed Force concerned informed of the progress of major defense acquisition programs;

''(2) informing the Chief of Staff on a continuing basis of any developments on major defense acquisition programs, which may require new or revisited trade-offs among cost, schedule, technical feasibility, and performance, including—

''(A) significant cost growth or schedule slippage; and

''(B) requirements creep (as defined in section 2547(c)(1) [now 2547(d)(1)] of title 10, United States Code); and

''(3) ensuring that the views of the Chief of Staff on cost, schedule, technical feasibility, and performance trade-offs are strongly considered by program managers and program executive officers in all phases of the acquisition process.''

REQUIREMENTS MANAGEMENT CERTIFICATION TRAINING PROGRAM

Pub. L. 109–364, div. A, title VIII, § 801, Oct. 17, 2006, 120 Stat. 2312, provided that:

''(a) TRAINING PROGRAM.—

''(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Defense Acquisition University, shall develop a training program to certify military and civilian personnel of the Department of Defense with responsibility for generating requirements for major defense acquisition programs (as defined in section 2430(a) of title 10, United States Code).

''(2) COMPETENCY AND OTHER REQUIREMENTS.—The Under Secretary shall establish competency requirements for the personnel undergoing the training program. The Under Secretary shall define the target population for such training program by identifying which military and civilian personnel should have responsibility for generating requirements. The Under Secretary also may establish other training programs for personnel not subject to chapter 87 of title 10, United States Code, who contribute significantly to other types of acquisitions by the Department of Defense.

''(b) APPLICABILITY.—Effective on and after September 30, 2008, a member of the Armed Forces or an employee of the Department of Defense with authority to generate requirements for a major defense acquisition program may not continue to participate in the requirements generation process unless the member or employee successfully completes the certification training program developed under this section.

''(c) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an interim report, not later than March 1, 2007, and a final report, not later than March 1, 2008, on the implementation of the training program required under this section.''

PROGRAM MANAGER EMPOWERMENT AND ACCOUNTABILITY

Pub. L. 109–364, div. A, title VIII, § 853, Oct. 17, 2006, 120 Stat. 2342, as amended by Pub. L. 110–417, [div. A], title VIII, § 814(e)(1), Oct. 14, 2008, 122 Stat. 4530, provided that:

''(a) STRATEGY.—The Secretary of Defense shall develop a comprehensive strategy for enhancing the role of Department of Defense program managers in developing and carrying out defense acquisition programs.

''(b) MATTERS TO BE ADDRESSED.—The strategy required by this section shall address, at a minimum—

''(1) enhanced training and educational opportunities for program managers;

''(2) increased emphasis on the mentoring of current and future program managers by experienced senior executives and program managers within the Department;

''(3) improved career paths and career opportunities for program managers;

''(4) additional incentives for the recruitment and retention of highly qualified individuals to serve as program managers;

''(5) improved resources and support (including systems engineering expertise, cost estimating expertise, and software development expertise) for program managers;

''(6) improved means of collecting and disseminating best practices and lessons learned to enhance program management throughout the Department;

''(7) common templates and tools to support improved data gathering and analysis for program management and oversight purposes;

''(8) increased accountability of program managers for the results of defense acquisition programs; and

''(9) enhanced monetary and nonmonetary awards for successful accomplishment of program objectives by program managers.

''(c) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS BEFORE MILESTONE B.—Not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the qualifications, resources, responsibilities, tenure, and accountability of program managers for the program development period (before Milestone B approval (or Key Decision Point B approval in the case of a space program)).

''(d) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS AFTER MILESTONE B.—Not later than 180 days after the date of enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall revise Department of Defense guidance for major defense acquisition programs to address the qualifications, resources, responsibilities, tenure and accountability of program managers for the program execution period (from Milestone B approval (or Key Decision Point B approval in the case of a space program) until the delivery of the first production units of a program). The guidance issued pursuant to this subsection shall address, at a minimum—

''(1) the need for a performance agreement between a program manager and the milestone decision authority for the program, setting forth expected parameters for cost, schedule, and performance, and appropriate commitments by the program manager and the milestone decision authority to ensure that such parameters are met;

''(2) authorities available to the program manager, including—

''(A) the authority to object to the addition of new program requirements that would be inconsistent with the parameters established at Milestone B (or Key Decision Point B in the case of a space program) and reflected in the performance agreement, unless such requirements are approved by the appropriate Configuration Steering Board; and

''(B) the authority to recommend to the appropriate Configuration Steering Board reduced program requirements that have the potential to improve program cost or schedule in a manner consistent with program objectives; and

''(3) the extent to which a program manager for such period should continue in the position without interruption until the delivery of the first production units of the program.

''(e) REPORTS.—

''(1) REPORT BY SECRETARY OF DEFENSE.—Not later than 270 days after the date of enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the strategy developed pursuant to subsection (a) and the guidance issued pursuant to subsections (b) and (c).

''(2) REPORT BY COMPTROLLER GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report on the actions taken by the Secretary of Defense to implement the requirements of this section.''

MANAGEMENT OF NATIONAL SECURITY AGENCY MODERNIZATION PROGRAM

Pub. L. 108–136, div. A, title IX, § 924, Nov. 24, 2003, 117 Stat. 1576, provided that:

''(a) MANAGEMENT OF ACQUISITION PROGRAMS THROUGH USD (AT&L).—The Secretary of Defense shall direct that, effective as of the date of the enactment of this Act [Nov. 24, 2003], acquisitions under the National Security Agency Modernization Program shall be directed and managed by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(b) APPLICABILITY OF MAJOR DEFENSE ACQUISITION PROGRAM AUTHORITIES.—(1) Each project designated as a major defense acquisition program under paragraph (2) shall be managed under the laws, policies, and procedures that are applicable to major defense acquisition programs (as defined in section 2430 of title 10, United States Code).

''(2) The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics) shall designate those projects under the National Security Agency Modernization Program that are to be managed as major defense acquisition programs.

''(c) MILESTONE DECISION AUTHORITY.—(1) The authority to make a decision that a program is authorized to proceed from one milestone stage into another (referred to as the milestone decision authority) may only be exercised by the Under Secretary of Defense for Acquisition, Technology, and Logistics for the following:

''(A) Each project of the National Security Agency Modernization Program that is to be managed as a major defense acquisition program, as designated under subsection (b).

''(B) Each major system under the National Security Agency Modernization Program.

''(2) The limitation in paragraph (1) shall terminate on, and the Under Secretary may delegate the milestone decision authority referred to in paragraph (1) to the Director of the National Security Agency at any time after, the date that is the later of—

''(A) September 30, 2005, or

''(B) the date on which the Under Secretary submits to the appropriate committees of Congress a notification described in paragraph (3).

''(3) A notification described in this paragraph is a notification by the Under Secretary of the Under Secretary's intention to delegate the milestone decision authority referred to in paragraph (1) to the Director of the National Security Agency, together with a detailed discussion of the justification for that delegation. Such a notification may not be submitted until—

''(A) the Under Secretary has determined (after consultation with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management) that the Director has implemented acquisition management policies, procedures, and practices that are sufficient to ensure that acquisitions by the National Security Agency are conducted in a manner consistent with sound, efficient acquisition practices;

''(B) the Under Secretary has consulted with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management on the delegation of such milestone decision authority to the Director; and

''(C) the Secretary of Defense has approved the delegation of such milestone decision authority to the Director.

''(d) PROJECTS COMPRISING PROGRAM.—The National Security Agency Modernization Program consists of the following projects of the National Security Agency:

''(1) The Trailblazer project.

''(2) The Groundbreaker project.

''(3) Each cryptological mission management project.

''(4) Each other project of that Agency that—

''(A) meets either of the dollar thresholds in effect under paragraph (2) [now paragraph (1)(B)] of section 2430(a) of title 10, United States Code; and

''(B) is determined by the Under Secretary of Defense for Acquisition, Technology, and Logistics as being a major project that is within, or properly should be within, the National Security Agency Modernization Project.

''(e) DEFINITIONS.—In this section:

''(1) MAJOR SYSTEM.—The term 'major system' has the meaning given that term in section 2302(5) of title 10, United States Code.

''(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the following:

''(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''

SPIRAL DEVELOPMENT UNDER MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 107–314, div. A, title VIII, § 803, Dec. 2, 2002, 116 Stat. 2603, which authorized the Secretary of Defense to conduct major defense acquisition programs as spiral development programs and set out limitations on and requirements for such programs, was repealed by Pub. L. 114–92, div. A, title VIII, § 821(b)(2), Nov. 25, 2015, 129 Stat. 900.

ENVIRONMENTAL CONSEQUENCE ANALYSIS OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 103–337, div. A, title VIII, § 815, Oct. 5, 1994, 108 Stat. 2819, provided that:

''(a) GUIDANCE.—Before April 1, 1995, the Secretary of Defense shall issue guidance, to apply uniformly throughout the Department of Defense, regarding—

''(1) how to achieve the purposes and intent of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by ensuring timely compliance for major defense acquisition programs (as defined in section 2430 of title 10, United States Code) through (A) initiation of compliance efforts before development begins, (B) appropriate environmental impact analysis in support of each milestone decision, and (C) accounting for all direct, indirect, and cumulative environmental effects before proceeding toward production; and

''(2) how to analyze, as early in the process as feasible, the life-cycle environmental costs for such major defense acquisition programs, including the materials to be used, the mode of operations and maintenance, requirements for demilitarization, and methods of disposal, after consideration of all pollution prevention opportunities and in light of all environmental mitigation measures to which the department expressly commits.

''(b) ANALYSIS.—Beginning not later than March 31, 1995, the Secretary of Defense shall analyze the environmental costs of a major defense acquisition process as an integral part of the life-cycle cost analysis of the program pursuant to the guidance issued under subsection (a).

''(c) DATA BASE FOR NEPA DOCUMENTATION.—The Secretary of Defense shall establish and maintain a data base for documents prepared by the Department of Defense in complying with the National Environmental Policy Act of 1969 with respect to major defense acquisition programs. Any such document relating to a major defense acquisition program shall be maintained in the data base for 5 years after commencement of low-rate initial production of the program.''

EFFICIENT CONTRACTING PROCESSES

Pub. L. 103–160, div. A, title VIII, § 837, Nov. 30, 1993, 107 Stat. 1718, as amended by Pub. L. 103–355, title V, § 5064(b)(2), Oct. 13, 1994, 108 Stat. 3360, provided that: ''The Secretary of Defense shall take any additional actions that the Secretary considers necessary to waive regulations not required by statute that affect the efficiency of the contracting process within the Department of Defense. Such actions shall include, in the Secretary's discretion, developing methods to streamline the procurement process, streamlining the period for entering into contracts, and defining alternative techniques to reduce reliance on military specifications and standards, in contracts for the defense acquisition programs participating in the Defense Acquisition Pilot Program.''

CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT

Pub. L. 103–160, div. A, title VIII, § 838, Nov. 30, 1993, 107 Stat. 1718, as amended by Pub. L. 103–355, title V, § 5064(b)(3), Oct. 13, 1994, 108 Stat. 3360, provided that: ''For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, the Secretary of Defense should define payment milestones on the basis of quantitative measures of results.''

DEFENSE ACQUISITION PILOT PROGRAM

Pub. L. 104–201, div. A, title VIII, § 803, Sept. 23, 1996, 110 Stat. 2604, as amended by Pub. L. 105–85, div. A, title VIII, § 847(b)(2), Nov. 18, 1997, 111 Stat. 1845, provided that:

''(a) AUTHORITY.—The Secretary of Defense may waive sections 2399, 2432, and 2433 of title 10, United States Code, in accordance with this section for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2430 note).

''(b) OPERATIONAL TEST AND EVALUATION.—The Secretary of Defense may waive the requirements for operational test and evaluation for such a defense acquisition program as set forth in section 2399 of title 10, United States Code, if the Secretary—

''(1) determines (without delegation) that such test would be unreasonably expensive or impractical;

''(2) develops a suitable alternate operational test program for the system concerned;

''(3) describes in the test and evaluation master plan, as approved by the Director of Operational Test and Evaluation, the method of evaluation that will be used to evaluate whether the system will be effective and suitable for combat; and

''(4) submits to the congressional defense committees [Committees on Armed Services and on Appropriations of the Senate and House of Representatives] a report containing the determination that was made under paragraph (1), a justification for that determination, and a copy of the plan required by paragraph (3).

''(c) SELECTED ACQUISITION REPORTS.—The Secretary of Defense may waive the requirements of sections 2432 and 2433 of title 10, United States Code, for such a defense acquisition program if the Secretary provides a single annual report to Congress at the end of each fiscal year that describes the status of the program in relation to the baseline description for the program established under section 2435 of such title.''

Pub. L. 103–355, title V, § 5064, Oct. 13, 1994, 108 Stat. 3359, as amended by Pub. L. 106–398, § 1 [[div. A], title VIII, § 801(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–202, 1654A–203, provided that:

''(a) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510] (10 U.S.C. 2430 note):

''(1) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—The Fire Support Combined Arms Tactical

Trainer program with respect to all contracts directly related to the procurement of a training simulation system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components, with development of software as required to generate the training exercises and component interfaces.

''(2) JOINT DIRECT ATTACK MUNITION (JDAM I).—The Joint Direct Attack Munition program with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 500-pound, 1000-pound, and 2000-pound bombs in inventory.

''(3) JOINT PRIMARY AIRCRAFT TRAINING SYSTEM (JPATS).—The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

''(4) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

''(A) All contracts directly related to the acquisition or upgrading of commercial-derivative aircraft for use in meeting airlift and tanker requirements and the air vehicle component for airborne warning and control systems.

''(B) For purposes of this paragraph, the term 'commercial-derivative aircraft' means any of the following:

''(i) Any aircraft (including spare parts, support services, support equipment, technical manuals, and data related thereto) that is or was of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

''(ii) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy or would have satisfied the criteria in subclause (I).

''(iii) For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft, other than the C–17 or any aircraft derived from the C–17, shall be considered a commercial-derivative aircraft.

''(5) COMMERCIAL-DERIVATIVE ENGINE (CDE).—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (A) commercial derivative engines (including spare engines and upgrades), logistics support equipment, technical orders, management data, and spare parts, and (B) commercially derived engines for use in supporting the purchase of commercial-derivative aircraft for use in airlift and tanker requirements (including engine replacement and upgrades) and the air vehicle component for airborne warning and control systems. For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft engine shall be considered a commercial-derivative engine.

''(b) PILOT PROGRAM IMPLEMENTATION.—(1) [Amended section 833 of Pub. L. 103–160, set out below.]

''(2) [Amended section 837 of Pub. L. 103–160, set out above.]

''(3) [Amended section 838 of Pub. L. 103–160, set out above.]

''(4) Not later than 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 [Oct. 13, 1994], the Secretary of Defense shall identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

''(5) For each defense acquisition program participating in the pilot program, the Secretary of Defense shall establish a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

''(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

''(B) reduce data requirements from the current program review reporting requirements.

''(c) SPECIAL AUTHORITY.—The authority delegated under subsection (a) may include authority for the Secretary of Defense—

''(1) to apply any amendment or repeal of a provision of law made in this Act [see Tables for classification] to the pilot programs before the effective date of such amendment or repeal [see Effective Date of 1994 Amendment note set out under section 2302 of this title]; and

''(2) to apply to a procurement of items other than commercial items under such programs—

''(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

''(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

''(d) APPLICABILITY.—(1) Subsection (c) applies with respect to—

''(A) a contract that is awarded or modified during the period described in paragraph (2); and

''(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

''(2) The period referred to in paragraph (1) is the period that begins on October 13, 1994, and ends on October 1, 2007.

''(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a).''

Pub. L. 103–337, div. A, title VIII, §819, Oct. 5, 1994, 108 Stat. 2822, provided that: ''The Secretary of Defense is authorized to designate the following defense acquisition programs for participation, to the extent provided in the Federal Acquisition Streamlining Act of 1994 [Pub. L. 103–355, see Tables for classification], in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510] (10 U.S.C. 2430 note):

''(1) The Fire Support Combined Arms Tactical Trainer program.

''(2) The Joint Direct Attack Munition program.

''(3) The Joint Primary Aircraft Training System.

''(4) Commercial-derivative aircraft.

''(5) Commercial-derivative engine.''

Pub. L. 103–160, div. A, title VIII, §833, Nov. 30, 1993, 107 Stat. 1716, as amended by Pub. L. 103–355, title V, §5064(b)(1), Oct. 13, 1994, 108 Stat. 3360, provided that:

''(a) MISSION-ORIENTED PROGRAM MANAGEMENT.—In the exercise of the authority provided in section 809 of the National Defense Authorization Act for Fiscal Year 1991 [Pub. L. 101–510] (10 U.S.C. 2430 note), the Secretary of Defense should propose for one or more of the defense acquisition programs covered by the Defense Acquisition Pilot Program to utilize the concept of mission-oriented program management.

''(b) POLICIES AND PROCEDURES.—In the case of each defense acquisition program covered by the Defense Ac-

quisition Pilot Program, the Secretary of Defense should prescribe policies and procedures for the interaction of the program manager and the commander of the operational command (or a representative) responsible for the requirement for the equipment acquired, and for the interaction with the commanders of the unified and specified combatant commands. Such policies and procedures should include provisions for enabling the user commands to participate in acceptance testing.''

Pub. L. 103–160, div. A, title VIII, § 835(b), Nov. 30, 1993, 107 Stat. 1717, related to funding for Defense Acquisition Pilot Program, and authorized the Secretary of Defense to expend appropriated sums as necessary to carry out next phase of acquisition program cycle after Secretary determined that objective quantifiable performance expectations relating to execution of that phase had been identified, prior to repeal by Pub. L. 103–355, title V, § 5002(b), Oct. 13, 1994, 108 Stat. 3350.

Pub. L. 103–160, div. A, title VIII, § 839, Nov. 30, 1993, 107 Stat. 1718, provided that:

''(a) COLLECTION AND ANALYSIS OF PERFORMANCE INFORMATION.—The Secretary of Defense shall collect and analyze information on contractor performance under the Defense Acquisition Pilot Program.

''(b) INFORMATION TO BE INCLUDED.—Information collected under subsection (a) shall include the history of the performance of each contractor under the Defense Acquisition Pilot Program contracts and, for each such contract performed by the contractor, a technical evaluation of the contractor's performance prepared by the program manager responsible for the contract.''

Pub. L. 101–510, div. A, title VIII, § 809, Nov. 5, 1990, 104 Stat. 1593, as amended by Pub. L. 102–484, div. A, title VIII, § 811, Oct. 23, 1992, 106 Stat. 2450; Pub. L. 103–160, div. A, title VIII, § 832, Nov. 30, 1993, 107 Stat. 1715, provided that:

''(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in defense acquisition programs.

''(b) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) Subject to paragraph (2), the Secretary may designate defense acquisition programs for participation in the pilot program.

''(2) The Secretary may designate for participation in the pilot program only those defense acquisition programs specifically authorized to be so designated in a law authorizing appropriations for such program enacted after the date of the enactment of this Act [Nov. 5, 1990].

''(c) CONDUCT OF PILOT PROGRAM.—(1) In the case of each defense acquisition program designated for participation in the pilot program, the Secretary—

''(A) shall conduct the program in accordance with standard commercial, industrial practices; and

''(B) may waive or limit the applicability of any provision of law that is specifically authorized to be waived in the law authorizing appropriations referred to in subsection (b)(2) and that prescribes—

''(i) procedures for the procurement of supplies or services;

''(ii) a preference or requirement for acquisition from any source or class of sources;

''(iii) any requirement related to contractor performance;

''(iv) any cost allowability, cost accounting, or auditing requirements; or

''(v) any requirement for the management of, testing to be performed under, evaluation of, or reporting on a defense acquisition program.

''(2) The waiver authority provided in paragraph (1)(B) does not apply to a provision of law if, as determined by the Secretary—

''(A) a purpose of the provision is to ensure the financial integrity of the conduct of a Federal Government program; or

''(B) the provision relates to the authority of the Inspector General of the Department of Defense.

''(d) PUBLICATION OF POLICIES AND GUIDELINES.—The Secretary shall publish in the Federal Register a proposed memorandum setting forth policies and guidelines for implementation of the pilot program under this section and provide an opportunity for public comment on the proposed memorandum for a period of 60 days after the date of publication. The Secretary shall publish in the Federal Register any subsequent proposed change to the memorandum and provide an opportunity for public comment on each such proposed change for a period of 60 days after the date of publication.

''(e) NOTIFICATION AND IMPLEMENTATION.—(1) The Secretary shall transmit to the congressional defense committees a written notification of each defense acquisition program proposed to be designated by the Secretary for participation in the pilot program.

''(2) If the Secretary proposes to waive or limit the applicability of any provision of law to a defense acquisition program under the pilot program in accordance with this section, the Secretary shall include in the notification regarding that acquisition program—

''(A) the provision of law proposed to be waived or limited;

''(B) the effects of such provision of law on the acquisition, including specific examples;

''(C) the actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the defense acquisition program; and

''(D) a discussion of the efficiencies or savings, if any, that will result from the waiver or limitation.

''(f) LIMITATION ON WAIVER AUTHORITY.—The applicability of the following requirements of law may not be waived or limited under subsection (c)(1)(B) with respect to a defense acquisition program:

''(1) The requirements of this section.

''(2) The requirements contained in any law enacted on or after the date of the enactment of this Act [Nov. 5, 1990] if that law designates such defense acquisition program as a participant in the pilot program, except to the extent that a waiver of such requirement is specifically authorized for such defense acquisition program in a law enacted on or after such date.

''(g) TERMINATION OF AUTHORITY.—The authority to waive or limit the applicability of any law under this section may not be exercised after September 30, 1995.''

DEFINITIONS

Pub. L. 111–23, § 2, May 22, 2009, 123 Stat. 1704, provided that: ''In this Act [see Short Title of 2009 Amendment note set out under section 101 of this title]:

''(1) The term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

''(2) The term 'major defense acquisition program' has the meaning given that term in section 2430 of title 10, United States Code.

''(3) The term 'major weapon system' has the meaning given that term in section 2379(d) [probably means section 2379(f)] of title 10, United States Code.''

§ 2430a. Major subprograms

(a) AUTHORITY TO DESIGNATE MAJOR SUBPROGRAMS AS SUBJECT TO ACQUISITION REPORTING REQUIREMENTS.—(1)(A) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more categories of end items which differ significantly from each other in form and function, the Secretary may designate each such category of end items as a major subprogram for the purposes of acquisition reporting under this chapter.

(B) If the Secretary of Defense determines that a major defense acquisition program re-