

ity, but only to the extent specified in the memorandum or other agreement.

(c) DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

(e) DEFINITIONS.—In this section:

(1) The term “direct cost”, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

(i) the use; or

(ii) the maintenance of the test facility for purposes of the use.

(2) The term “indirect cost”, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

(3) The term “test facility” means a range or other facility at which testing of defense equipment may be carried out.

(Added Pub. L. 107–107, div. A, title XII, § 1213(a), Dec. 28, 2001, 115 Stat. 1250.)

[§ 2350m. Renumbered § 344]

CHAPTER 139—RESEARCH AND DEVELOPMENT

Sec.	
2351.	Availability of appropriations.
[2352.	Repealed.]
2353.	Contracts: acquisition, construction, or furnishing of test facilities and equipment.
2354.	Contracts: indemnification provisions.
[2355, 2356.	Repealed.]
2357.	Technology protection features activities.

Sec.	
2358.	Research and development projects.
2358a.	Authorities for certain positions at science and technology reinvention laboratories.
2359.	Science and technology programs to be conducted so as to foster the transition of science and technology to higher levels of research, development, test, and evaluation.
2359a.	Defense Research and Development Rapid Innovation Program.
2359b.	Defense Acquisition Challenge Program.
2360.	Research and development laboratories: contracts for services of university students.
2361.	Award of grants and contracts to colleges and universities: requirement of competition.
2362.	Research and educational programs and activities: historically black colleges and universities and minority-serving institutions of higher education.
2363.	Mechanisms to provide funds for defense laboratories for research and development of technologies for military missions.
2364.	Coordination and communication of defense research activities and technology domain awareness.
2365.	Global Research Watch Program.
2366.	Major systems and munitions programs: survivability testing and lethality testing required before full-scale production.
2366a.	Major defense acquisition programs: determination required before Milestone A approval.
2366b.	Major defense acquisition programs: certification required before Milestone B approval.
2366c.	Major defense acquisition programs: submissions to Congress on Milestone C.
2367.	Use of federally funded research and development centers.
2368.	Centers for Science, Technology, and Engineering Partnership.
[2369 to 2370a.	Repealed.]
2371.	Research projects: transactions other than contracts and grants.
2371a.	Cooperative research and development agreements under Stevenson-Wydler Technology Innovation Act of 1980.
2371b.	Authority of the Department of Defense to carry out certain prototype projects.
2372.	Independent research and development costs: allowable costs.
2372a.	Bid and proposal costs: allowable costs.
2373.	Procurement for experimental purposes.
2374.	Merit-based award of grants for research and development.
2374a.	Prizes for advanced technology achievements.
[2374b.	Repealed.]

AMENDMENTS

2018—Pub. L. 115–232, div. A, title II, §§ 223(b), 224(a)(2), Aug. 13, 2018, 132 Stat. 1683, 1684, added items 2357 and 2359a.

2017—Pub. L. 115–91, div. A, title II, § 220(b), title X, § 1081(a)(33), Dec. 12, 2017, 131 Stat. 1333, 1596, added item 2363 and inserted a period at end of items 2372 and 2372a.

2016—Pub. L. 114–328, div. A, title VIII, §§ 808(c)(2), 824(a)(2), (b)(2), title XI, § 1122(a)(2), Dec. 23, 2016, 130 Stat. 2266, 2277, 2279, 2455, added items 2358a, 2366c, 2372, and 2372a and struck out former item 2372 “Independent research and development and bid and proposal costs: payments to contractors”.

2015—Pub. L. 114–92, div. A, title II, §§ 211(b), 214(b), title VIII, §§ 815(a)(2), 823(b), title X, § 1078(c)(2), Nov. 25, 2015, 129 Stat. 767, 769, 896, 903, 999, added items 2368 and 2371b, substituted “Coordination and communication of defense research activities and technology domain awareness” for “Coordination and communication of defense research activities” in item 2364 and “Major defense acquisition programs: determination required be-

fore Milestone A approval” for “Major defense acquisition programs: certification required before Milestone A approval” in item 2366a, and struck out item 2352 “Defense Advanced Research Projects Agency: biennial strategic plan”.

2013—Pub. L. 112-239, div. A, title X, §1076(g)(4), Jan. 2, 2013, 126 Stat. 1955, struck out item 2374b “Prizes for achievements in promoting science, mathematics, engineering, or technology education”.

2011—Pub. L. 112-81, div. A, title VIII, §801(e)(3), Dec. 31, 2011, 125 Stat. 1484, substituted “Major defense acquisition programs: certification required before Milestone A approval” for “Major defense acquisition programs: certification required before Milestone A or Key Decision Point A approval” in item 2366a and “Major defense acquisition programs: certification required before Milestone B approval” for “Major defense acquisition programs: certification required before Milestone B or Key Decision Point B approval” in item 2366b.

Pub. L. 112-81, div. A, title II, §251(a)(2), (b), Dec. 31, 2011, 125 Stat. 1347, effective Oct. 1, 2013, struck out item 2359a “Technology Transition Initiative”.

2009—Pub. L. 111-84, div. A, title II, §252(b), Oct. 28, 2009, 123 Stat. 2243, added item 2362.

2008—Pub. L. 110-417, [div. A], title VIII, §813(c), Oct. 14, 2008, 122 Stat. 4527, added items 2366a and 2366b and struck out former items 2366a “Major defense acquisition programs: certification required before Milestone B approval or Key Decision Point B approval” and 2366b “Major defense acquisition programs: certification required before Milestone A or Key Decision Point A approval”.

Pub. L. 110-181, div. A, title IX, §943(a)(2), Jan. 28, 2008, 122 Stat. 289, added item 2366b.

2006—Pub. L. 109-163, div. A, title VIII, §801(b), Jan. 6, 2006, 119 Stat. 3367, added item 2366a.

2004—Pub. L. 108-375, div. A, title X, §1005(b), Oct. 28, 2004, 118 Stat. 2036, struck out item 2370a “Medical countermeasures against biowarfare threats: allocation of funding between near-term and other threats”.

2003—Pub. L. 108-136, div. A, title II, §§231(b), 232(b), Nov. 24, 2003, 117 Stat. 1422, 1423, added items 2352 and 2365.

2002—Pub. L. 107-314, div. A, title II, §§242(a)(2), 243(b), 248(c)(2), Dec. 2, 2002, 116 Stat. 2495, 2498, 2503, added items 2359a, 2359b, and 2374b.

2000—Pub. L. 106-398, §1 [[div. A], title IX, §904(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-225, added item 2359.

1999—Pub. L. 106-65, div. A, title II, §244(b), Oct. 5, 1999, 113 Stat. 552, added item 2374a.

1996—Pub. L. 104-201, div. A, title II, §267(c)(1)(C), Sept. 23, 1996, 110 Stat. 2468, added item 2371a.

Pub. L. 104-106, div. A, title VIII, §802(b), title X, §§1061(j)(2), 1062(c)(2), Feb. 10, 1996, 110 Stat. 390, 443, 444, struck out items 2352 “Contracts: notice to Congress required for contracts performed over period exceeding 10 years”, 2356 “Contracts: delegations”, and 2370 “Biological Defense Research Program”.

1994—Pub. L. 103-355, title I, §1301(c), title II, §2002(b), title III, §3062(b), title VII, §7203(a)(3), Oct. 13, 1994, 108 Stat. 3287, 3303, 3337, 3380, added item 2374, substituted in item 2358 “Research and development projects” for “Research projects” and in item 2371 “Research projects: transactions other than contracts and grants” for “Advanced research projects: cooperative agreements and other transactions”, and struck out item 2355 “Contracts: vouchering procedures” and item 2369 “Product evaluation activity”.

1993—Pub. L. 103-160, div. A, title II, §214(b), title VIII, §828(a)(2), (c)(2), Nov. 30, 1993, 107 Stat. 1586, 1713, 1714, struck out item 2362 “Testing requirements: wheeled or tracked armored vehicles” and added items 2370a and 2373.

1992—Pub. L. 102-484, div. A, title VIII, §821(c)(2), div. D, title XLII, §4271(b)(3), Oct. 23, 1992, 106 Stat. 2460, 2696, struck out items 2363 “Encouragement of technology transfer” and 2365 “Competitive prototype strategy requirement: major defense acquisition programs”.

1991—Pub. L. 102-190, div. A, title VIII, §§802(a)(2), 803(a)(2), 821(c)(2), Dec. 5, 1991, 105 Stat. 1414, 1415, 1431,

substituted item 2352 for former item 2352 “Contracts: limited to five-year terms”, struck out item 2368 “Critical technologies research”, and substituted item 2372 for former item 2372 “Independent research and development”.

Pub. L. 102-25, title VII, §701(e)(5), Apr. 6, 1991, 105 Stat. 114, inserted period at end of item 2366.

1990—Pub. L. 101-510, div. A, title II, §241(b), title VIII, §824(a)(2), title XIII, §1331(5), Nov. 5, 1990, 104 Stat. 1517, 1604, 1673, struck out items 2357 “Contracts: reports to Congress” and 2359 “Salaries of officers of Federal contract research centers: reports to Congress” and added items 2370 and 2372.

1989—Pub. L. 101-189, div. A, title II, §251(a)(2), title VIII, §§802(c)(4)(B), 841(c)(2), Nov. 29, 1989, 103 Stat. 1404, 1486, 1514, substituted “testing and lethality testing required before full-scale production” for “and lethality testing; operational testing” in item 2366, substituted “research” for “plan” in item 2368, and added item 2371.

1988—Pub. L. 100-456, div. A, title II, §220(b), title VIII, §§823(a)(2), 842(b), Sept. 29, 1988, 102 Stat. 1941, 2018, 2026, added items 2361, 2368, and 2369.

Pub. L. 100-370, §1(g)(4), July 19, 1988, 102 Stat. 847, added item 2351, and struck out item 2361 “Availability of appropriations”.

1987—Pub. L. 100-180, div. A, title XII, §1231(10)(C), (12), Dec. 4, 1987, 101 Stat. 1160, substituted “defense” for “Defense” in item 2364 and “federally” for “Federally” in item 2367.

Pub. L. 100-26, §5(3)(B), Apr. 21, 1987, 101 Stat. 274, made technical amendment to directory language of section 909(a)(2) of Pub. L. 99-500, Pub. L. 99-591, and 99-661. See 1986 Amendment note below.

Pub. L. 100-26, §3(1)(B), Apr. 21, 1987, 101 Stat. 273, made technical amendment to directory language of section 234(c)(2) of Pub. L. 99-661. See 1986 Amendment note below.

1986—Pub. L. 99-661, div. A, title II, §234(c)(2), Nov. 14, 1986, 100 Stat. 3849, as amended by Pub. L. 100-26, §3(1)(B), Apr. 21, 1987, 101 Stat. 273, added item 2364.

Pub. L. 99-500, §101(c) [title X, §§909(a)(2), 910(a)(2), 912(a)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-143, 1783-144, 1783-146, and Pub. L. 99-591, §101(c) [title X, §§909(a)(2), 910(a)(2), 912(a)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-143, 3341-144, 3341-146; Pub. L. 99-661, div. A, title IX, formerly title IV, §§909(a)(2), 910(a)(2), 912(a)(2), Nov. 14, 1986, 100 Stat. 3849, 3922, 3924, 3926, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; as amended by Pub. L. 100-26, §5(3)(B), Apr. 21, 1987, 101 Stat. 274, amended analysis identically, adding items 2365, 2366, and 2367.

1985—Pub. L. 99-145, title I, §123(a)(2), title XIV, §1457(b), Nov. 8, 1985, 99 Stat. 601, 763, added items 2362 and 2363.

1982—Pub. L. 97-258, §2(b)(3)(A), Sept. 13, 1982, 96 Stat. 1052, added item 2361.

1981—Pub. L. 97-86, title VI, §603(b), Dec. 1, 1981, 95 Stat. 1110, added item 2360.

1979—Pub. L. 96-107, title VIII, 819(a)(2), Nov. 9, 1979, 93 Stat. 819, added item 2359.

1962—Pub. L. 87-651, title II, §208(b), Sept. 7, 1962, 76 Stat. 523, added item 2358.

1958—Pub. L. 85-599, §3(d), Aug. 6, 1958, 72 Stat. 516, struck out item 2351 “Policy, plans, and coordination”.

§ 2351. Availability of appropriations

(a) Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years.

(b) Funds appropriated to the Department of Defense for research and development may be used—

(1) for the purposes of section 2353 of this title; and

(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.