

§ 254; renumbered § 240d, Pub. L. 115–232, div. A, title X, § 1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 1005 of Pub. L. 114–92, div. A, title X, Nov. 25, 2015, 129 Stat. 961, which was formerly set out as a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, § 1002(e)(4), Dec. 12, 2017, 131 Stat. 1541.

#### AMENDMENTS

2018—Pub. L. 115–232 renumbered section 254 of this title as this section.

2017—Subsec. (a). Pub. L. 115–91, § 1002(e)(2)(B), struck out “, United States Code,” after “title 31”.

Subsec. (d)(1)(A). Pub. L. 115–91, § 1002(e)(3)(A)(i), inserted “and the Chief Management Officer of the Department of Defense” before semicolon.

Pub. L. 115–91, § 1002(e)(2)(A), struck out “, United States Code” after “title 31”.

Subsec. (d)(1)(C), (D). Pub. L. 115–91, § 1002(e)(3)(A)(ii)–(iv), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (e)(1). Pub. L. 115–91, § 1002(e)(3)(B), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: “shall be implemented in a manner that is consistent with the requirements of section 1008 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 113 note);”.

Subsec. (e)(2). Pub. L. 115–91, § 1002(e)(3)(B)(ii), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Pub. L. 115–91, § 1002(e)(2)(B), struck out “, United States Code,” after “title 31”.

Subsec. (e)(3). Pub. L. 115–91, § 1002(e)(3)(B)(ii), redesignated par. (3) as (2).

Pub. L. 115–91, § 1002(e)(2)(A), struck out “, United States Code” after “title 31”.

#### CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

#### TRANSPARENCY OF ACCOUNTING FIRMS USED TO SUPPORT DEPARTMENT OF DEFENSE AUDIT

Pub. L. 115–232, div. A, title X, § 1006, Aug. 13, 2018, 132 Stat. 1947, as amended by Pub. L. 116–92, div. A, title X, § 1011, Dec. 20, 2019, 133 Stat. 1577, provided that:

“(a) IN GENERAL.—For all contract actions (including awards, renewals, and amendments) occurring more than 180 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall require any accounting firm providing financial statement auditing or audit remediation services to the Department of Defense in support of the audit required under section 3521 of title 31, United States Code, to provide the Department with a statement setting forth the details of any disciplinary proceedings with respect to the accounting firm or its associated persons before any entity with the authority to enforce compliance with rules or laws applying to audit services offered by accounting firms.

“(b) TREATMENT OF STATEMENT.—A statement setting forth the details of a disciplinary proceeding submitted pursuant to subsection (a), and the information contained in such a statement, shall be—

“(1) treated as confidential to the extent required by the court or agency in which the proceeding has occurred; and

“(2) treated in a manner consistent with any protections or privileges established by any other provision of Federal law.”

#### § 240e. Audits: use of commercial data integration and analysis products in preparing audits

(a) DEPLOYMENT OF DATA ANALYTICS CAPABILITIES.—The Secretary of Defense shall use competitive procedures under chapter 137 of this title to procure or develop technologies or services, including those based on commercially available information technologies and services to improve data collection and analyses to support preparation of auditable financial statements for the Department of Defense.

(b) USE OF FUNDING AND RESOURCES.—The Secretary of Defense may use science and technology funding, prototypes, and test and evaluation resources as appropriate in support of deployment of technologies and services as described in subsection (a).

(Added and amended Pub. L. 115–91, div. A, title X, § 1002(f)(1), (2), Dec. 12, 2017, 131 Stat. 1541, 1542, § 254a; renumbered § 240e, Pub. L. 115–232, div. A, title X, § 1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of subsecs. (a) and (b) of section 1003 of Pub. L. 114–328, div. A, title X, Dec. 23, 2016, 130 Stat. 2380, which were formerly set out in a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, § 1002(f)(3), Dec. 12, 2017, 131 Stat. 1542.

#### AMENDMENTS

2018—Pub. L. 115–232 renumbered section 254a of this title as this section.

2017—Subsec. (a). Pub. L. 115–91, § 1002(f)(2)(A), substituted “of this title” for “of title 10, United States Code,” and struck out “, as soon as practicable,” after “develop”.

Subsec. (b). Pub. L. 115–91, § 1002(f)(2)(B), substituted “deployment of technologies and services as described in subsection (a)” for “this deployment”.

#### § 240f. Audits: selection of service providers for audit services

The Department of Defense shall select service providers for auditing services based on the best value to the Department, as determined by the resource sponsor for an auditing contract, rather than based on the lowest price technically acceptable service provider.

(Added and amended Pub. L. 115–91, div. A, title X, § 1002(g)(1), (2), Dec. 12, 2017, 131 Stat. 1542, § 254b; renumbered § 240f, Pub. L. 115–232, div. A, title X, § 1002(a)(1)(A), Aug. 13, 2018, 132 Stat. 1945.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 892 of Pub. L. 114–328, div. A, title VIII, Dec. 23, 2016, 130 Stat. 2324, which was formerly set out as a note under section 2331 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, § 1002(g)(3), Dec. 12, 2017, 131 Stat. 1542.

#### AMENDMENTS

2018—Pub. L. 115–232 renumbered section 254b of this title as this section.

2017—Pub. L. 115–91, § 1002(g)(2), struck out “and audit readiness services” after “auditing services”.

#### NOTIFICATION REQUIREMENT FOR CERTAIN CONTRACTS FOR AUDIT SERVICES

Pub. L. 115–91, div. A, title X, § 1007, Dec. 12, 2017, 131 Stat. 1545, provided that:

“(a) NOTIFICATION TO CONGRESS.—If the Under Secretary of Defense (Comptroller) makes a written finding that a delay in performance of a covered contract while a protest is pending would hinder the annual preparation of audited financial statements for the Department of Defense, and the head of the procuring activity responsible for the award of the covered contract does not authorize the award of the contract (pursuant to section 3553(c)(2) of title 31, United States Code) or the performance of the contract (pursuant to section 3553(d)(3)(C) of such title), the Secretary of Defense shall—

“(1) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 10 days after such finding is made; and

“(2) describe any steps the Department of Defense plans to take to mitigate any hindrance identified in such finding to the annual preparation of audited financial statements for the Department.

“(b) COVERED CONTRACT DEFINED.—In this section, the term ‘covered contract’ means a contract for services to perform an audit to comply with the requirements of section 3515 of title 31, United States Code.”

#### § 240g. Defense Business Audit Remediation Plan

(a) IN GENERAL.—The Secretary of Defense shall maintain a plan, to be known as the “Defense Business Systems Audit Remediation Plan”. Such plan shall include a current accounting of the defense business systems of the Department of Defense that will be introduced, replaced, updated, modified, or retired in connection with the audit of the full financial statements of the Department, including a comprehensive roadmap that displays—

(1) in-service, retirement, and other pertinent dates for affected defense business systems;

(2) current cost-to-complete estimates for each affected defense business system;

(3) dependencies both between the various defense business systems and between the introduction, replacement, update, modification, and retirement of such systems; and<sup>1</sup>

(4) the amount spent by the Department on operating and maintaining financial management systems during the preceding five fiscal years; and

(5) the amount spent by the Department on acquiring or developing new financial management systems during such five fiscal years.

(b) REPORT AND BRIEFING REQUIREMENTS.—

(1) ANNUAL REPORT.—Not later than June 30, 2020, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees an updated report on the Defense Business Systems Audit Remediation Plan under subsection (a).

(2) SEMIANNUAL BRIEFINGS.—Not later than January 31 and June 30 each year, the Secretary shall provide to the congressional defense committees a briefing on the status of the Defense Business Systems Audit Remediation Plan. Such briefing shall include a description of any updates to the defense business systems roadmap referred to in subsection (a).

(c) DEFENSE BUSINESS SYSTEM.—In this section, the term “defense business system” has

<sup>1</sup> So in original. The word “and” probably should not appear.

the meaning given such term in section 2222(i)(1)(A) of this title.

(Added Pub. L. 116-92, div. A, title X, §1002(a), Dec. 20, 2019, 133 Stat. 1570; amended Pub. L. 116-283, div. A, title X, §1005(a), Jan. 1, 2021, 134 Stat. 3837.)

#### AMENDMENTS

2021—Subsec. (a)(4), (5). Pub. L. 116-283 added pars. (4) and (5).

#### § 240i. Annual report on auditable financial statements

(a) IN GENERAL.—Not later than January 30 of each year, the Secretary of Defense shall submit to the congressional defense committees a report that includes a ranking of all of the military departments and Defense Agencies in order of how advanced each such department and Agency is in achieving auditable financial statements, as required by law. In preparing the report, the Secretary shall seek to exclude information that is otherwise available in other reports to Congress.

(b) BOTTOM QUARTILE.—Not later than June 30 of each year, the head of each of the military departments and Defense Agencies that were ranked in the bottom quartile of the report submitted under subsection (a) for that year shall submit to the congressional defense committees a report that includes the following information for that military department or Defense Agency:

(1) A description of the material weaknesses of the military department or Defense Agency.

(2) The underlying causes of such weaknesses.

(3) A plan for remediating such weaknesses.

(4) The total number of open audit notices of findings and recommendations (hereinafter referred to as “NFRs”) for the most recently concluded fiscal year and the preceding two fiscal years, where applicable.

(5) The number of repeat or reissued NFRs from the most recently concluded fiscal year.

(6) The number of NFRs that were previously forecasted to be closed during the most recently concluded fiscal year that remain open.

(7) The number of closed NFRs during the current fiscal year and prior fiscal years.

(8) The number of material weaknesses that were validated by external auditors as fully resolved or downgraded in the current fiscal year over prior fiscal years.

(9) A breakdown by fiscal years in which open NFRs are forecasted to be closed.

(10) Explanations for unfavorable trends in the information under paragraphs (1) through (9).

(Added Pub. L. 116-92, div. A, title X, §1004(a)(1), Dec. 20, 2019, 133 Stat. 1572.)

#### § 240i. Annual report on unfunded priorities

(a) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Under Secretary of Defense (Comptroller) shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on unfunded prior-