

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 acquisition 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; renumbered § 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 mili-

tary department concerned, a service acquisition executive of a military department shall be responsible for the management of elements of the defense acquisition system in that military department and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of such elements of the defense acquisition system.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288, §2546; amended Pub. L. 116-92, div. A, title IX, §902(78), Dec. 20, 2019, 133 Stat. 1552; renumbered §3103, Pub. L. 116-283, div. A, title XVIII, §1808(a)(2), Jan. 1, 2021, 134 Stat. 4159.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2546 of this title as this section.

2019—Subsec. (a). Pub. L. 116-92, §902(78)(A), (B), substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics” in heading and text.

Subsec. (b). Pub. L. 116-92, §902(78)(C), substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

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.

§ 3104. Acquisition-related functions of chiefs of the armed forces

(a) PERFORMANCE OF CERTAIN ACQUISITION-RELATED FUNCTIONS.—The Secretary of Defense shall ensure that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Chief of Space Operations assist the Secretary of the military department concerned in the performance of the following acquisition-related functions of such department:

(1) The development of requirements for equipping the armed force concerned (subject, where appropriate, to validation by the Joint Requirements Oversight Council pursuant to section 181 of this title).

(2) Decisions regarding the balancing of resources and priorities, and associated trade-offs among cost, schedule, technical feasibility, and performance on major defense acquisition programs.

(3) The coordination of measures to control requirements creep in the defense acquisition system.

(4) The recommendation of trade-offs among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, to ensure acquisition programs deliver best value in meeting the approved military requirements.

(5) Termination of development or procurement programs for which life-cycle cost,

schedule, and performance expectations are no longer consistent with approved military requirements and levels of priority, or which no longer have approved military requirements.

(6) The development and management of career paths in acquisition for military personnel (as required by section 1722a of this title).

(7) The assignment and training of contracting officer representatives when such representatives are required to be members of the armed forces because of the nature of the contract concerned.

(b) ADHERENCE TO REQUIREMENTS IN MAJOR DEFENSE ACQUISITION PROGRAMS.—(1) The Secretary of the military department concerned shall ensure that the program capability document supporting a Milestone B or subsequent decision for a major defense acquisition program may not be approved until the chief of the armed force concerned determines in writing that the requirements in the document are necessary and realistic in relation to the program cost and fielding targets established under section 4271(a) of this title.

(2) Consistent with the performance of duties under subsection (a), the Chief of the armed force concerned, or in the case of a joint program the chiefs of the armed forces concerned, with respect to major defense acquisition programs, shall—

(A) concur with the need for a materiel solution as identified in the Materiel Development Decision Review prior to entry into the Materiel Solution Analysis Phase under Department of Defense Instruction 5000.02;

(B) concur with the cost, schedule, technical feasibility, and performance trade-offs that have been made with regard to the program before Milestone A approval is granted under section 4251 of this title;

(C) concur that appropriate trade-offs among cost, schedule, technical feasibility, and performance objectives have been made to ensure that the program is affordable when considering the per unit cost and the total life-cycle cost before Milestone B approval is granted under section 4252 of this title; and

(D) concur that the requirements in the program capability document are necessary and realistic in relation to program cost and fielding targets as required by paragraph (1) before Milestone C approval is granted.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the assignment of functions under section 7014(c)(1)(A), section 8014(c)(1)(A), or section 9014(c)(1)(A) of this title, except as explicitly provided in this section.

(d) DEFINITIONS.—In this section:

(1) The term “requirements creep” means the addition of new technical or operational specifications after a requirements document is approved by the appropriate validation authority for the requirements document.

(2) The term “requirements document” means a document produced in the requirements process that is provided for an acquisition program to guide the subsequent development, production, and testing of the program and that—