

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1807(g)(1) 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.

CHAPTER 205—DEFENSE ACQUISITION SYSTEM

Sec.	
3101.	Definitions.
3102.	Customer-oriented acquisition system.
3103.	Civilian management of the defense acquisition system.
3104.	Acquisition-related functions of chiefs of the armed forces.
3105.	Elements of the defense acquisition system: performance assessments.
3106.	Elements of the defense acquisition system: performance goals ¹

Editorial Notes

PRIOR PROVISIONS

A prior chapter 205 “DEFENSE ACQUISITION SYSTEM”, as added by Pub. L. 115-232, div. A, title VIII, § 801(a), Aug. 13, 2018, 132 Stat. 1826, and consisting of reserved section 3051, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1808(a)(1), Jan. 1, 2021, 134 Stat. 4159.

AMENDMENTS

2021—Pub. L. 116-283, div. A, title XVIII, §§ 1808(a)(1), (3)(B), (c)(3), Jan. 1, 2021, 134 Stat. 4159, 4160, transferred chapter 149 of this title to this chapter, renumbered items 2545, 2546, 2546a, 2547, and 2548 as 3101, 3103, 3102, 3104, and 3105, respectively, moved item 3102 so as to follow item 3101, added items 3105 and 3106, and struck out former item 3105 (as renumbered from 2548) “Performance assessments of the defense acquisition system”.

Statutory Notes and Related Subsidiaries

DIGITAL MODERNIZATION OF ANALYTICAL AND DECISION-SUPPORT PROCESSES FOR MANAGING AND OVERSEEING DEPARTMENT OF DEFENSE ACQUISITION PROGRAMS

Pub. L. 116-283, div. A, title VIII, § 836, Jan. 1, 2021, 134 Stat. 3756, provided that:

“(a) DIGITAL DATA MANAGEMENT AND ANALYTICS CAPABILITIES.—

“(1) IN GENERAL.—The Secretary of Defense shall iteratively develop and integrate advanced digital data management and analytics capabilities, consistent with private sector best practices, that—

“(A) integrate all aspects of the defense acquisition system, including the development of capability requirements, research, design, development, testing, evaluation, acquisition, management, operations, and sustainment of systems;

“(B) facilitate the management and analysis of all relevant data generated during the development of capability requirements, research, design, development, testing, evaluation, acquisition, operations, and sustainment of systems;

“(C) enable the use of such data to inform further development, acquisition, management and oversight of such systems, including portfolio management; and

“(D) include software capabilities to collect, transport, organize, manage, make available, and analyze relevant data throughout the life cycle of defense acquisition programs, including any data needed to support individual and portfolio management of acquisition programs.

“(2) REQUIREMENTS.—The capabilities developed under paragraph (1) shall—

“(A) be accessible to, and useable by, individuals throughout the Department of Defense who have responsibilities relating to activities described in clauses (A) through (C) of paragraph (1);

“(B) enable the development, use, curation, and maintenance of original form and real-time digital systems by—

“(i) ensuring shared access to data within the Department;

“(ii) supplying data to digital engineering models for use in the defense acquisition, sustainment, and portfolio management processes; and

“(iii) supplying data to testing infrastructure and software to support automated approaches for testing, evaluation, and deployment throughout the defense acquisition, sustainment, and portfolio management processes; and

“(C) feature—

“(i) improved data management and sharing processes;

“(ii) timely, high-quality, transparent, and actionable analyses; and

“(iii) analytical models and simulations.

“(3) ENABLING DATA INFRASTRUCTURE, TOOLS, AND PROCESSES.—In developing the capability required under paragraph (1), the Secretary of Defense shall—

“(A) move supporting processes and the data associated with such processes from analog to digital format, including planning and reporting processes;

“(B) make new and legacy data more accessible to, and usable by, appropriate employees and contractors (at any tier) of the Department of Defense and members of the Armed Forces, including through migration of program and other documentation into digital formats;

“(C) modernize the query, collection, storage, retrieval, reporting, and analysis capabilities for stakeholders within the Department, including research entities, Program Management Offices, analytic organizations, oversight staff, and decision makers;

“(D) automate data collection and storage to minimize or eliminate manual data entry or manual reporting;

“(E) enable employees and other appropriate users to access data from all relevant data sources, including through—

“(i) streamlining data access privileges;

“(ii) sharing of appropriate data between and among Federal Government and contractor information systems; and

“(iii) enabling timely and continuous data collection and sharing from all appropriate personnel, including contractors;

“(F) modernize existing enterprise information systems to enable interoperability consistent with technical best practices; and

“(G) provide capabilities and platforms to enable continuous development and integration of software using public and private sector best practices.

“(b) PORTFOLIO MANAGEMENT.—The Secretary of Defense shall establish capabilities for robust, effective, and data-driven portfolio management described in subsection (a)(1)(C), using the capability established in this section, to improve the Department of Defense-wide assessment, management, and optimization of the investments in weapon systems of the Department, including through consolidation of duplicate or similar weapon system programs.

“(c) DEMONSTRATION ACTIVITIES.—

“(1) IN GENERAL.—The Secretary of Defense shall carry out activities to demonstrate the capability required under subsection (a).

“(2) ACTIVITY SELECTION.—Not later than July 15, 2021, the Secretary of Defense shall select decision support processes and individual acquisition programs to participate in the demonstration activities under paragraph (1), including—

¹ So in original. Probably should be followed by a period.

“(A) decision support processes, including—

“(i) portfolio management as described in subsection (b);

“(ii) one or more acquisition data management test cases; and

“(iii) one or more development and test modeling and simulation test cases to demonstrate the ability to collect data from tests and operations in the field, and feed the data back into models and simulations for better software development and testing;

“(B) individual acquisition programs representing—

“(i) one or more defense business systems;

“(ii) one or more command and control systems;

“(iii) one or more middle tier of acquisition programs;

“(iv) programs featuring a cost-plus contract type, and a fixed-price contract type, and a transaction authorized under section 2371 [now 10 U.S.C. 4021] or 2371b [now 10 U.S.C. 4022] of title 10, United States Code; and

“(v) at least one program in each military department.

“(3) EXECUTION OF DEMONSTRATION ACTIVITIES.—As part of the demonstration activities under paragraph (1), the Secretary shall—

“(A) conduct a comparative analysis that assesses the risks and benefits of the digital management and analytics capability used in each of the programs participating in the demonstration activities relative to the traditional data collection, reporting, exposing, and analysis approaches of the Department;

“(B) ensure that the intellectual property strategy for each of the programs participating in the demonstration activities is best aligned to meet the goals of the program; and

“(C) develop a workforce and infrastructure plan to support any new policies and guidance implemented in connection with the demonstration activities, including any policies and guidance implemented after the completion of such activities.

“(d) POLICIES AND GUIDANCE REQUIRED.—Not later than March 15, 2022, based on the results of the demonstration activities carried out under subsection (c), the Secretary of Defense shall issue or modify policies and guidance to—

“(1) promote the use of digital data management and analytics capabilities; and

“(2) address roles, responsibilities, and procedures relating to such capabilities.

“(e) STEERING COMMITTEE.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a steering committee to assist the Secretary in carrying out subsections (a) through (c).

“(2) MEMBERSHIP.—The steering committee shall be composed of the following members or their designees:

“(A) The Deputy Secretary of Defense.

“(B) The Chief Information Officer.

“(C) The Director of Cost Assessment and Program Evaluation.

“(D) The Under Secretary of Defense for Research and Engineering.

“(E) The Under Secretary of Defense for Acquisition and Sustainment.

“(F) The Director of Operational Test and Evaluation.

“(G) The Service Acquisition Executives.

“(H) The Director for Force Structure, Resources, and Assessment of the Joint Staff.

“(I) The Director of the Defense Digital Service.

“(J) Such other officials of the Department of Defense as the Secretary determines appropriate.

“(f) INDEPENDENT ASSESSMENTS.—

“(1) INITIAL ASSESSMENT.—

“(A) IN GENERAL.—The Defense Innovation Board, in consultation with the Defense Digital Service,

shall conduct an independent assessment and cost-benefits analysis to identify recommended approaches for the implementation of subsections (a) through (c).

“(B) ELEMENTS.—The assessment under subparagraph (A) shall include the following:

“(i) A plan for the development and implementation of the capabilities required under subsection (a), including a plan for any procurement that may be required as part of such development and implementation.

“(ii) An independent cost assessment of the total estimated cost of developing and implementing the capability, as well as an assessment of any potential cost savings.

“(iii) An independent estimate of the schedule for the development approach, and order of priorities for implementation of the capability, including a reasonable estimate of the dates on which the capability can be expected to achieve initial operational capability and full operational capability, respectively.

“(iv) A recommendation identifying the office or other organization of the Department of Defense that would be most appropriate to manage and execute the capability.

“(C) REPORT.—Not later than July 15, 2021, the Defense Innovation Board, in consultation with the Defense Digital Service, shall submit to the Secretary of Defense and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the assessment under subparagraph (A), including the findings of the assessment with respect to each element specified in subparagraph (B).

“(2) SECOND ASSESSMENT.—

“(A) IN GENERAL.—Not later than March 15, 2023, the Defense Innovation Board and the Defense Science Board shall jointly complete an independent assessment of the progress of the Secretary in implementing subsections (a) through (c). The Secretary of Defense shall ensure that the Defense Innovation Board and the Defense Science Board have access to the resources, data, and information necessary to complete the assessment.

“(B) INFORMATION TO CONGRESS.—Not later than 30 days after the date on which the assessment under subparagraph (A) is completed, the Defense Innovation Board and the Defense Science Board shall jointly provide to the congressional defense committees—

“(i) a report summarizing the assessment; and

“(ii) a briefing on the findings of the assessment.

“(g) DEMONSTRATIONS AND BRIEFING.—

“(1) DEMONSTRATION OF IMPLEMENTATION.—Not later than October 20, 2021, the Secretary of Defense shall submit to the congressional defense committees a demonstration and briefing on the progress of the Secretary in implementing subsections (a) through (c). The briefing shall include an explanation of how the results of the demonstration activities carried out under subsection (c) will be incorporated into the policy and guidance required under subsection (d), particularly the policy and guidance of the members of the steering committee established under subsection (e).

“(2) BRIEFING ON LEGISLATIVE RECOMMENDATIONS.—Not later than February 1, 2022, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a briefing that identifies any changes to existing law that may be necessary to facilitate the implementation of subsections (a) through (c).

“(3) DEMONSTRATION OF PORTFOLIO MANAGEMENT.—In conjunction with the budget of the President for fiscal year 2023 (as submitted to Congress under section 1105(a) of title 21 [probably should be title “31”], United States Code), the Deputy Secretary of Defense

shall schedule a demonstration of the portfolio management capability developed under subsection (b) with the congressional defense committees.”

PROTOTYPE PROJECTS TO DIGITIZE DEFENSE ACQUISITION REGULATIONS, POLICIES, AND GUIDANCE, AND EMPOWER USER TAILORING OF ACQUISITION PROCESS

Pub. L. 115-91, div. A, title VIII, § 868, Dec. 12, 2017, 131 Stat. 1495, provided that:

“(a) **IN GENERAL.**—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, shall conduct development efforts to develop prototypes to digitize defense acquisition regulations, policies, and guidance and to develop a digital decision support tool that facilitates the ability of users to tailor programs in accordance with existing laws, regulations, and guidance.

“(b) **ELEMENTS.**—Under the prototype projects, the Secretary shall—

“(1) convert existing acquisition policies, guides, memos, templates, and reports to an online, interactive digital format to create a dynamic, integrated, and authoritative knowledge environment for purposes of assisting program managers and the acquisition workforce of the Department of Defense to navigate the complex lifecycle for each major type of acquisition program or activity of the Department;

“(2) as part of this digital environment, create a digital decision support capability that uses decision trees and tailored acquisition models to assist users to develop strategies and facilitate coordination and approvals; and

“(3) as part of this environment, establish a foundational data layer to enable advanced data analytics on the acquisition enterprise of the Department, to include business process reengineering to improve productivity.

“(c) **USE OF PROTOTYPES IN ACQUISITION ACTIVITIES.**—The Under Secretary of Defense for Research and Engineering shall encourage the use of these prototypes to model, develop, and test any procedures, policies, instructions, or other forms of direction and guidance that may be required to support acquisition training, practices, and policies of the Department of Defense.

“(d) **FUNDING.**—The Secretary may use the authority under section 1705(e)(4)(B) of title 10, United States Code, to develop acquisition support prototypes and tools under this program.”

SOFTWARE DEVELOPMENT PILOT PROGRAM USING AGILE BEST PRACTICES

Pub. L. 115-91, div. A, title VIII, § 874, Dec. 12, 2017, 131 Stat. 1500, provided that:

“(a) **IN GENERAL.**—Not later than 30 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall identify no fewer than four and up to eight software development activities within the Department of Defense or military departments to be developed in a pilot program using agile acquisition methods.

“(b) **STREAMLINED PROCESSES.**—Software development activities identified under subsection (a) shall be selected for the pilot program and developed without incorporation of the following contract or transaction requirements:

“(1) Earned value management (EVM) or EVM-like reporting.

“(2) Development of integrated master schedule.

“(3) Development of integrated master plan.

“(4) Development of technical requirement document.

“(5) Development of systems requirement documents.

“(6) Use of information technology infrastructure library agreements.

“(7) Use of software development life cycle (methodology).

“(c) **ROLES AND RESPONSIBILITIES.**—

“(1) **IN GENERAL.**—Selected activities shall include the following roles and responsibilities:

“(A) A program manager that is authorized to make all programmatic decisions within the overarching activity objectives, including resources, funding, personnel, and contract or transaction termination recommendations.

“(B) A product owner that reports directly to the program manager and is responsible for the overall design of the product, prioritization of roadmap elements and interpretation of their acceptance criteria, and prioritization of the list of all features desired in the product.

“(C) An engineering lead that reports directly to the program manager and is responsible for the implementation and operation of the software.

“(D) A design lead that reports directly to the program manager and is responsible for identifying, communicating, and visualizing user needs through a human-centered design process.

“(2) **QUALIFICATIONS.**—The Secretary shall establish qualifications for personnel filling the positions described in paragraph (1) prior to their selection. The qualifications may not include a positive education requirement and must be based on technical expertise or experience in delivery of software products, including agile concepts.

“(3) **COORDINATION PLAN FOR TESTING AND CERTIFICATION ORGANIZATIONS.**—The program manager shall ensure the availability of resources for test and certification organizations support of iterative development processes.

“(d) **PLAN.**—The Secretary of Defense shall develop a plan for each selected activity under the pilot program. The plan shall include the following elements:

“(1) Definition of a product vision, identifying a succinct, clearly defined need the software will address.

“(2) Definition of a product road map, outlining a noncontractual plan that identifies short-term and long-term product goals and specific technology solutions to help meet those goals and adjusts to mission and user needs at the product owner’s discretion.

“(3) The use of a broad agency announcement, other transaction authority, or other rapid merit-based solicitation procedure.

“(4) Identification of, and continuous engagement with, end users.

“(5) Frequent and iterative end user validation of features and usability consistent with the principles outlined in the Digital Services Playbook of the U.S. Digital Service.

“(6) Use of commercial best practices for advanced computing systems, including, where applicable—

“(A) Automated testing, integration, and deployment;

“(B) compliance with applicable commercial accessibility standards;

“(C) capability to support modern versions of multiple, common web browsers;

“(D) capability to be viewable across commonly used end user devices, including mobile devices; and

“(E) built-in application monitoring.

“(e) **PROGRAM SCHEDULE.**—The Secretary shall ensure that each selected activity includes—

“(1) award processes that take no longer than three months after a requirement is identified;

“(2) planned frequent and iterative end user validation of implemented features and their usability;

“(3) delivery of a functional prototype or minimally viable product in three months or less from award; and

“(4) follow-on delivery of iterative development cycles no longer than four weeks apart, including security testing and configuration management as applicable.

“(f) **OVERSIGHT METRICS.**—The Secretary shall ensure that the selected activities—

“(1) use a modern tracking tool to execute requirements backlog tracking; and

“(2) use agile development metrics that, at a minimum, track—

“(A) pace of work accomplishment;

“(B) completeness of scope of testing activities (such as code coverage, fault tolerance, and boundary testing);

“(C) product quality attributes (such as major and minor defects and measures of key performance attributes and quality attributes);

“(D) delivery progress relative to the current product roadmap; and

“(E) goals for each iteration.

“(g) RESTRICTIONS.—

“(1) USE OF FUNDS.—No funds made available for the selected activities may be expended on estimation or evaluation using source lines of code methodologies.

“(2) CONTRACT TYPES.—The Secretary of Defense may not use lowest price technically acceptable contracting methods or cost plus contracts to carry out selected activities under this section, and shall encourage the use of existing streamlined and flexible contracting arrangements.

“(h) REPORTS.—

“(1) SOFTWARE DEVELOPMENT ACTIVITY COMMENCEMENT.—

“(A) IN GENERAL.—Not later than 30 days before the commencement of a software development activity under the pilot program under subsection (a), the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the activity (in this subsection referred to as a ‘pilot activity’).

“(B) ELEMENTS.—The report on a pilot activity under this paragraph shall set forth a description of the pilot activity, including the following information:

“(i) The purpose of the pilot activity.

“(ii) The duration of the pilot activity.

“(iii) The efficiencies and benefits anticipated to accrue to the Government under the pilot program.

“(2) SOFTWARE DEVELOPMENT ACTIVITY COMPLETION.—

“(A) IN GENERAL.—Not later than 60 days after the completion of a pilot activity, the Secretary shall submit to the congressional defense committees a report on the pilot activity.

“(B) ELEMENTS.—The report on a pilot activity under this paragraph shall include the following elements:

“(i) A description of results of the pilot activity.

“(ii) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot activity.

“(i) DEFINITIONS.—In this section:

“(1) AGILE ACQUISITION.—The term ‘agile acquisition’ means acquisition using agile or iterative development.

“(2) AGILE OR ITERATIVE DEVELOPMENT.—The term ‘agile or iterative development’, with respect to software—

“(A) means acquisition pursuant to a method for delivering multiple, rapid, incremental capabilities to the user for operational use, evaluation, and feedback not exclusively linked to any single, proprietary method or process; and

“(B) involves—

“(i) the incremental development and fielding of capabilities, commonly called ‘spirals’, ‘spins’, or ‘sprints’, which can be measured in a few weeks or months; and

“(ii) continuous participation and collaboration by users, testers, and requirements authorities.”

ESTABLISHMENT OF SET OF ACTIVITIES THAT USE DATA ANALYSIS, MEASUREMENT, AND OTHER EVALUATION-RELATED METHODS TO IMPROVE ACQUISITION PROGRAM OUTCOMES

Pub. L. 115-91, div. A, title IX, §913, Dec. 12, 2017, 131 Stat. 1523, as amended by Pub. L. 115-232, div. A, title X, §1081(c)(2), Aug. 13, 2018, 132 Stat. 1985, provided that:

“(a) ESTABLISHMENT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall establish a set of activities that use data analysis, measurement, and other evaluation-related methods to improve the acquisition outcomes of the Department of Defense and enhance organizational learning.

“(b) TYPES OF ACTIVITIES.—The set of activities established under subsection (a) may include any or all of the following:

“(1) Establishment of data analytics capabilities and organizations within an Armed Force.

“(2) Development of capabilities in Department of Defense laboratories, test centers, and federally funded research and development centers to provide technical support for data analytics activities that support acquisition program management and business process re-engineering activities.

“(3) Increased use of existing analytical capabilities available to acquisition programs and offices to support improved acquisition outcomes.

“(4) Funding of intramural and extramural research and development activities to develop and implement data analytics capabilities in support of improved acquisition outcomes.

“(5) Publication, to the maximum extent practicable, and in a manner that protects classified and proprietary information, of data collected by the Department of Defense related to acquisition program costs and activities for access and analyses by the general public or Department research and education organizations.

“(6) Promulgation by the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps, in coordination with the Deputy Secretary of Defense, the Under Secretary of Defense for Research and Engineering, and the Under Secretary for Acquisition and Sustainment, of a consistent policy as to the role of data analytics in establishing budgets and making milestone decisions for major defense acquisition programs.

“(7) Continual assessment, in consultation with the private sector, of the efficiency of current data collection and analyses processes, so as to minimize the requirement for collection and delivery of data by, from, and to Government organizations.

“(8) Promulgation of guidance to acquisition programs and activities on the efficient use, quality, and sharing of enterprise data between programs and organizations to improve acquisition program analytics and outcomes.

“(9) Establishment of focused research and educational activities at the Defense Acquisition University, and appropriate private sector academic institutions, to support enhanced use of data management, data analytics, and other evaluation-related methods to improve acquisition outcomes.”

[Pub. L. 115-232, div. A, title X, §1081(c), Aug. 13, 2018, 132 Stat. 1985, provided that the amendment made by section 1081(c)(2) to section 913 of Pub. L. 115-91, set out above, is effective as of Dec. 12, 2017, and as if included in Pub. L. 115-91 as enacted.]

REVIEW OF TIME-BASED REQUIREMENTS PROCESS AND BUDGETING AND ACQUISITION SYSTEMS

Pub. L. 114-92, div. A, title VIII, §810, Nov. 25, 2015, 129 Stat. 890, provided that:

“(a) TIME-BASED REQUIREMENTS PROCESS.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall review the requirements process with the goal of establishing an agile and streamlined system that develops requirements that provide stability and foundational direction for acquisition programs and shall determine the advisability of providing a time-based or phased distinction between capabilities needed to be deployed urgently, within 2 years, within 5 years, and longer than 5 years.

“(b) BUDGETING AND ACQUISITION SYSTEMS.—The Secretary of Defense shall review and ensure that the ac-

quisition and budgeting systems are structured to meet time-based or phased requirements in a manner that is predictable, cost effective, and efficient and takes advantage of emerging technological developments.”

§ 3101. Definitions

In this chapter, the term “acquisition” has the meaning provided in section 131 of title 41.

(Added Pub. L. 111–383, div. A, title VIII, § 861(a), Jan. 7, 2011, 124 Stat. 4288, § 2545; amended Pub. L. 113–291, div. A, title X, § 1071(a)(11), Dec. 19, 2014, 128 Stat. 3505; renumbered § 3101 and amended Pub. L. 116–283, div. A, title XVIII, § 1808(a)(2), (b)(1), Jan. 1, 2021, 134 Stat. 4159, 4160.)

Editorial Notes

CODIFICATION

Section 2545 of this title, which was transferred to this section by Pub. L. 116–283, § 1808(a)(2), was also transferred or copied in large part to section 3001 of this title by Pub. L. 116–283, § 1806(a)(2)–(4).

AMENDMENTS

2021—Pub. L. 116–283, § 1808(b)(1), substituted “In this chapter, the term” for “In this chapter:”, par. (1) designation, and “The term” and struck out pars. (2) to (4) which defined “defense acquisition system”, “element of the defense acquisition system”, and “acquisition workforce”.

Pub. L. 116–283, § 1808(a)(2), renumbered section 2545 of this title as this section.

2014—Par. (1). Pub. L. 113–291 substituted “section 131 of title 41” for “section 4(16) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(16))”.

Statutory Notes and Related Subsidiaries

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.

§ 3102. Customer-oriented acquisition system

(a) OBJECTIVE.—It shall be the objective of the defense acquisition system to meet the needs of its customers in the most cost-effective manner practicable. The acquisition policies, directives, and regulations of the Department of Defense shall be modified as necessary to ensure the development and implementation of a customer-oriented acquisition system.

(b) CUSTOMER.—The customer of the defense acquisition system is the armed force that will have primary responsibility for fielding the system or systems acquired. The customer is represented with regard to a major defense acquisition program by the Secretary of the military department concerned and the Chief of the armed force concerned.

(c) ROLE OF CUSTOMER.—The customer of a major defense acquisition program shall be responsible for balancing resources against priorities on the acquisition program and ensuring that appropriate trade-offs are made among cost, schedule, technical feasibility, and performance on a continuing basis throughout the life of the acquisition program.

(Added Pub. L. 114–92, div. A, title VIII, § 802(a)(1), Nov. 25, 2015, 129 Stat. 878, § 2546a; re-

numbered § 3102 and amended Pub. L. 116–283, div. A, title XVIII, § 1808(a)(2), (3)(A), Jan. 1, 2021, 134 Stat. 4159.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 renumbered section 2546a of this title as this section and transferred it so as to appear after section 3101 of this title. Directory language transferring this section “within such section” was executed as if it had read “within such chapter”, meaning chapter 205 of this title, to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

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.

CONSIDERATION OF TRADE-OFFS AMONG COST, SCHEDULE, AND PERFORMANCE OBJECTIVES IN DEPARTMENT OF DEFENSE ACQUISITION PROGRAMS

Pub. L. 111–23, title II, § 201(a), May 22, 2009, 123 Stat. 1719, provided that:

“(1) IN GENERAL.—The Secretary of Defense shall ensure that mechanisms are developed and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for Department of Defense acquisition programs.

“(2) ELEMENTS.—The mechanisms required under this subsection shall ensure, at a minimum, that—

“(A) Department of Defense officials responsible for acquisition, budget, and cost estimating functions are provided an appropriate opportunity to develop estimates and raise cost and schedule matters before performance objectives are established for capabilities for which the Chairman of the Joint Requirements Oversight Council is the validation authority; and

“(B) the process for developing requirements is structured to enable incremental, evolutionary, or spiral acquisition approaches, including the deferral of technologies that are not yet mature and capabilities that are likely to significantly increase costs or delay production until later increments or spirals.”

§ 3103. Civilian management of the defense acquisition system

(a) RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND SUSTAINMENT.—Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment shall be responsible for the management of the defense acquisition system and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of the defense acquisition system, including the duties enumerated and assigned to the Under Secretary elsewhere in this title.

(b) RESPONSIBILITY OF THE SERVICE ACQUISITION EXECUTIVES.—Subject to the direction of the Under Secretary of Defense for Acquisition and Sustainment on matters pertaining to acquisition, and subject to the authority, direction, and control of the Secretary of the military department concerned, a service acquisition executive of a military department shall be