

uct improvement program for such a program), testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

(5) The term “configured for combat”, with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

(6) The term “covered product improvement program” means a program under which—

(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the survivability of such system; or

(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.

(7) The term “Milestone B approval” means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(8) The term “Milestone C approval” means a decision to enter into production and deployment pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(Added Pub. L. 99-500, §101(c) [title X, §910(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-143, and Pub. L. 99-591, §101(c) [title X, §910(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-143, §2366; Pub. L. 99-661, div. A, title IX, formerly title IV, §910(a)(1), Nov. 14, 1986, 100 Stat. 3923, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 100-180, div. A, title VIII, §802, title XII, §1231(11), Dec. 4, 1987, 101 Stat. 1123, 1160; Pub. L. 100-456, div. A, title XII, §1233(7)(3), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 101-189, div. A, title VIII, §§802(c)(1)-(4)(A), 804, Nov. 29, 1989, 103 Stat. 1486, 1488; Pub. L. 101-510, div. A, title XIV, §1484(h)(7), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 103-160, div. A, title VIII, §828(d)(2), Nov. 30, 1993, 107 Stat. 1715; Pub. L. 103-355, title III, §3014, Oct. 13, 1994, 108 Stat. 3332; Pub. L. 104-106, div. A, title XV, §1502(a)(18), Feb. 10, 1996, 110 Stat. 504; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-107, div. A, title VIII, §821(a), Dec. 28, 2001, 115 Stat. 1181; Pub. L. 107-314, div. A, title VIII, §818, Dec. 2, 2002, 116 Stat. 2611; Pub. L. 108-136, div. A, title X, §1043(b)(13), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 110-417, [div. A], title II, §251(a), (b), Oct. 14, 2008, 122 Stat. 4400; renumbered §4172 and amended Pub. L. 116-283, div. A, title XVIII, §§1845(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4247, 4294.)

AMENDMENTS

2021—Pub. L. 116-283, §1845(b), renumbered section 2366 of this title as this section.

Subsec. (e)(1)(A)(ii), (2)(B). Pub. L. 116-283, §1883(b)(2), substituted “section 3041” for “section 2302(5)”.

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.

§4173. Department of Defense Test Resource Management Center

(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the “Center”). The Secretary shall designate the Center as a Department of Defense Field Activity.

(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.

(2) There shall be a Deputy Director of the Center, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

(c) DUTIES OF DIRECTOR.—(1) The Director shall have the following duties:

(A) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

(i) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

(ii) all other test and evaluation facilities and resources within and outside of the Department of Defense, other than budgets and expenditures for activities described in section 139(j) of this title.

(B) To review proposed significant changes to the test and evaluation facilities and resources of the Major Range and Test Facility Base, including with respect to the expansion, divestment, consolidation, or curtailment of activities, before they are implemented by the Secretaries of the military departments or the heads of the Defense Agencies with test and evaluation responsibilities and advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering of the impact of such changes on the adequacy of such test and evaluation facilities and resources to meet the test and evaluation requirements of the Department.

(C) To complete and maintain the quadrennial strategic plan required by subsection (d).

(D) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

(E) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

(2) The Director shall have access to such records and data of the Department of Defense (including the appropriate records and data of each military department and Defense Agency) that are necessary in order to carry out the duties of the Director under this section.

(d) QUADRENNIAL STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every four fiscal years, and within one year after release of the National Defense Strategy,¹ the Under Secretary of Defense for Research and Engineering, in coordination with the Director of the Department of Defense Test Resource Management Center, the Director of Operational Test and Evaluation, the Director of the Defense Intelligence Agency, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a quadrennial strategic plan reflecting the future needs of the Department of Defense with respect to test and evaluation facilities and resources. Each quadrennial strategic plan shall cover the period of thirty fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The quadrennial strategic plan shall be based on a comprehensive review of both funded and unfunded test and evaluation requirements of the Department, future threats to national security, and the adequacy of the test and evaluation facilities and resources of the Department to meet those future requirements and threats.

(2) The quadrennial strategic plan shall include the following:

(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

(C) An assessment of the test and evaluation facilities and resources that will be needed to meet current and future requirements for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats.

(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

(E) An assessment of plans and business case analyses supporting any significant modification of the test and evaluation facilities and resources of the Department projected, proposed, or recommended by the Secretary of a military department or the head of a Defense Agency for such period, including with respect to the expansion, divestment, consolidation, or curtailment of activities.

(F) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

(G) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

(3) Upon completing a quadrennial strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

¹ So in original.

(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

(5)(A) In addition to the quadrennial strategic plan completed under paragraph (1), the Director of the Department of Defense Test Resource Management Center shall also complete an annual update to the quadrennial strategic plan.

(B) Each annual update completed under subparagraph (A) shall include the following:

(i) A summary of changes to the assessment provided in the most recent quadrennial strategic plan.

(ii) Comments and recommendations the Director considers appropriate.

(iii) Test and evaluation challenges raised since the completion of the most recent quadrennial strategic plan.

(iv) Actions taken or planned to address such challenges.

(e) CERTIFICATION OF BUDGETS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's or Defense Agency head's proposed budget for test and evaluation activities, including modeling and simulation activities, for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such quadrennial strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) APPROVAL OF CERTAIN MODIFICATIONS.—(1) The Secretary of a military department or the head of a Defense Agency with test and evaluation responsibilities may not implement a projected, proposed, or recommended significant modification of the test and evaluation facilities and resources of the Department, including with respect to the expansion, divestment, consolidation, or curtailment of activities, until—

(A) the Secretary or the head, as the case may be, submits to the Director a business case analysis for such modification; and

(B) the Director reviews such analysis and approves such modification.

(2) The Director shall submit to the Secretary of Defense an annual report containing the comments of the Director with respect to each business case analysis reviewed under paragraph (1)(B) during the year covered by the report.

(g) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Research and Engineering. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(h) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(i) DEFINITION.—In this section, the term “Major Range and Test Facility Base” means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107–314, div. A, title II, §231(a)(1), Dec. 2, 2002, 116 Stat. 2487, §196; amended Pub. L. 108–136, div. A, title II, §212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109–163, div. A, title II, §258(a), title IX, §902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111–84, div. A, title II, §251, Oct. 28, 2009, 123 Stat. 2241; Pub. L. 113–291, div. A, title II, §214, Dec. 19, 2014, 128 Stat. 3326; Pub. L. 114–328, div. A, title V, §502(c), title X, §1081(a)(3), Dec. 23, 2016, 130 Stat. 2102, 2417; Pub. L. 115–91, div. A, title II, §222, Dec. 12, 2017, 131 Stat. 1333; Pub. L. 115–232, div. A, title II, §221, title IX, §904, Aug. 13, 2018, 132 Stat. 1681, 1922; renumbered §4173 and amended Pub. L. 116–283, div. A, title II, §272, title XVIII, §1845(b), Jan. 1, 2021, 134 Stat. 3502, 4247.)

AMENDMENTS

2021—Pub. L. 116–283, §1845(b), renumbered section 196 of this title as this section.

Subsec. (c)(1)(C). Pub. L. 116–283, §272(a)(1), inserted “quadrennial” before “strategic plan”.

Subsec. (d). Pub. L. 116–283, §272(a)(2), inserted “Quadrennial” before “Strategic Plan” in heading and “quadrennial” before “strategic plan” wherever appearing in text.

Subsec. (d)(1). Pub. L. 116–283, §272(e), which directed substitution of “Test Resource Management Center”

for “Test Resources Management Center” in subsec. (d)(1) “of such”, was executed by making substitution to “such section”, meaning subsec. (d)(1) of this section, to reflect the probable intent of Congress.

Pub. L. 116–283, §272(b), substituted “four fiscal years, and within one year after release of the National Defense Strategy,” for “two fiscal years” in first sentence.

Subsec. (d)(2)(C). Pub. L. 116–283, §272(c), substituted “for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats.” for “based on current and emerging threats and satisfy such performance measures.”

Subsec. (d)(5). Pub. L. 116–283, §272(d), added par. (5).

Subsec. (e)(2)(B). Pub. L. 116–283, §272(a)(1), inserted “quadrennial” before “strategic plan”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1845(b) of 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.

Subpart F—Major Systems, Major Defense Acquisition Programs, and Weapon Systems Development

PRIOR PROVISIONS

A prior subpart F “Special Categories of Contracting: Research, Development, Test, and Evaluation”, consisting of chapters 321 to 329, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

CHAPTER 321—GENERAL MATTERS

Sec.

4201. Major defense acquisition programs: definition; exceptions.
4202. Authority to increase definitional threshold amounts: major defense acquisition programs; major systems.
4203. Major subprograms.
4204. Milestone decision authority.
4205. Weapon systems for which procurement funding requested in budget: development and procurement schedules.

PRIOR PROVISIONS

A prior chapter 321 “RESEARCH AND DEVELOPMENT GENERALLY”, consisting of reserved section 4201, was repealed by Pub. L. 116–283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

§ 4201. Major defense acquisition programs: definition; exceptions

(a) DEFINITION.—Except as provided under subsection (b), in this part, the term “major defense acquisition program” means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

(1) that is designated by the Secretary of Defense as a major defense acquisition program; or

(2) in the case of a program that is not a program for the acquisition of an automated information system (either a product or a service), that is estimated by the Secretary of Defense to require—

(A) an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars); or