

quirements and notice to Congress on transfer to the Chief Management Officer of the Department of Defense of oversight of shared business services, was repealed by Pub. L. 116-283, div. A, title IX, §901(a)(2)(B), Jan. 1, 2021, 134 Stat. 3794.

[§ 133. Repealed. Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339]

Section, added Pub. L. 99-348, title V, §501(a), July 1, 1986, 100 Stat. 707, §134a; renumbered §133 and amended Pub. L. 99-433, title I, §§101(a)(7), 110(c)(1), (d)(8), Oct. 1, 1986, 100 Stat. 995, 1002, 1003; Pub. L. 99-500, §101(c) [title X, §901], Oct. 18, 1986, 100 Stat. 1783-82, 1783-130, and Pub. L. 99-591, §101(c) [title X, §901], Oct. 30, 1986, 100 Stat. 3341-82, 3341-130; Pub. L. 99-661, div. A, title IX, formerly title IV, §901, Nov. 14, 1986, 100 Stat. 3910, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-456, div. A, title VIII, §809(d), Sept. 29, 1988, 102 Stat. 2013; Pub. L. 103-160, div. A, title IX, §904(b), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106-65, div. A, title IX, §911(a)(2), (d)(2), Oct. 5, 1999, 113 Stat. 717, 719; Pub. L. 107-107, div. A, title VIII, §801(a), Dec. 28, 2001, 115 Stat. 1174; Pub. L. 109-364, div. A, title X, §1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110-181, div. A, title IX, §907, Jan. 28, 2008, 122 Stat. 277; Pub. L. 111-350, §5(b)(1), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 113-291, div. A, title IX, §901(j)(2)(A), Dec. 19, 2014, 128 Stat. 3467; Pub. L. 114-92, div. A, title VIII, §825(b), Nov. 25, 2015, 129 Stat. 908; Pub. L. 115-91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597, related to Under Secretary of Defense for Acquisition, Technology, and Logistics.

A prior section 133 was renumbered section 113 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that the position of Under Secretary of Defense for Acquisition and Technology in the Department of Defense was redesignated as the Under Secretary of Defense for Acquisition, Technology, and Logistics, and any reference in any law, regulation, document, or other record of the United States to the Under Secretary of Defense for Acquisition and Technology was to be treated as referring to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Pub. L. 103-160, div. A, title IX, §904(a), (f), Nov. 30, 1993, 107 Stat. 1728, 1729, provided that the office of Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Under Secretary of Defense for Acquisition and Technology, the office of Deputy Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Deputy Under Secretary of Defense for Acquisition and Technology, and any reference to the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition in any provision of law other than this title, or in any rule, regulation, or other paper of the United States was to be treated as referring to the Under Secretary of Defense for Acquisition and Technology or the Deputy Under Secretary of Defense for Acquisition and Technology, respectively.

EFFECTIVE DATE OF REPEAL

Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that the repeal of this section is effective Feb. 1, 2018.

§ 133a. Under Secretary of Defense for Research and Engineering

(a) **UNDER SECRETARY OF DEFENSE.**—There is an Under Secretary of Defense for Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of

the Senate. The Under Secretary shall be appointed from among persons who have an extensive technology, science, or engineering background and experience with managing complex or advanced technological programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) **DUTIES AND POWERS.**—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief technology officer of the Department of Defense with the mission of advancing technology and innovation for the armed forces (and the Department);

(2) establishing policies on, and supervising, all defense research and engineering, technology development, technology transition, appropriate prototyping activities, experimentation, and developmental testing activities and programs and unifying defense research and engineering efforts across the Department; and

(3) serving as the principal advisor to the Secretary on all research, engineering, and technology development activities and programs in the Department.

(c) **PRECEDENCE IN DEPARTMENT OF DEFENSE.**—

(1) **PRECEDENCE IN MATTERS OF RESPONSIBILITY.**—With regard to all matters for which the Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary and the Deputy Secretary of Defense.

(2) **PRECEDENCE IN OTHER MATTERS.**—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, and the Secretaries of the military departments.

(Added Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339; amended Pub. L. 115-91, div. A, title IX, §910(c)(2), Dec. 12, 2017, 131 Stat. 1518; Pub. L. 116-92, div. A, title IX, §902(2), Dec. 20, 2019, 133 Stat. 1542; Pub. L. 118-31, div. A, title IX, §901(a)(1), Dec. 22, 2023, 137 Stat. 354.)

Editorial Notes

PRIOR PROVISIONS

A prior section 133a, added Pub. L. 99-500, §101(c) [title X, §902(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-131, and Pub. L. 99-591, §101(c) [title X, §902(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-131; Pub. L. 99-661, div. A, title IX, formerly title IV, §902(a)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103-160, div. A, title IX, §904(c), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103-337, div. A, title X, §1070(a)(2), Oct. 5, 1994, 108 Stat. 2855; Pub. L. 104-106, div. A, title IX, §903(c)(1), Feb. 10, 1996, 110 Stat. 401; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(c), Oct. 5, 1999, 113 Stat. 718; Pub. L. 107-107, div. A, title X, §1048(b)(1), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111-84, div. A, title IX,

§906(c)(1)(A), (2)(A), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics, prior to repeal by Pub. L. 111-383, div. A, title IX, §901(b)(1), (p), Jan. 7, 2011, 124 Stat. 4317, 4327, effective Jan. 1, 2011.

Another prior section 133a was renumbered section 117 of this title.

AMENDMENTS

2023—Subsec. (c)(1). Pub. L. 118-31, §901(a)(1)(A), substituted “and the Deputy Secretary of Defense” for “, the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense”.

Subsec. (c)(2). Pub. L. 118-31, §901(a)(1)(B), struck out “the Chief Management Officer,” after “the Deputy Secretary.”

2019—Subsec. (b)(2). Pub. L. 116-92 substituted “appropriate prototyping activities,” for “prototyping,” and struck out “, including the allocation of resources for defense research and engineering,” after “testing activities and programs”.

2017—Subsec. (c)(1). Pub. L. 115-91, §910(c)(2)(A), substituted “, the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense” for “and the Deputy Secretary of Defense”.

Subsec. (c)(2). Pub. L. 115-91, §910(c)(2)(B), inserted “the Chief Management Officer,” after “the Deputy Secretary.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(2) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114-328 (see Tables for classification).

EFFECTIVE DATE

Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

SEMIANNUAL UPDATES ON MEETINGS HELD BY THE MISSILE DEFENSE EXECUTIVE BOARD

Pub. L. 117-81, div. A, title XVI, §1671(a)–(c), Dec. 27, 2021, 135 Stat. 2112, provided that:

“(a) SEMIANNUAL UPDATES.—Not later than March 1 and September 1 of each year, the Under Secretary of Defense for Research and Engineering and the Under Secretary of Defense for Acquisition and Sustainment, acting in their capacities as co-chairs of the Missile Defense Executive Board pursuant to section 1681(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232; 132 Stat. 2162), shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a semi-annual update including, with respect to the six-month period preceding the update—

“(1) the dates on which the Board met; and

“(2) except as provided by subsection (b), a summary of any decisions made by the Board at each meeting of the Board and the rationale for and options that informed such decisions.

“(b) EXCEPTION FOR CERTAIN BUDGETARY MATTERS.—The co-chairs shall not be required to include in a semi-annual update under subsection (a) the matters described in paragraph (2) of such subsection with respect to decisions of the Board relating to the budget of the President for a fiscal year if the budget for that fiscal year has not been submitted to Congress under section 1105 of title 31, United States Code, as of the date of the semiannual update.

“(c) FORM OF UPDATE.—The co-chairs may provide a semiannual update under subsection (a) either in the form of a briefing or a written report.”

SERVICE OF INCUMBENT USD FOR ATL IN POSITION

Pub. L. 114-328, div. A, title IX, §901(a)(2), Dec. 23, 2016, 130 Stat. 2339, which provided that the Under Secretary of Defense for Acquisition, Technology, and Logistics serving as of Feb. 1, 2018, could continue as Under Secretary of Defense for Research and Engineering, without further appointment under this section, was repealed by Pub. L. 115-91, div. A, title IX, §901, Dec. 12, 2017, 131 Stat. 1511.

REPORTS TO CONGRESS ON FAILURE TO COMPLY WITH RECOMMENDATIONS

Pub. L. 112-239, div. A, title IX, §904(h), Jan. 2, 2013, 126 Stat. 1868, provided that:

“(1) REPORT REQUIRED.—Not later than 60 days after the end of each fiscal year, from fiscal year 2013 through fiscal year 2018, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each case in which a major defense acquisition program, in the preceding fiscal year—

“(A) proceeded to implement a test and evaluation master plan notwithstanding a decision of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation to disapprove the developmental test and evaluation plan within that plan in accordance with former section 139b(a)(5)(B) of title 10, United States Code; or

“(B) proceeded to initial operational testing and evaluation notwithstanding a determination by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation on the basis of an assessment of operational test readiness that the program is not ready for operational testing.

“(2) MATTERS COVERED.—

“(A) For each program covered by paragraph (1)(A), the report shall include the following:

“(i) A description of the specific aspects of the developmental test and evaluation plan that the Deputy Assistant Secretary determined to be inadequate.

“(ii) An explanation of the reasons why the program disregarded the Deputy Assistant Secretary’s recommendations with regard to those aspects of the developmental test and evaluation plan.

“(iii) The steps taken to address those aspects of the developmental test and evaluation plan and address the concerns of the Deputy Assistant Secretary.

“(B) For each program covered by paragraph (1)(B), the report shall include the following:

“(i) An explanation of the reasons why the program proceeded to initial operational testing and evaluation notwithstanding the findings of the assessment of operational test readiness.

“(ii) A description of the aspects of the approved testing and evaluation master plan that had to be set aside to enable the program to proceed to initial operational testing and evaluation.

“(iii) A description of how the program addressed the specific areas of concern raised in the assessment of operational test readiness.

“(iv) A statement of whether initial operational testing and evaluation identified any significant shortcomings in the program.

“(3) ADDITIONAL CONGRESSIONAL NOTIFICATION.—Not later than 30 days after any decision to conduct developmental testing on a major defense acquisition program without an approved test and evaluation master plan in place, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide to the congressional defense committees a written expla-

nation of the basis for the decision and a timeline for getting an approved plan in place.”

OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES

Pub. L. 109-364, div. A, title IX, §905, Oct. 17, 2006, 120 Stat. 2353, as amended by Pub. L. 110-181, div. A, title IX, §905, Jan. 28, 2008, 122 Stat. 275; Pub. L. 115-232, div. A, title VIII, §812(a)(1)(C), Aug. 13, 2018, 132 Stat. 1846, provided that:

“(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

“(1) any commander of a combatant command who is authorized by section 166b or 167 of title 10, United States Code, to exercise acquisition authority; and

“(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

“(b) GUIDANCE.—

“(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

“(A) is in compliance with department-wide acquisition policy; and

“(B) is coordinated with acquisition programs of the military departments.

“(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

“(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

“(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].”

IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

Pub. L. 100-456, div. A, title X, §1006, Sept. 29, 1988, 102 Stat. 2040, as amended by Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, which provided for the designation of a primary liaison between the procurement and research and development activities of the armed forces of the United States and Israel, was repealed by Pub. L. 115-232, div. A, title VIII, §811(e), Aug. 13, 2018, 132 Stat. 1845.

§ 133b. Under Secretary of Defense for Acquisition and Sustainment

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Acquisition and Sustainment, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive system development, engineering, production, or management background and experience with managing complex programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief acquisition and sustainment officer of the Department of Defense with the mission of delivering and sustaining timely, cost-effective capabilities for the armed forces (and the Department);

(2) establishing policies on, and supervising, all elements of the Department relating to acquisition (including system design, development, appropriate prototyping activities, and production, and procurement of goods and services) and sustainment (including logistics, maintenance, and materiel readiness);

(3) establishing policies for access to, and maintenance of, the defense industrial base and materials critical to national security, and policies on contract administration;

(4) establishing policies for, and providing oversight, guidance, and coordination with respect to, the nuclear command, control, and communications system;

(5) serving as—

(A) the principal advisor to the Secretary on acquisition and sustainment in the Department;

(B) the senior procurement executive for the Department for the purposes of section 1702(c) of title 41;

(C) the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive;

(D) chairman of the Nuclear Weapons Council established by section 179 of this title; and

(E) co-chairman of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of this title;

(6) overseeing—

(A) the sustainment and modernization of United States nuclear forces, including the nuclear command, control, and communications system; and

(B) military department and Defense Agency programs to develop defenses against chemical and biological weapons and capabilities to counter weapons of mass destruction;

(7) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Under Secretary has responsibility, except that the Under Secretary shall exercise advisory authority over service acquisition programs for which the service acquisition executive is the milestone decision authority;

(8) to the extent directed by the Secretary, exercising overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law;

(9) advising the Secretary on all aspects of acquisition and sustainment relating to—