

gram, including evaluation of the benefits of reduced risk regarding cost, schedule, and performance associated with commercial products, commercial services, and nondevelopmental items.

“(b) ACTIVITIES.—Activities carried out under the pilot program may include the following:

“(1) Establishment of a team of Department of Defense and private sector subject matter experts (which may include the cadre of intellectual property experts established under section 2322(b) of title 10, United States Code) to—

“(A) recommend acquisition programs to be selected for the pilot program established under subsection (a);

“(B) recommend criteria for the consideration of types of commercial products, commercial services, or nondevelopmental items that can be used as an alternative to a product or service to be specifically developed for a selected acquisition program; or

“(C) identify, to the maximum extent practicable at each milestone established for each selected acquisition program, intellectual property evaluation techniques to obtain quantitative and qualitative analysis of intellectual property during the procurement, production and deployment, and operations and support phases for the each selected acquisition program.

“(2) Assessment of commercial valuation techniques for intellectual property for use by the Department of Defense.

“(3) Assessment of the feasibility of agency-level oversight to standardize intellectual property evaluation practices and procedures.

“(4) Assessment of contracting mechanisms to speed delivery of intellectual property to the Armed Forces or reduce sustainment costs.

“(5) Assessment of agency acquisition planning to ensure procurement of appropriate intellectual property deliverables and intellectual property rights necessary for Government-planned sustainment activities.

“(6) Engagement with the private sector to—

“(A) support the development of strategies and program requirements to aid in acquisition planning for intellectual property;

“(B) support the development and improvement of intellectual property strategies as part of life-cycle sustainment plans; and

“(C) propose and implement alternative and innovative methods of intellectual property valuation, prioritization, and evaluation techniques for intellectual property.

“(7) Recommendations to the relevant program manager of an acquisition program selected under subsection (a), including evaluation techniques and contracting mechanisms for acquisition and sustainment activities.

“(c) REPORT.—Not later than November 1, 2020, and annually thereafter through November 1, 2023, the Secretary of Defense, in coordination with the Secretaries concerned, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a joint report on the pilot program conducted under this section. The report shall, at a minimum, include—

“(1) a description of the acquisition programs selected by the Secretary concerned;

“(2) a description of the specific activities in subsection (c) that were performed under each program;

“(3) an assessment of the effectiveness of the activities;

“(4) an assessment of improvements to acquisition or sustainment activities related to the pilot program; and

“(5) an assessment of the results related to the pilot program, including any cost savings and improvement to mission success during the operations and support phase of the selected acquisition program.”

§ 2322a. Requirement for consideration of certain matters during acquisition of noncommercial computer software

(a) CONSIDERATION REQUIRED.—As part of any negotiation for the acquisition of noncommercial computer software, the Secretary of Defense shall ensure that such negotiations consider, to the maximum extent practicable, acquisition, at the appropriate time in the life cycle of the noncommercial computer software, of all software and related materials necessary—

(1) to reproduce, build, or recompile the software from original source code and required libraries;

(2) to conduct required computer software testing; and

(3) to deploy working computer software system binary files on relevant system hardware.

(b) DELIVERY OF SOFTWARE AND RELATED MATERIALS.—Any noncommercial computer software or related materials required to be delivered as a result of considerations in subsection (a) shall, to the extent appropriate as determined by the Secretary—

(1) include computer software delivered in a useable, digital format;

(2) not rely on external or additional software code or data, unless such software code or data is included in the items to be delivered; and

(3) in the case of negotiated terms that do not allow for the inclusion of dependent software code or data, sufficient documentation to support maintenance and understanding of interfaces and software revision history.

(Added Pub. L. 115–91, div. A, title VIII, § 871(a)(1), Dec. 12, 2017, 131 Stat. 1496.)

TRANSFER OF SECTION

Pub. L. 116–283, div. A, title XVIII, §§ 1801(d), 1857(c), Jan. 1, 2021, 134 Stat. 4151, 4276, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 345 of this title, as amended by section 1857(a) of Pub. L. 116–283, inserted after section 4571, and redesignated as section 4576 of this title. See Effective Date of 2021 Amendment note below.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

GUIDANCE

Pub. L. 115–91, div. A, title VIII, § 871(b), Dec. 12, 2017, 131 Stat. 1497, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall issue guidance to implement section 2322a of title 10, United States Code, as added by subsection (a).”

[§ 2323. Repealed. Pub. L. 115–232, div. A, title VIII, § 812(a)(2)(A), Aug. 13, 2018, 132 Stat. 1846]

Section, added and amended Pub. L. 102–484, div. A, title VIII, §§ 801(a)(1), (b)–(f), 802, Oct. 23, 1992, 106 Stat. 2442–2444, 2446; Pub. L. 103–35, title II, § 202(a)(6), May 31,