

(c) FORM.—The report required under subsection (a) shall be submitted in machine readable, electronic form.

(Added Pub. L. 118–31, div. A, title X, § 1002, Dec. 22, 2023, 137 Stat. 378.)

Editorial Notes

CODIFICATION

Pub. L. 118–31, div. A, title X, § 1002, Dec. 22, 2023, 137 Stat. 378, provided that this chapter was amended by inserting this section “after section 222d”. Another section 222e, which is set out after this section, had been added and inserted “after section 222d” by Pub. L. 118–31, div. A, title II, § 211, Dec. 22, 2023, 137 Stat. 182.

§ 222e.¹ Unfunded priorities of the Under Secretary of Defense for Research and Engineering: annual report

(a) ANNUAL REPORT.—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 Secretary of Defense, after coordinating with the Secretaries of the military departments, shall submit to the congressional defense committees a report on the unfunded priorities of the Department of Defense related to activities for which the Under Secretary of Defense for Research and Engineering has authority.

(b) ELEMENTS.—

(1) IN GENERAL.—Except as provided in subsection (c), each report submitted 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.

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

(c) EXCLUSION OF PRIORITIES COVERED IN OTHER REPORTS.—The report submitted under subsection (a) shall not include unfunded priorities or requirements covered in reports submitted under—

(1) section 222a or 222b² of this title; or

(2) section 2806 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 10 U.S.C. 222a note).

(d) FORM OF REPORT.—Each report submitted under subsection (a) shall be submitted in classified form, but may include an unclassified summary as the Secretary considers appropriate.

¹ Another section 222e is set out preceding this section. See Codification note below.

² See References in Text note below.

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

(2) would have been recommended for funding through that 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; and

(3) in the case of a military construction project, has reached 35 percent design.

(Added Pub. L. 118–31, div. A, title II, § 211, Dec. 22, 2023, 137 Stat. 182; amended Pub. L. 118–159, div. A, title II, § 212, Dec. 23, 2024, 138 Stat. 1824.)

Editorial Notes

REFERENCES IN TEXT

Section 222b of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199. For provisions similar to those in former section 222b of this title, see section 5513 of this title.

CODIFICATION

Pub. L. 118–31, div. A, title II, § 211, Dec. 22, 2023, 137 Stat. 182, provided that this chapter was amended by inserting this section “after section 222d”. Another section 222e, which is set out preceding this section, was subsequently added and inserted “after section 222d” by Pub. L. 118–31, div. A, title X, § 1002, Dec. 22, 2023, 137 Stat. 378.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–159, § 212(1), substituted “the Secretary of Defense, after coordinating with the Secretaries of the military departments, shall” for “the Secretary of Defense shall”.

Subsec. (e)(3). Pub. L. 118–159, § 212(2), added par. (3).

[§ 223. Repealed. Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 105–261, div. A, title II, § 235(a)(1), Oct. 17, 1998, 112 Stat. 1953; amended Pub. L. 107–107, div. A, title II, § 232(a), (b), Dec. 28, 2001, 115 Stat. 1037; Pub. L. 107–314, div. A, title II, § 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, § 221(a), (b)(1), (c)(1), Nov. 24, 2003, 117 Stat. 1419, related to program elements for ballistic missile defense programs. See section 5511 of this title.

Statutory Notes and Related Subsidiaries

ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 111–383, div. A, title II, § 225, Jan. 7, 2011, 124 Stat. 4170, related to acquisition baselines, elements of baselines, and annual reports, prior to repeal by Pub. L. 112–81, div. A, title II, § 231(b)(1), Dec. 31, 2011, 125 Stat. 1339.

COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM ELEMENT

Pub. L. 105–85, div. A, title II, § 233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107–314, div. A, title II, § 225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, directed the Secretary of Defense to establish the Cooperative Ballistic Missile Defense Program to support cooperative

efforts between the United States and other nations that contributed to United States ballistic missile defense capabilities.

§ 223a. Ballistic missile defense programs: procurement

(a) BUDGET JUSTIFICATION MATERIALS.—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 Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(Added Pub. L. 108–136, div. A, title II, §223(a)(1), Nov. 24, 2003, 117 Stat. 1420; amended Pub. L. 113–291, div. A, title X, §1060(a)(1), Dec. 19, 2014, 128 Stat. 3502.)

Editorial Notes

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–291 struck out subsec. (d). Text read as follows: “The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).”

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY OF TEST PLANS

Pub. L. 108–136, div. A, title II, §223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

[§ 224. Repealed. Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 105–85, div. A, title II, §232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107–107, div. A, title II, §231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107–314, div. A, title II, §§222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108–136, div. A, title II, §226, title X, §1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611, related to display of amounts for research, development, test, and evaluation for ballistic missile defense programs. See section 5512 of this title.

[§ 225. Repealed. Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199]

Section, added Pub. L. 112–81, div. A, title II, §231(a)(1), Dec. 31, 2011, 125 Stat. 1337; amended Pub. L. 113–66, div. A, title II, §231(b), Dec. 26, 2013, 127 Stat. 711; Pub. L. 117–263, div. A, title XVI, §1652, Dec. 23, 2022, 136 Stat. 2948, provided for acquisition accountability reports on the ballistic missile defense system. See section 5514 of this title.

§ 226. Special operations forces: display of service-common and other support and enabling capabilities

(a) IN GENERAL.—The Secretary of Defense and the Secretary of each of the military departments shall include, in the budget materials submitted to Congress under section 1105 of title 31 for fiscal year 2022 and any subsequent fiscal year, a budget justification display for each applicable appropriation showing service-common and other support and enabling capabilities for special operations forces requested by a military service or Defense Agency. Such budget justification displays shall include each of the following:

(1) Details at the appropriation and line item level, including any amount for service-common support, acquisition support, training, operations, pay and allowances, base operations sustainment, and any other common services and support.

(2) An identification of any change in the level or type of service-common support and enabling capabilities provided by each of the military services or Defense Agencies to special operations forces for the fiscal year covered by the budget justification display when compared to the preceding fiscal year, including the rationale for any such change and any mitigating actions.

(3) An assessment of the specific effects that the budget justification display for the fiscal year covered by the display and any anticipated future manpower and force structure changes are likely to have on the ability of each of the military services to provide service-common support and enabling capabilities to special operations forces.

(4) Any other matters the Secretary of Defense or the Secretary of a military department determines are relevant.

(b) CONSOLIDATED BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall include, in the budget materials submitted to Congress under section 1105 of title 31, for fiscal year 2022 and any subsequent fiscal year, a consolidated budget justification display containing the same information as is required in the budget jus-