

the report required by subsection (a) in connection with the budget if—

- (i) additional resources had been available for the budget to fund the program, activity, or mission requirement; or
- (ii) the program, activity, or mission requirement has emerged since the budget was formulated.

(2) The term “covered military construction project”, in connection with a fiscal year, means a military construction project that—

(A) is included in any fiscal year of the future-years defense program under section 221 of this title that is submitted in connection with the budget of the President for the fiscal year, and is executable in the fiscal year; or

(B) is considered by the commander of a combatant command referred to in subsection (b)(5) to be an urgent need, and is executable in the fiscal year.

(Added Pub. L. 114-328, div. A, title X, §1064(a)(1), Dec. 23, 2016, 130 Stat. 2408; amended Pub. L. 116-92, div. A, title X, §1005, title XVII, §1731(a)(12), Dec. 20, 2019, 133 Stat. 1573, 1813; Pub. L. 116-283, div. A, title IX, §924(b)(10), title X, §§1006, 1081(a)(12), Jan. 1, 2021, 134 Stat. 3823, 3838, 3871.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(5), (6). Pub. L. 116-283, §924(b)(10), added par. (5) and redesignated former par. (5) as (6).

Subsec. (b)(7). Pub. L. 116-283, §1006(1), added par. (7).
Subsec. (c)(3). Pub. L. 116-283, §1006(2), added par. (3).
Subsec. (d)(1)(C)(i). Pub. L. 116-283, §1081(a)(12), inserted “had” before “been available”.

2019—Subsec. (c)(2). Pub. L. 116-92, §1005(b), amended par. (2) generally. Prior to amendment, text read as follows: “Each report shall present the unfunded priorities covered by such report in order of urgency of priority.”

Subsec. (d). Pub. L. 116-92, §1005(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined the term “unfunded priority”.

Subsec. (d)(3)(A). Pub. L. 116-92, §1731(a)(12), inserted “had” before “been” prior to the general amendment of subsec. (d). See Amendment note above and Coordination of Amendments by Pub. L. 116-92 note below.

Statutory Notes and Related Subsidiaries

COORDINATION OF AMENDMENTS BY PUB. L. 116-92

Amendments to this section by section 1731 of Pub. L. 116-92 to be treated as having been enacted immediately before amendments by other provisions of Pub. L. 116-92, see section 1731(f) of Pub. L. 116-92, set out as a Coordination of Certain Sections of an Act With Other Provisions of That Act note under section 101 of this title.

ANNUAL REPORT ON UNFUNDED REQUIREMENTS FOR LABORATORY MILITARY CONSTRUCTION PROJECTS

Pub. L. 115-91, div. B, title XXVIII, §2806, Dec. 12, 2017, 131 Stat. 1847, as amended by Pub. L. 116-92, div. B, title XXVIII, §2807, Dec. 20, 2019, 133 Stat. 1885, provided that: “The Under Secretary of Defense for Research and Engineering, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] each year, at the time the budget of the President for the

fiscal year beginning in such year is submitted to Congress under section 1105(a) of title 31, United States Code, a report listing unfunded requirements on major and minor military construction projects for Department of Defense science and technology laboratories and facilities and test and evaluation facilities, in prioritized order, with specific accounts and program elements identified, and shall include a Department of Defense Form DD1391 for each major and minor military construction project included in the report.”

§ 222b. Unfunded priorities of the Missile Defense Agency: annual report

(a) REPORTS.—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 Director of the Missile Defense Agency shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the Missile Defense Agency.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report under subsection (a) shall present the unfunded priorities covered by such report in order of urgency of priority.

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement of the Missile Defense Agency that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31, United States Code;

(2) is necessary to fulfill a requirement associated with an operational or contingency plan of a combatant command or other validated requirement; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the Director of the Missile Defense Agency in connection with the budget if additional resources had been available for the budget to fund the program, activity, or mission requirement.

(Added and amended Pub. L. 115-232, div. A, title XVI, §1677(a), (b)(1), Aug. 13, 2018, 132 Stat. 2160,

2161; Pub. L. 116–92, div. A, title XVII, § 1731(a)(13), Dec. 20, 2019, 133 Stat. 1813.)

Editorial Notes

CODIFICATION

Section, as added and amended by Pub. L. 115–232, is based on Pub. L. 114–328, div. A, title XVI, § 1696, Dec. 23, 2016, 130 Stat. 2638, which was transferred to this chapter and renumbered as this section.

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92 struck out “United States Code,” after “section 1105 of title 31,”.

2018—Pub. L. 115–232, § 1677(b)(1), in section catchline, substituted “§” for “SEC.” and “Unfunded priorities of the Missile Defense Agency: annual report” for “REPORTS ON UNFUNDED PRIORITIES OF THE MISSILE DEFENSE AGENCY.”

Pub. L. 115–232, § 1677(a)(1), transferred section 1696 of Pub. L. 114–328 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (a). Pub. L. 115–232, § 1677(a)(2)(A), substituted “for a fiscal year” for “for each of fiscal years 2018 and 2019”.

Subsec. (c)(3). Pub. L. 115–232, § 1677(a)(2)(B), substituted “in connection with the budget if additional resources had been available for the budget to fund the program, activity, or mission requirement.” for “in connection with the budget if—

“(A) additional resources had been available for the budget to fund the program, activity, or mission requirement; or

“(B) the program, activity, or mission requirement has emerged since the budget was formulated.”

§ 222c. Armed forces: Out-Year Unconstrained Total Munitions Requirements; Out-Year inventory numbers

(a) ANNUAL REPORTS.—At the same time each year that the budget for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105(a) of title 31, the chief of staff of each armed force (other than the Coast Guard) shall submit to the congressional defense committees a report setting forth for such armed force each of the following for such fiscal year, broken out as specified in subsection (c):

(1) The Out-Year Unconstrained Total Munitions Requirement.

(2) The Out-Year inventory numbers.

(b) PROHIBITION ON DELEGATION OF SUBMITTAL RESPONSIBILITY.—The responsibility of the chief of staff of an armed force in subsection (a) to submit a report may not be delegated outside the armed force concerned.

(c) PRESENTATION.—The Out-Year Unconstrained Total Munitions Requirement and Out-Year inventory numbers for an armed force for a fiscal year pursuant to subsection (a) shall include specific inventory objective requirements for each variant of munitions with respect to each of the following:

(1) Combat Requirement, broken out by operation plan (OPLAN).

(2) Current Operation/Forward Presence Requirement.

(3) Strategic Readiness Requirement.

(4) Homeland Defense.

(5) Training and Testing Requirement.

(6) Total Out-Year Unconstrained Total Munitions Requirement, calculated in accordance with the implementation guidance described in subsection (d).

(7) Out-year worldwide inventory.

(d) IMPLEMENTATION GUIDANCE USED.—In submitting information pursuant to subsection (a) for a fiscal year, the chief of staff of each armed force shall describe and explain the munitions requirements process implementation guidance developed by the Under Secretary of Defense for Acquisition and Sustainment and used by such armed force for the munitions requirements process for such armed force for that fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term “chief of staff”, with respect to the Marine Corps, means the Commandant of the Marine Corps.

(2) The term “Out-Year Unconstrained Total Munitions Requirement” has the meaning given that term in and for purposes of Department of Defense Instruction 3000.04, or any successor instruction.

(Added Pub. L. 115–232, div. A, title X, § 1061(a), Aug. 13, 2018, 132 Stat. 1969; amended Pub. L. 116–92, div. A, title X, § 1006, Dec. 20, 2019, 133 Stat. 1574.)

Editorial Notes

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92, § 1006(1), substituted “subsection (c)” for “subsection (b)” in introductory provisions.

Subsecs. (b) to (e). Pub. L. 116–92, § 1006(2)–(4), added subsec. (b), redesignated former subsec. (b) as (c) and in par. (6) substituted “subsection (d)” for “subsection (c)”, and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

§ 223. Ballistic missile defense programs: program elements

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency shall be set forth in accordance with such program elements as the President may specify.

(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term “engineering and manufacturing development” means the period in the course of an acquisition program during which the primary objectives are to—

(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a) shall include requests for the amounts necessary for the management and sup-