

## AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” in introductory provisions.

1997—Pub. L. 105-85, §1014(b)(1), inserted “public utility services,” after “tuition,” in section catchline.

Subsec. (a)(4). Pub. L. 105-85, §1014(a), added par. (4).

1982—Subsec. (b)(2)(C). Pub. L. 97-295 substituted “any other” for “another”.

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

**[§§ 2397 to 2397c. Repealed. Pub. L. 104-106, div. D, title XLIII, § 4304(b)(1), Feb. 10, 1996, 110 Stat. 664]**

Section 2397, added Pub. L. 97-295, §1(29)(A), Oct. 12, 1982, 96 Stat. 1291; amended Pub. L. 99-145, title IX, §922, Nov. 8, 1985, 99 Stat. 693; Pub. L. 100-26, §7(j)(5), (k)(2), Apr. 21, 1987, 101 Stat. 283, 284; Pub. L. 102-25, title VII, §701(d)(6), Apr. 6, 1991, 105 Stat. 114; Pub. L. 102-484, div. A, title X, §1052(29), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title IV, §4401(d), title VIII, §8105(d), Oct. 13, 1994, 108 Stat. 3348, 3392, related to filing of certain reports by employees or former employees of defense contractors.

Section 2397a, added Pub. L. 99-145, title IX, §923(a)(1), Nov. 8, 1985, 99 Stat. 695; amended Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-280, §10(b), May 4, 1990, 104 Stat. 162, related to requirements relating to private employment contacts between certain Department of Defense procurement officials and defense contractors.

Section 2397b, added Pub. L. 99-500, §101(c) [title X, §931(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-156, and Pub. L. 99-591, §101(c) [title X, §931(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-156; Pub. L. 99-661, div. A, title IX, formerly title IV, §931(a)(1), Nov. 14, 1986, 100 Stat. 3936, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100-180, div. A, title VIII, §821, Dec. 4, 1987, 101 Stat. 1132; Pub. L. 103-355, title VIII, §8105(e), Oct. 13, 1994, 108 Stat. 3392, related to limitations on employment by contractors of certain former Department of Defense procurement officials.

Section 2397c, added Pub. L. 99-500, §101(c) [title X, §931(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-159, and Pub. L. 99-591, §101(c) [title X, §931(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-159; Pub. L. 99-661, div. A, title IX, formerly title IV, §931(a)(1), Nov. 14, 1986, 100 Stat. 3938, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103-355, title VIII, §8105(f), Oct. 13, 1994, 108 Stat. 3392, related to requirements for defense contractors concerning former Department of Defense officials.

## EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 4401 of Pub. L. 104-106, set out as an Effective Date of 1996 Amendment note under section 2302 of this title.

**[§ 2398. Renumbered § 2922c]**

**[§ 2398a. Renumbered § 2922d]**

**§ 2399. Operational test and evaluation of defense acquisition programs**

(a) **CONDITION FOR PROCEEDING BEYOND LOW-RATE INITIAL PRODUCTION.**—(1) The Secretary of Defense shall provide that a covered major defense acquisition program, a covered designated major subprogram, or an element of the ballistic missile defense system may not proceed beyond low-rate initial production until initial oper-

ational test and evaluation of the program, subprogram, or element is completed.

(2) In this subsection:

(A) The term “covered major defense acquisition program” means a major defense acquisition program that involves the acquisition of a weapon system that is a major system within the meaning of that term in section 2302(5) of this title.

(B) The term “covered designated major subprogram” means a major subprogram designated under section 2430a(a)(1) of this title that is a major subprogram of a covered major defense acquisition program.

(b) **OPERATIONAL TEST AND EVALUATION.**—(1) Operational testing of a major defense acquisition program may not be conducted until the Director of Operational Test and Evaluation of the Department of Defense approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating—

(A) the opinion of the Director as to—

(i) whether the test and evaluation performed were adequate; and

(ii) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat; and

(B) additional information on the operational capabilities of the items or components that the Director considers appropriate based on the testing conducted.

(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense for Research and Engineering, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

(4) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program under paragraph (2) and the congressional defense committees have received that report.

(5) If, before a final decision described in paragraph (4) is made for a major defense acquisition program, a decision is made within the Department of Defense to proceed to operational use of that program or to make procurement funds available for that program, the Director shall submit to the Secretary of Defense and the congressional defense committees the report with respect to that program under paragraph (2) as soon as practicable after the decision described in this paragraph is made.