

may be” and inserted “, unless specifically authorized by law” before period at end.

2003—Subsec. (l)(4), (5). Pub. L. 108-136 redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “The term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2001—Subsec. (d)(1). Pub. L. 107-107 struck out “for fiscal years after fiscal year 1993” after “Department of Defense” in introductory provisions.

2000—Subsec. (k)(1). Pub. L. 106-398, §1 [[div. A], title X, §1011(1)], inserted at end “As consideration for a contract with the head of an agency under this subsection, the company entering into the contract shall agree with the Secretary of Defense to make any vessel covered by the contract available to the Secretary, fully crewed and ready for sea, at any time at any port determined by the Secretary, and for whatever duration the Secretary determines necessary.”

Subsec. (k)(2)(E). Pub. L. 106-398, §1 [[div. A], title X, §1011(2)], added subpar. (E).

Subsec. (k)(6). Pub. L. 106-398, §1 [[div. A], title X, §1011(3)], added par. (6).

1999—Subsec. (k). Pub. L. 106-65, §1015(a)(2), added subsec. (k). Former subsec. (k) redesignated (l).

Subsec. (k)(2). Pub. L. 106-65, §1014(b), substituted “that is any of the following:” for “that is—” in introductory provisions, substituted “A” for “a” and a period for the semicolon in subpars. (A) and (B), “An” for “an” and a period for the semicolon in subpar. (C), “An” for “an” and a period for “; or” in subpar. (D), and “A” for “a” in subpar. (E), and added subpars. (F) to (I).

Subsec. (l). Pub. L. 106-65, §1015(a)(1), redesignated subsec. (k) as (l).

Subsec. (l)(4)(B). Pub. L. 106-65, §1067(1), substituted “Committee on Armed Services” for “Committee on National Security”.

Subsec. (l)(5). Pub. L. 106-65, §1015(b), added par. (5).

1996—Subsec. (c)(1). Pub. L. 104-106, §1014(a)(1)(A), substituted “only for the following purposes:” for “only for—”.

Subsec. (c)(1)(A). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Construction” for “construction” and “vessels.” for “vessels;”.

Subsec. (c)(1)(B). Pub. L. 104-106, §1014(a)(1)(B), (C), substituted “Operation” for “operation” and “purposes.” for “purposes;”.

Subsec. (c)(1)(C). Pub. L. 104-106, §1014(a)(1)(B), (D), substituted “Installation” for “installation” and “States.” for “States; and”.

Subsec. (c)(1)(D). Pub. L. 104-106, §1014(a)(1)(B), substituted “Research” for “research”.

Subsec. (c)(1)(E). Pub. L. 104-106, §1014(a)(1)(E), added subpar. (E).

Subsec. (i). Pub. L. 104-106, §1014(a)(2), inserted “(other than subsection (c)(1)(E))” after “Nothing in this section”.

Subsec. (j). Pub. L. 104-106, §1502(a)(15)(A), substituted “the congressional defense committees” for “the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives”.

Subsec. (k)(4). Pub. L. 104-106, §1502(a)(15)(B), added par. (4).

1992—Subsec. (c)(2). Pub. L. 102-396 substituted “in amounts authorized by law” for “for programs, projects, and activities and only in amounts authorized in, or otherwise permitted under, an Act other than an appropriations Act”. See Codification note above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1806(e)(1)(A) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for de-

layed 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.

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-92, div. A, title X, §1031(b), Dec. 20, 2019, 133 Stat. 1579, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2019, and shall apply with respect to fiscal years beginning on or after that date.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 809(a) of Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section relating to submitting budget requests to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

COMPLIANCE BY READY RESERVE FLEET VESSELS WITH SOLAS LIFEBOATS AND FIRE SUPPRESSION REQUIREMENTS

Pub. L. 115-232, div. C, title XXXV, §3502, Aug. 13, 2018, 132 Stat. 2308, provided that: “The Secretary of Defense shall, consistent with section 2244a of title 10, United States Code, use authority under section 2218 of such title to make such modifications to Ready Reserve Fleet vessels as are necessary for such vessels to comply [with] requirements for lifeboats and fire suppression under the International Convention for the Safety of Life at Sea by not later than October 1, 2021.”

§ 2218a. National Sea-Based Deterrence Fund

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Sea-Based Deterrence Fund”.

(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

(c) FUND PURPOSES.—(1) Funds in the Fund shall be available for obligation and expenditure only for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(2) Funds in the Fund may not be used for a purpose or program unless the purpose or program is authorized by law.

(d) DEPOSITS.—There shall be deposited in the Fund all funds appropriated to the Department of Defense for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(e) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the Fund pursuant to subsection (d) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

(f) AUTHORITY TO ENTER INTO ECONOMIC ORDER QUANTITY CONTRACTS.—(1) The Secretary of the Navy may use funds deposited in the Fund to enter into contracts known as “economic order quantity contracts” with private shipyards and other commercial or government entities to achieve economic efficiencies based on production economies for major components or subsystems. The authority under this subsection

extends to the procurement of parts, components, and systems (including weapon systems) common with and required for other nuclear powered vessels under joint economic order quantity contracts.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(g) **AUTHORITY TO BEGIN MANUFACTURING AND FABRICATION EFFORTS PRIOR TO SHIP AUTHORIZATION.**—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into contracts for advance construction of national sea-based deterrence vessels to support achieving cost savings through workload management, manufacturing efficiencies, or workforce stability, or to phase fabrication activities within shipyard and manage sub-tier manufacturer capacity.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(h) **AUTHORITY TO USE INCREMENTAL FUNDING TO ENTER INTO CONTRACTS FOR CERTAIN ITEMS.**—(1) The Secretary of the Navy may use funds deposited into the Fund to enter into incrementally funded contracts for—

(A) advance procurement of high value, long lead time items for nuclear powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments; and

(B) construction of the first two Columbia class submarines.

(2) A contract entered into under paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose, and that total liability to the Government for termination of any contract entered into shall be limited to the total amount of funding obligated at time of termination.

(i) **AUTHORITY FOR MULTIYEAR PROCUREMENT OF CRITICAL COMPONENTS TO SUPPORT CONTINUOUS PRODUCTION.**—(1) To implement the continuous production of critical components, the Secretary of the Navy may use funds deposited in the Fund, in conjunction with funds appropriated for the procurement of other nuclear-powered vessels, to enter into one or more multiyear contracts (including economic ordering quantity contracts), for the procurement of critical contractor-furnished and Government-furnished components for critical components of national sea-based deterrence vessels. The authority under this subsection extends to the procurement of equivalent critical components common with and required for other nuclear-powered vessels.

(2) In each annual budget request submitted to Congress, the Secretary shall clearly identify

funds requested for critical components and the individual ships and programs for which such funds are requested.

(3) Any contract entered into pursuant to paragraph (1) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose and that the total liability to the Government for the termination of the contract shall be limited to the total amount of funding obligated for the contract as of the date of the termination.

(j) **BUDGET REQUESTS.**—Budget requests submitted to Congress for the Fund shall separately identify the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national sea-based deterrence vessels.

(k) **DEFINITIONS.**—In this section:

(1) The term “Fund” means the National Sea-Based Deterrence Fund established by subsection (a).

(2) The term “national sea-based deterrence vessel” means any submersible vessel constructed or purchased after fiscal year 2016 that is owned, operated, or controlled by the Department of Defense and that carries operational intercontinental ballistic missiles.

(3) The term “critical component” means any of the following:

- (A) A common missile compartment component.
- (B) A spherical air flask.
- (C) An air induction diesel exhaust valve.
- (D) An auxiliary seawater valve.
- (E) A hovering valve.
- (F) A missile compensation valve.
- (G) A main seawater valve.
- (H) A launch tube.
- (I) A trash disposal unit.
- (J) A logistics escape trunk.
- (K) A torpedo tube.
- (L) A weapons shipping cradle weldment.
- (M) A control surface.
- (N) A launcher component.
- (O) A propulsor.

(Added Pub. L. 113–291, div. A, title X, §1022(a)(1), Dec. 19, 2014, 128 Stat. 3486; amended Pub. L. 114–92, div. A, title X, §1022(a), Nov. 25, 2015, 129 Stat. 965; Pub. L. 114–328, div. A, title X, §1023, Dec. 23, 2016, 130 Stat. 2388; Pub. L. 115–91, div. A, title X, §1022, Dec. 12, 2017, 131 Stat. 1548; Pub. L. 116–283, div. A, title X, §1023(a), Jan. 1, 2021, 134 Stat. 3840.)

Editorial Notes

AMENDMENTS

2021—Subsec. (h)(1). Pub. L. 116–283 substituted “incrementally funded contracts for—” for “incrementally funded contracts for advance procurement of high value, long lead time items for nuclear powered vessels to better support construction schedules and achieve cost savings through schedule reductions and properly phased installment payments.” and added subpars. (A) and (B).

2017—Subsec. (i). Pub. L. 115–91, §1022(c), struck out “of the Common Missile Compartment” after “Continuous Production” in heading.

Subsec. (i)(1). Pub. L. 115–91, §1022(a)(2), substituted “equivalent critical components” for “equivalent critical parts, components, systems, and subsystems”.

Pub. L. 115-91, § 1022(a)(1), which directed the substitution of “critical components” for “the common missile compartment” wherever appearing, was executed by making the substitution for “the common missile compartment” the first time appearing and for “the common missile compartments” the second time appearing, to reflect the probable intent of Congress.

Subsec. (i)(2). Pub. L. 115-91, § 1022(a)(1), substituted “critical components” for “the common missile compartment”.

Subsec. (k)(3). Pub. L. 115-91, § 1022(b), added par. (3). 2016—Subsecs. (i), (j). Pub. L. 114-328, § 1023(a), added subsec. (i) and redesignated former subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 114-328, § 1023(a)(1), redesignated subsec. (j) as (k).

Subsec. (k)(2). Pub. L. 114-328, § 1023(b), substituted “any submersible vessel constructed or purchased after fiscal year 2016 that is” for “any vessel” and inserted “and” before “that carries”.

2015—Subsecs. (f) to (j). Pub. L. 114-92 added subsecs. (f) to (h) and redesignated former subsecs. (f) and (g) as (i) and (j), respectively.

[§ 2219. Renumbered § 2491c]

§ 2220. Performance based management: acquisition programs

(a) ESTABLISHMENT OF GOALS.—The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

(b) EVALUATION OF COST GOALS.—The Under Secretary of Defense (Comptroller) shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

(c) SUNSET.—The authority under this section shall terminate on September 30, 2018.

(Added Pub. L. 103-355, title V, § 5001(a)(1), Oct. 13, 1994, 108 Stat. 3349; amended Pub. L. 104-106, div. A, title XV, § 1503(a)(20), div. D, title XLIII, § 4321(b)(1), Feb. 10, 1996, 110 Stat. 512, 671; Pub. L. 105-85, div. A, title VIII, § 841(a), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 107-314, div. A, title X, § 1041(a)(8), Dec. 2, 2002, 116 Stat. 2645; Pub. L. 114-328, div. A, title VIII, § 833(a)(2), Dec. 23, 2016, 130 Stat. 2283.)

Editorial Notes

AMENDMENTS

2016—Subsec. (c). Pub. L. 114-328 added subsec. (c).

2002—Subsec. (a). Pub. L. 107-314, § 1041(a)(8)(B), (C), struck out par. (1) designation and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 107-314, § 1041(a)(8)(A), (C), redesignated subsec. (a)(2) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of October 13, 1994. The Secretary shall use data from existing management systems in making the assessment.”

Subsec. (c). Pub. L. 107-314, § 1041(a)(8)(A), struck out heading and text of subsec. (c). Text read as follows: “Whenever the Secretary of Defense, in the assessment

required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

“(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

“(2) identify suitable actions to be taken, including termination, with respect to such programs.”

1997—Subsec. (b). Pub. L. 105-85 substituted “whether major acquisition programs” for “whether major and nonmajor acquisition programs”.

1996—Subsec. (a)(2). Pub. L. 104-106, § 1503(a)(20), substituted “Under Secretary of Defense (Comptroller)” for “Comptroller of the Department of Defense”.

Subsec. (b). Pub. L. 104-106, § 4321(b)(1), substituted “October 13, 1994” for “the date of the enactment of the Federal Acquisition Streamlining Act of 1994”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. D, title XLIV, § 4401, Feb. 10, 1996, 110 Stat. 678, provided that:

“(a) EFFECTIVE DATE.—Except as otherwise provided in this division [div. D (§§ 4001-4402) of Pub. L. 104-106, see Tables for classification], this division and the amendments made by this division shall take effect on the date of the enactment of this Act [Feb. 10, 1996].

“(b) APPLICABILITY OF AMENDMENTS.—

“(1) SOLICITATIONS, UNSOLICITED PROPOSALS, AND RELATED CONTRACTS.—An amendment made by this division shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 4402 [110 Stat. 678] to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

“(2) OTHER MATTERS.—An amendment made by this division shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 4402 to implement such amendment, with respect to any matter related to—

“(A) a contract that is in effect on the date described in paragraph (3);

“(B) an offer under consideration on the date described in paragraph (3); or

“(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

“(3) DEMARCATION DATE.—The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be January 1, 1997, or any earlier date that is not within 30 days after the date on which such final regulations are published.”

PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS

Pub. L. 105-261, div. A, title VIII, § 816, Oct. 17, 1998, 112 Stat. 2088, authorized the Secretary of Defense to designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support and required report to Congress by Feb. 1, 1999.

ENHANCED SYSTEM OF PERFORMANCE INCENTIVES

Pub. L. 103-355, title V, § 5001(b), Oct. 13, 1994, 108 Stat. 3350, provided that, within one year after Oct. 13, 1994, the Secretary of Defense should review the incentives and personnel actions available for encouraging excellence in the management of defense acquisition pro-