

“(d) SUNSET.—The authority under subsection (a) shall terminate on September 30, 2028.

“(e) ANNUAL REPORT.—Not later than January 15, 2025, and annually thereafter for four years, the Chairman of the Joint Chiefs of Staff, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, 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 use of the authority under this section for the fiscal year preceding the date of submission of the report. The report shall include a summary of each instance of the authority being used, including—

“(1) an identification of each commander submitting a request under subsection (a);

“(2) an identification of each senior contracting official responding to such request; and

“(3) the specific special authority requested, including an identification of the contractor that performed the contract and the value of the contract.”

NOTICE TO COMMITTEES ON APPROPRIATIONS TO BE CONCURRENTLY SUBMITTED TO SUBCOMMITTEES ON DEFENSE

Pub. L. 118-47, div. A, title VIII, § 8071, Mar. 23, 2024, 138 Stat. 501, provided that: “Any notice that is required to be submitted to the Committees on Appropriations of the House of Representatives and the Senate under section 3601 of title 10, United States Code, as added by section 804(a) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 shall be submitted pursuant to that requirement concurrently to the Subcommittees on Defense of the Committees on Appropriations of the House of Representatives and the Senate.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 117-328, div. C, title VIII, § 8072, Dec. 29, 2022, 136 Stat. 4605.

Pub. L. 117-103, div. C, title VIII, § 8074, Mar. 15, 2022, 136 Stat. 193, as amended by Pub. L. 117-263, div. A, title VIII, § 804(d)(2), Dec. 23, 2022, 136 Stat. 2701.

RAPID ACQUISITION AND DEPLOYMENT PROCEDURES FOR UNITED STATES SPECIAL OPERATIONS COMMAND

Pub. L. 113-291, div. A, title VIII, § 851, Dec. 19, 2014, 128 Stat. 3457, as amended by Pub. L. 117-263, div. A, title VIII, § 804(d)(3), Dec. 23, 2022, 136 Stat. 2701, provided that:

“(a) AUTHORITY TO ESTABLISH PROCEDURES.—The Secretary may prescribe procedures for the rapid acquisition and deployment of items for the United States Special Operations Command that are currently under development by the Department of Defense or available from the commercial sector and are—

“(1) urgently needed to react to an enemy threat or to respond to significant and urgent safety situations;

“(2) needed to avoid significant risk of loss of life or mission failure; or

“(3) needed to avoid collateral damage risk where the absence of collateral damage is a requirement for mission success.

“(b) ISSUES TO BE ADDRESSED.—The procedures prescribed under subsection (a) shall include the following:

“(1) A process for streamlined communication between the Commander of the United States Special Operations Command and the acquisition and research and development communities, including—

“(A) a process for the Commander to communicate needs to the acquisition community and the research and development community; and

“(B) a process for the acquisition community and the research and development community to propose items that meet the needs communicated by the Commander.

“(2) Procedures for demonstrating, rapidly acquiring, and deploying items proposed pursuant to paragraph (1)(B), including—

“(A) a process for demonstrating performance and evaluating for current operational purposes the existing capability of an item;

“(B) a process for developing an acquisition and funding strategy for the deployment of an item; and

“(C) a process for making deployment determinations based on information obtained pursuant to subparagraphs (A) and (B).

“(c) TESTING REQUIREMENT.—

“(1) IN GENERAL.—The process for demonstrating performance and evaluating for current operational purposes the existing capability of an item prescribed under subsection (b)(2)(A) shall include—

“(A) an operational assessment in accordance with expedited procedures prescribed by the Director of Operational Testing and Evaluation; and

“(B) a requirement to provide information to the deployment decision-making authority about any deficiency of the item in meeting the original requirements for the item (as stated in an operational requirements document or similar document).

“(2) DEFICIENCY NOT A DETERMINING FACTOR.—The process may not include a requirement for any deficiency of an item to be the determining factor in deciding whether to deploy the item.

“(3) ADDITIONAL REQUIREMENT IN CASE OF DEFICIENCY.—In the case of any deficiency of an item, a decision to deploy the item may be made only if the Commander of the United States Special Operations Command determines that, for reasons of national security, the deficiency of the item is acceptable.

“(d) LIMITATION.—The quantity of items of a system procured using the procedures prescribed pursuant to this section may not exceed the number established for low-rate initial production for the system. Any such items shall be counted for purposes of the number of items of the system that may be procured through low-rate initial production.

“(e) ANNUAL FUNDING LIMITATION.—Of the funds available to the Commander of the United States Special Operations Command in any given fiscal year, not more than \$50,000,000 may be used to procure items under this section.

“(f) RELATIONSHIP TO OTHER RAPID ACQUISITION AUTHORITY.—The Commander of the United States Special Operations Command may not use the authority under this section at the same time the Commander uses the authority under section 3601 of title 10, United States Code.

“(g) CONGRESSIONAL NOTIFICATIONS.—

“(1) NOTIFICATION BEFORE PROCEDURES GO INTO EFFECT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] at least 30 days before the procedures prescribed pursuant to this section are made effective.

“(2) NOTIFICATION AFTER USE OF PROCEDURES.—The Secretary of Defense shall notify the congressional defense committees not later than 48 hours after each use of the procedures prescribed pursuant to this section.”

§ 3602. Middle tier of acquisition for rapid prototyping and rapid fielding

(a) GUIDANCE REQUIRED.—The Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Comptroller of the Department of Defense and the Vice Chairman of the Joint Chiefs of Staff, shall establish pathways as described under subsection (b) to establish a process for conducting middle tier acquisitions for programs or projects that are intended to be completed in a period of two to five years.

(b) ACQUISITION PATHWAYS.—The Under Secretary of Defense for Acquisition and Sustainment shall establish the following two acquisition pathways:

(1) **RAPID PROTOTYPING.**—The rapid prototyping pathway shall provide for the use of innovative technologies to rapidly develop fieldable prototypes to demonstrate new capabilities and meet emerging military needs. The objective of an acquisition program or project under this pathway shall be to field a prototype that can be demonstrated in an operational environment and provide for a residual operational capability within five years of the development of an approved requirement.

(2) **RAPID FIELDING.**—The rapid fielding pathway shall provide for the use of proven technologies to field production quantities of new or upgraded systems with minimal development required. The objective of an acquisition program or project under this pathway shall be to begin production within six months and complete fielding within five years of the development of an approved requirement.

(c) **EXPEDITED PROCESS.**—

(1) **IN GENERAL.**—Before using the authority under this section, the Under Secretary shall develop a streamlined and coordinated requirements, budget, and acquisition process that results in the development of an approved requirement for each acquisition program or project in a period of not more than six months from the time that the process is initiated. Programs or projects carried out under the authority of this section shall not be subject to the Joint Capabilities Integration and Development System Manual and Department of Defense Directive 5000.01.

(2) **RAPID PROTOTYPING.**—With respect to the rapid prototyping pathway, the process described in paragraph (1) shall include—

(A) a merit-based process for the consideration of innovative technologies and new capabilities to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders;

(B) a process for developing and implementing acquisition and funding strategies for a program or project to be carried out under such pathway;

(C) a process for demonstrating and evaluating the performance of fieldable prototypes developed pursuant to such program or project in an operational environment;

(D) a process for transitioning successful prototypes to new or existing acquisition programs for production and fielding under the rapid fielding pathway or the major capability acquisition pathway (as defined under Department of Defense Instruction 5000.85 or successor instruction); and

(E) a process for iterating prototyping and fielding within the rapid prototyping pathway that may use a process described in paragraph (4)(F).

(3) **RAPID FIELDING.**—With respect to the rapid fielding pathway, the process described in paragraph (1) shall include—

(A) a merit-based process for the consideration of existing products and proven technologies to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders;

(B) a process for demonstrating performance and evaluating for current operational purposes the proposed products and technologies;

(C) a process for developing and implementing acquisition and funding strategies for a program or project to be carried out under such pathway;

(D) a process for considering lifecycle costs and addressing issues of logistics support and system interoperability; and

(E) a process for identifying and exploiting opportunities to use the rapid fielding pathway to reduce total ownership costs.

(4) **STREAMLINED PROCEDURES.**—The process described in paragraph (1) may provide for any of the following streamlined procedures:

(A) The service acquisition executive of the military department concerned may appoint a program manager for a program or project for which the authority under this section is used from among candidates from among civilian employees or members of the armed forces who have significant and relevant experience managing large and complex programs.

(B) A program manager appointed under subparagraph (A) may be provided staff positions for a technical staff, including experts in business management, cost estimation, contracting, auditing, engineering, certification, testing, and logistics, to enable the program manager to manage the program without the technical assistance of another element of the Department of Defense to the maximum extent practicable.

(C) A program manager appointed under subparagraph (A) may, in coordination with the users of the good or service to be acquired under such a program or project and the test community, to make trade-offs among life-cycle costs, requirements, and schedules to meet the goals of the program or project.

(D) Each service acquisition executive, acting in coordination with the defense acquisition executive, may serve as the decision authority for a program or project for which the authority under this section is used, or shall delegate such decision authority.

(E) A program manager appointed under subparagraph (A) may seek an expedited waiver from any regulatory requirement, or in the case of a statutory requirement, a waiver from Congress, that the program manager determines adds cost, schedule, or performance delays with little or no value to the management of such program or project.

(F) If an operational capability is fielded for a program or project for which the authority under this section is used, the appropriate service acquisition executive may permit continuous iterative prototyping and fielding under the same program or project for an unlimited number of subsequent periods, where each period is intended to be five years.

(Added Pub. L. 118-159, div. A, title VIII, §804(a), Dec. 23, 2024, 138 Stat. 1966.)

Editorial Notes**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in Pub. L. 114-92, div. A, title VIII, §804, Nov. 25, 2015, 129 Stat. 882, as amended by Pub. L. 114-328, div. A, title VIII, §§849(a), 864(b), 897, title X, §1081(c)(2), Dec. 23, 2016, 130 Stat. 2293, 2304, 2327, 2419; Pub. L. 115-91, div. A, title VIII, §866, Dec. 12, 2017, 131 Stat. 1495; Pub. L. 116-92, div. A, title IX, §902(33), Dec. 20, 2019, 133 Stat. 1546; Pub. L. 116-283, div. A, title VIII, §805, Jan. 1, 2021, 134 Stat. 3742, which was set out in a note preceding section 3201 of this title, prior to repeal by Pub. L. 118-159, div. A, title VIII, §804(b), Dec. 23, 2024, 138 Stat. 1968.

§ 3603. Software acquisition pathways

(a) **SOFTWARE ACQUISITION AND DEVELOPMENT PATHWAYS.**—The Secretary of Defense shall establish pathways as described under subsection (b) to provide for the efficient and effective acquisition, development, integration, and timely delivery of software and covered hardware. Such a pathway shall include the following:¹

(b) **PATHWAYS.**—The Secretary of Defense may establish as many pathways under this section as the Secretary determines appropriate and shall establish the following pathways:

(1) **APPLICATIONS.**—The applications pathway shall provide for the use of rapid development and implementation of applications and other software or software improvements operated by the Department of Defense, which may include applications and associated procurement of covered hardware (including modifications of a type not customarily available in the commercial marketplace to meet Department requirements), commercially available cloud computing platforms, and other nondevelopmental items.

(2) **EMBEDDED SYSTEMS.**—The embedded systems pathway shall provide for the rapid development and insertion of upgrades and improvements for software and covered hardware embedded in weapon systems and other hardware systems unique to the Department of Defense.

(c) **REQUIREMENTS FOR PATHWAYS.**—A pathway established under this section shall provide for the use of proven technologies and solutions to continuously engineer and deliver capabilities for software and covered hardware.

(d) **CONSIDERATIONS FOR USE OF AUTHORITY.**—In using the authority under this section, the Secretary shall consider how such use will—

(1) initiate the engineering of new software capabilities quickly and, if applicable, the integration of such capabilities into covered hardware;

(2) demonstrate the viability and effectiveness of such capabilities for operational use not later than one year after the date on which funds are first obligated to acquire or develop software; and

(3) allow for the continuous updating and delivery of new capabilities not less frequently than annually to iteratively meet a requirement.

(e) **TREATMENT NOT AS MAJOR DEFENSE ACQUISITION PROGRAM.**—Software and covered hard-

ware acquired or developed using the authority under this section shall not be treated as a major defense acquisition program for purposes of section 4201 of title 10, United States Code, or Department of Defense Directive 5000.01 without the specific designation of such software and covered hardware by the Under Secretary of Defense for Acquisition and Sustainment or a service acquisition executive.

(f) **RISK-BASED APPROACH.**—The Secretary of Defense shall use a risk-based approach for the consideration of innovative technologies and new capabilities for software and covered hardware to be acquired or developed under this authority to meet needs communicated by the Joint Chiefs of Staff and the combatant commanders.

(g) **EXPEDITED PROCESS.**—

(1) **IN GENERAL.**—A pathway established under this section shall provide for—

(A) a streamlined and coordinated requirements, budget, and acquisition process to support rapid fielding of software applications and of software upgrades to embedded systems for operational use in a period of not more than one year from the time that the process is initiated;

(B) the collection of data on software and covered hardware fielded; and

(C) continuous engagement with the users of software and covered hardware to support—

(i) engineering activities of the Department of Defense; and

(ii) delivery of software and covered hardware for operational use in periods of not more than one year.

(2) **EXPEDITED SOFTWARE REQUIREMENTS PROCESS.**—

(A) **INAPPLICABILITY OF JOINT CAPABILITIES INTEGRATION AND DEVELOPMENT SYSTEM MANUAL.**—Software and covered hardware acquisition or development conducted under the authority of this section shall not be subject to the Joint Capabilities Integration and Development System Manual, except pursuant to a modified process specifically provided for the acquisition or development of software by the Vice Chairman of the Joint Chiefs of Staff, in consultation with Under Secretary of Defense for Acquisition and Sustainment and each service acquisition executive.

(B) **INAPPLICABILITY OF DEFENSE ACQUISITION SYSTEM DIRECTIVE.**—Software and covered hardware acquisition or development conducted under the authority of this section shall not be subject to Department of Defense Directive 5000.01, except when specifically provided for the acquisition or development of software by the Under Secretary of Defense for Acquisition and Sustainment, in consultation with the Vice Chairman of the Joint Chiefs of Staff and each service acquisition executive.

(h) **ELEMENTS.**—In implementing a pathway established under the authority of this section, the Secretary shall tailor requirements relating to—

(1) iterative development of requirements for software and covered hardware to be acquired

¹ So in original.