

§ 2273. Policy regarding assured access to space: national security payloads

(a) **POLICY.**—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.

(b) **INCLUDED ACTIONS.**—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

(1) the availability of at least two space launch vehicles (or families of space launch vehicles) capable of delivering into space any payload designated by the Secretary of Defense or the Director of National Intelligence as a national security payload¹

(2) a robust space launch infrastructure and industrial base; and

(3) the availability of rapid, responsive, and reliable space launches for national security space programs to—

(A) improve the responsiveness and flexibility of a national security space system;

(B) lower the costs of launching a national security space system; and

(C) maintain risks of mission success at acceptable levels.

(c) **COORDINATION.**—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the Administrator of the National Aeronautics and Space Administration and the Director of National Intelligence.

(Added Pub. L. 108–136, div. A, title IX, §912(a)(1), Nov. 24, 2003, 117 Stat. 1565; Pub. L. 110–181, div. A, title IX, §931(a)(12), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(11), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 115–232, div. A, title XVI, §1603(a), Aug. 13, 2018, 132 Stat. 2105.)

PRIOR PROVISIONS

A prior section 2273, acts Aug. 10, 1956, ch. 1041, 70A Stat. 125; Apr. 2, 1982, Pub. L. 97–164, title I, §160(a)(4), 96 Stat. 48; Oct. 29, 1992, Pub. L. 102–572, title IX, §902(b)(1), 106 Stat. 4516, related to right of United States to designs, rights of designers to patents, and rights to sue United States, prior to repeal by Pub. L. 103–160, div. A, title VIII, §821(a)(1), Nov. 30, 1993, 107 Stat. 1704.

AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115–232, §1603(a)(1), added par. (3).

Subsec. (c). Pub. L. 115–232, §1603(a)(2), inserted “and the Director of National Intelligence” before period at end.

2009—Subsec. (b)(1). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(11). See 2008 Amendment note below.

2008—Subsec. (b)(1). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(11), amended par. (1) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, §932(a)(11), was repealed by Pub. L. 111–84.

¹ So in original. Probably should be followed by a semicolon.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

USE OF REUSABLE LAUNCH VEHICLES

Pub. L. 115–232, div. A, title XVI, §1603, Aug. 13, 2018, 132 Stat. 2105, provided that:

“(a) **ASSURED ACCESS TO SPACE.**—[Amended this section.]

“(b) **REUSABILITY OF LAUNCH VEHICLES.**—

“(1) **DESIGNATION.**—Effective March 1, 2019, the Evolved Expendable Launch Vehicle program of the Department of Defense shall be known as the ‘National Security Space Launch program’. Any reference in Federal law, regulations, guidance, instructions, or other documents of the Federal Government to the Evolved Expendable Launch Vehicle program shall be deemed to be a reference to the National Security Space Launch program.

“(2) **REQUIREMENT.**—In carrying out the National Security Space Launch program, the Secretary of Defense shall provide for consideration of both reusable and expendable launch vehicles with respect to any solicitation occurring on or after March 1, 2019, for which the use of a reusable launch vehicle is technically capable and maintains risk at acceptable levels.

“(3) **NOTIFICATION OF SOLICITATIONS FOR NON-REUSABLE LAUNCH VEHICLES.**—Beginning March 1, 2019, if the Secretary proposes to issue a solicitation for a contract for space launch services for which the use of reusable launch vehicles is not eligible for the award of the contract, the Secretary shall notify in writing the appropriate congressional committees of such proposed solicitation, including justifications for such ineligibility, by not later than 10 days after issuing such solicitation.

“(c) **RISK AND COST IMPACT ANALYSIS.**—

“(1) **IN GENERAL.**—The Secretary shall conduct a risk and cost impact analysis with respect to launch services that use reusable launch vehicles. Such analysis shall include—

“(A) an assessment of how the inspection and certification regime of the Air Force for previously flown launch vehicles will ensure increased responsiveness and operational flexibility while maintaining acceptable risk; and

“(B) an assessment of the anticipated cost savings to the Department of Defense realized by using a previously flown launch vehicle or components.

“(2) **SUBMISSION.**—Not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary shall submit to the appropriate congressional committees the analysis conducted under paragraph (1).

“(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

LAUNCH SUPPORT AND INFRASTRUCTURE MODERNIZATION

Pub. L. 115–91, div. A, title XVI, §1609, Dec. 12, 2017, 131 Stat. 1727, provided that:

“(a) **IN GENERAL.**—In support of the policy specified in section 2273 of title 10, United States Code, the Secretary of Defense shall carry out a program to modernize infrastructure and improve support activities for the processing and launch of United States national security space vehicles launching from Federal ranges.

“(b) **ELEMENTS.**—The program under subsection (a) shall include—

“(1) investments in infrastructure to improve operations at the Eastern and Western Ranges that may

benefit all users, to enhance the overall capabilities of ranges, to improve safety, and to reduce the long-term cost of operations and maintenance;

“(2) measures to normalize processes, systems, and products across the Eastern and Western ranges to minimize the burden on launch providers; and

“(3) improvements in transparency, flexibility, and, [sic] responsiveness for launch scheduling.

“(c) CONSULTATION.—In carrying out the program under subsection (a), the Secretary may consult with current and anticipated users of the Eastern and Western Ranges.

“(d) COOPERATION.—In carrying out the program under subsection (a), the Secretary may consider partnerships authorized under section 2276 of title 10, United States Code.

“(e) REPORT.—

“(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary 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 plan for the implementation of the program under subsection (a).

“(2) ELEMENTS.—The report under paragraph (1) shall include—

“(A) a description of plans and the resources needed to improve launch support infrastructure, utilities, support equipment, and range operations;

“(B) a description of plans to streamline and normalize processes, systems, and products at the Eastern and Western ranges, to ensure consistency for range users; and

“(C) recommendations for improving transparency, flexibility, and responsiveness in launch scheduling.”

ACQUISITION STRATEGY FOR NATIONAL SECURITY SPACE LAUNCH PROGRAM

Pub. L. 114-92, div. A, title XVI, §1608, Nov. 25, 2015, 129 Stat. 1100, provided that:

“(a) TREATMENT OF CERTAIN ARRANGEMENT.—

“(1) DISCONTINUATION.—The Secretary of the Air Force shall discontinue the evolved expendable launch vehicle launch capability arrangement, as structured as of the date of the enactment of this Act [Nov. 25, 2015], for—

“(A) existing contracts using rocket engines designed or manufactured in the Russian Federation by not later than December 31, 2019; and

“(B) existing contracts using domestic rocket engines by not later than December 31, 2020.

“(2) WAIVER.—The Secretary may waive paragraph (1) if the Secretary—

“(A) determines that such waiver is necessary for the national security interests of the United States;

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

“(C) a period of 90 days has elapsed following the date of such notification.

“(b) CONSISTENT STANDARDS.—In accordance with section 2306a of title 10, United States Code, the Secretary shall—

“(1) apply consistent and appropriate standards to certified evolved expendable launch vehicle providers with respect to certified cost and pricing data; and

“(2) conduct the appropriate audits.

“(c) ACQUISITION STRATEGY.—In accordance with subsections (a) and (b) and section 2273 of title 10, United States Code, the Secretary shall develop and carry out a 10-year phased acquisition strategy, including near and long term, for the evolved expendable launch vehicle program [now the National Security Space Launch program].

“(d) ELEMENTS.—The acquisition strategy under subsection (c) for the evolved expendable launch vehicle program [now the National Security Space Launch program] shall—

“(1) provide the necessary—

“(A) stability in budgeting and acquisition of capabilities;

“(B) flexibility to the Federal Government; and

“(C) procedures for fair competition; and

“(2) specifically take into account, as appropriate per competition, the effect of—

“(A) contracts or agreements for launch services or launch capability entered into by the Department of Defense and the National Aeronautics and Space Administration with certified evolved expendable launch vehicle providers;

“(B) the requirements of the Department of Defense, including with respect to launch capabilities and pricing data, that are met by such providers;

“(C) the cost of integrating a satellite onto a launch vehicle; and

“(D) any other matters the Secretary considers appropriate.

“(e) COMPETITION.—In awarding any contract for launch services in a national security space mission pursuant to a competitive acquisition, the evaluation shall account for the value of the evolved expendable launch vehicle launch capability arrangement per contract line item numbers in the bid price of the offeror as appropriate per launch.

“(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report on the acquisition strategy developed under subsection (c).”

ROCKET PROPULSION SYSTEM DEVELOPMENT PROGRAM

Pub. L. 113-291, div. A, title XVI, §1604, Dec. 19, 2014, 128 Stat. 3623, as amended by Pub. L. 114-92, div. A, title XVI, §1606(a), Nov. 25, 2015, 129 Stat. 1099; Pub. L. 114-328, div. A, title XVI, §1603, Dec. 23, 2016, 130 Stat. 2582, provided that:

“(a) DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary of Defense shall develop a next-generation rocket propulsion system that enables the effective, efficient, and expedient transition from the use of non-allied space launch engines to a domestic alternative for national security space launches.

“(2) REQUIREMENTS.—The system developed under paragraph (1) shall—

“(A) be made in the United States;

“(B) meet the requirements of the national security space community;

“(C) be developed by not later than 2019;

“(D) be developed using full and open competition; and

“(E) be available for purchase by all space launch providers of the United States.

“(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary shall submit to the appropriate congressional committees a report that includes—

“(1) a plan to carry out the development of the rocket propulsion system under subsection (a), including an analysis of the benefits of using public-private partnerships;

“(2) the requirements of the program to develop such system; and

“(3) the estimated cost of such system.

“(c) STREAMLINED ACQUISITION.—In developing the rocket propulsion system required under subsection (a), the Secretary shall—

“(1) use a streamlined acquisition approach, including tailored documentation and review processes, that enables the effective, efficient, and expedient transition from the use of non-allied space launch engines to a domestic alternative for national security space launches; and

“(2) prior to establishing such acquisition approach, establish well-defined requirements with a clear acquisition strategy.

“(d) USE OF FUNDS UNDER DEVELOPMENT PROGRAM.—

“(1) DEVELOPMENT OF ROCKET PROPULSION SYSTEM.—The funds described in paragraph (2)—

“(A) may be obligated or expended for—

“(i) the development of the rocket propulsion system to replace non-allied space launch engines pursuant to subsection (a); and

“(ii) the necessary interfaces to, or integration of, the rocket propulsion system with an existing or new launch vehicle; and

“(B) except as provided by paragraph (3), may not be obligated or expended to develop or procure a launch vehicle, an upper stage, a strap-on motor, or related infrastructure.

“(2) FUNDS DESCRIBED.—The funds described in this paragraph are the following:

“(A) Funds authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 [Pub. L. 114-328, see Tables for classification] or otherwise made available for fiscal year 2017 for the Department of Defense for the development of the rocket propulsion system under subsection (a).

“(B) Funds authorized to be appropriated by this Act [see Tables for classification] or the National Defense Authorization Act for Fiscal Year 2016 [Pub. L. 114-92, see Tables for classification] or otherwise made available for fiscal years 2015 or 2016 for the Department of Defense for the development of the rocket propulsion system under subsection (a) that are unobligated as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017 [Dec. 23, 2016].

“(3) OTHER PURPOSES.—The Secretary may obligate or expend not more than a total of the amount calculated under paragraph (4) of the funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment for activities not authorized by paragraph (1)(A), including for developing a launch vehicle, an upper stage, a strap-on motor, or related infrastructure. The Secretary may exceed such limit calculated under paragraph (4) in fiscal year 2017 for such purposes if—

“(A) the Secretary certifies to the appropriate congressional committees that, as of the date of the certification—

“(i) the development of the rocket propulsion system is being carried out pursuant to paragraph (1)(A) in a manner that ensures that the rocket propulsion system will meet each requirement under subsection (a)(2); and

“(ii) such obligation or expenditure will not negatively affect the development of the rocket propulsion system, including with respect to meeting such requirements; and

“(B) the reprogramming or transfer is carried out in accordance with established procedures for reprogramming or transfers, including with respect to presenting a request for a reprogramming of funds.

“(4) CALCULATION OF AMOUNTS FOR OTHER PURPOSES.—In carrying out paragraph (3), the Secretary shall calculate the amount of the funds specified in such paragraph as follows:

“(A) If the total amount of funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment is equal to or less than \$320,000,000, such amount shall equal 31 percent.

“(B) If the total amount of funds that are authorized to be appropriated by the National Defense Authorization Act for Fiscal Year 2017 or otherwise made available for fiscal year 2017 for the rocket propulsion system and launch system investment is greater than \$320,000,000, such amount shall equal the difference of—

“(i) the amount of funds so authorized to be appropriated, minus

“(ii) \$220,000,000.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘rocket propulsion system’ means, with respect to the development authorized by subsection (a), a main booster, first-stage rocket engine or motor. The term does not include a launch vehicle, an upper stage, a strap-on motor, or related infrastructure.”

§ 2273a. Space Rapid Capabilities Office

(a) IN GENERAL.—There is within the Air Force Space Command a program office known as the Space Rapid Capabilities Office (in this section referred to as the “Office”). The facilities of the Office may not be co-located with the headquarters facilities of the Air Force Space and Missile Systems Center.

(b) HEAD OF OFFICE.—The head of the Office shall be the designee of the Secretary of the Air Force. The head of the Office shall report to the Commander of the Air Force Space Command.

(c) MISSION.—The mission of the Office shall be—

(1) to contribute to the development of low-cost, rapid reaction payloads, busses, launch, and launch control capabilities in order to fulfill joint military operational requirements for on-demand space support and reconstitution;

(2) to coordinate and execute space rapid capabilities efforts across the Department of Defense with respect to planning, acquisition, and operations; and

(3) to rapidly develop and field new classified space capabilities.

(d) ACQUISITION AUTHORITY.—The acquisition activities of the Office shall be subject to the following:

(1) The Secretary of the Air Force shall designate the acquisition executive of the Office who shall provide streamlined acquisition authorities for projects of the Office.

(2) The Joint Capabilities Integration and Development System process shall not apply to acquisitions by the Office.

(3) The Commander of the United States Strategic Command, acting through the United States Space Command, shall—

(A) establish and validate capability requirements; and

(B) recommend priorities as the Commander determines appropriate.

(e) REQUIRED PROGRAM ELEMENT.—(1) The Secretary of the Air Force shall ensure, within budget program elements for space programs, that—

(A) there are separate, dedicated unclassified and classified program elements for space rapid capabilities; and

(B) the Office executes the responsibilities of the Office through such program elements.

(2) The Office shall manage the program elements required by paragraph (1).