

Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

§ 4067. Technology protection features activities

(a) **ACTIVITIES.**—The Secretary of Defense shall carry out activities to develop and incorporate technology protection features in a designated system to increase ally and partner military capability or improve coalition interoperability.

(b) **COST-SHARING.**—(1) Any contract for the design or development of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system, either for the development of program protection strategies for the system or the design and incorporation of exportability features into the system, shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

(2) Any contract for the design or development of an exportability feature of a system resulting from activities under subsection (a) for the purpose of enhancing or enabling the exportability of the system shall include a cost-sharing provision that requires the contractor to bear half of the cost of such activities, or such other portion of such cost as the Secretary considers appropriate upon showing of good cause.

(3) The Secretary may deem the portion of the costs of the contractor described in paragraph (1) or (2) with respect to a designated system or exportability feature as allowable independent research and development costs under the regulations issued under section 3762 of this title if—

(A) in the case of a designated system, the designated system receives Milestone B approval; and

(B) the Secretary determines that doing so would further the purposes of this section.

(c) **DEFINITIONS.**—In this section:

(1) The term “designated system” means any system (including a major system, as defined in section 3041 of title 10, United States Code) that the Under Secretary of Defense for Acquisition and Sustainment designates for purposes of this section.

(2) The term “independent research and development costs” has the meaning given the term in section 31.205-18 of title 48, Code of Federal Regulations.

(3) The term “Milestone B approval” has the meaning given the term in section 4172(e)(7) of this title.

(4) The term “technology protection features” means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.

(Added Pub. L. 115-232, div. A, title II, §223(a), Aug. 13, 2018, 132 Stat. 1682, §2357; renumbered

§ 4067 and amended Pub. L. 116-283, div. A, title XVIII, §§ 1841(c), 1842(b), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4243, 4244, 4294; Pub. L. 117-81, div. A, title VIII, §831(a), title XVII, §1701(u)(2)(D), (3)(B), Dec. 27, 2021, 135 Stat. 1832, 2151, 2152; Pub. L. 118-159, div. A, title II, §215, Dec. 23, 2024, 138 Stat. 1824.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159, §215(a), substituted “to increase ally and partner military capability or improve coalition interoperability” for “during the research and development phase of such system”.

Subsec. (b)(2). Pub. L. 118-159, §215(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 118-159, §215(b)(1), (3)(A), (B), redesignated par. (2) as (3) and inserted “or (2)” after “paragraph (1)” and “or exportability feature” after “with respect to a designated system” in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 118-159, §215(b)(3)(C), inserted “in the case of a designated system,” before “the”.

2021—Pub. L. 116-283, §1842(b), as amended by Pub. L. 117-81, §1701(u)(3)(B), renumbered section 2357 of this title as this section.

Pub. L. 116-283, §1841(c), which directed the renumbering of section 2357 of this title as section 4009 instead of this section, was amended generally by Pub. L. 117-81, §1701(u)(2)(D), effective as if included therein, so that such transfer was no longer directed.

Subsec. (b). Pub. L. 117-81, §831(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 116-283, §1883(b)(2), substituted “section 3762” for “section 2372” in introductory provisions.

Subsec. (c)(1). Pub. L. 116-283, §1883(b)(2), substituted “section 3041” for “section 2302(5)”.

Subsec. (c)(2). Pub. L. 117-81, §831(a)(2)(B), added par. (2). Former par. (2) redesignated (4).

Subsec. (c)(3). Pub. L. 116-283, §1883(b)(2), substituted “section 4172(e)(7)” for “section 2366(e)(7)”.

Pub. L. 117-81, §831(a)(2)(B), added par. (3).

Subsec. (c)(4). Pub. L. 117-81, §831(a)(2)(A), redesignated par. (2) as (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and note below.

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.

CONFORMING REGULATIONS

Pub. L. 117-81, div. A, title VIII, §831(b), Dec. 27, 2021, 135 Stat. 1832, provided that: “Not later than 120 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to conform with section 2357 of title 10, United States Code [now 10 U.S.C. 4067], as amended by subsection (a).”

UPDATED GUIDANCE ON PLANNING FOR EXPORTABILITY FEATURES FOR FUTURE PROGRAMS

Pub. L. 118-31, div. A, title VIII, §810, Dec. 22, 2023, 137 Stat. 321, as amended by Pub. L. 118-159, div. A, title VIII, §804(c)(5), Dec. 23, 2024, 138 Stat. 1969, provided that:

“(a) PROGRAM GUIDANCE ON PLANNING FOR EXPORTABILITY FEATURES.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Under Secretary of Defense for Acquisition and Sustainment shall ensure that the program guidance for major defense acquisition programs (as defined in section 4201 of title 10, United States Code) and for acquisition programs and projects that are carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of title 10, United States Code[,] is revised to integrate planning for exportability features under section 4067 of title 10, United States Code, including—

“(1) for major defense acquisition programs, an assessment of such programs to identify potential exportability needs; and

“(2) for technologies under an acquisition program or project carried out using the rapid fielding or rapid prototyping acquisition pathway that are transitioned to a major capability acquisition program, an assessment of potential exportability needs of such technologies not later than one year after the date of such transition.

“(b) REVISION OF GUIDANCE FOR PROGRAM PROTECTION PLANS.—Not later than three years after the date of the enactment of this Act, the Under Secretary shall revise guidance for program protection plans to integrate a requirement to determine exportability for the programs covered by such plans.”

SUBCHAPTER II—PERSONNEL

Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVII, §1701(u)(3)(A), Dec. 27, 2021, 135 Stat. 2152, amended Pub. L. 116–283, div. A, title XVIII, §1842(a), Jan. 1, 2021, 134 Stat. 4244, which added this chapter, by adding subchapter heading. Heading was editorially conformed to the style used in this title.

Statutory Notes and Related Subsidiaries

PILOT PROGRAM ON DYNAMIC SHAPING OF THE WORKFORCE TO IMPROVE THE TECHNICAL SKILLS AND EXPERTISE AT CERTAIN DEPARTMENT OF DEFENSE LABORATORIES

Pub. L. 114–92, div. A, title XI, §1109, Nov. 25, 2015, 129 Stat. 1028, as amended by Pub. L. 115–232, div. A, title XI, §1112(b), Aug. 13, 2018, 132 Stat. 2012; Pub. L. 117–81, div. A, title II, §215(d)(3), Dec. 27, 2021, 135 Stat. 1593; Pub. L. 117–263, div. A, title XI, §1110, Dec. 23, 2022, 136 Stat. 2820; Pub. L. 118–159, div. A, title XI, §1113, Dec. 23, 2024, 138 Stat. 2090, provided that:

“(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to utilize the authorities specified in subsection (b) at the Department of Defense laboratories specified in subsection (c) to provide the directors of such laboratories the authority to dynamically shape the mix of technical skills and expertise in the workforces of such laboratories in order to achieve one or more of the following:

“(1) To meet organizational and Department-designated missions in the most cost-effective and efficient manner.

“(2) To upgrade and enhance the scientific quality of the workforces of such laboratories.

“(3) To shape such workforces to better respond to such missions.

“(4) To reduce the average unit cost of such workforces.

“(b) WORKFORCE SHAPING AUTHORITIES.—The authorities that shall be available for use by the director of a Department of Defense laboratory under the pilot program are the following:

“(1) FLEXIBLE LENGTH AND RENEWABLE TERM TECHNICAL APPOINTMENTS.—

“(A) IN GENERAL.—Subject to the provisions of this paragraph, authority otherwise available to

the director by law (and within the available budgetary resources of the laboratory) to make appointments as follows:

“(i) Appointment of qualified scientific and technical personnel who are not current Department of Defense civilian employees into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

“(ii) Appointment of qualified scientific and technical personnel who are Department civilian employees in term appointments into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

“(B) BENEFITS.—Personnel appointed under this paragraph shall be provided with benefits comparable to those provided to similar employees at the laboratory concerned, including professional development opportunities, eligibility for all laboratory awards programs, and designation as ‘status applicants’ for the purposes of eligibility for positions in the Federal service.

“(C) EXTENSION OF APPOINTMENTS.—The appointment of any individual under this paragraph may be extended without limit in up to six year increments at any time during any term of service under such conditions as the director concerned shall establish for purposes of this paragraph.

“(2) REEMPLOYMENT OF ANNUITANTS.—Authorities to authorize the director of any science and technology reinvention laboratory (in this section referred to as ‘STRL’) to reemploy annuitants in accordance with section 9902(g) of title 5, United States Code, except that as a condition for reemployment the director may authorize the deduction from the pay of any annuitant so reemployed of an amount up to the amount of the annuity otherwise payable to such annuitant allocable to the period of actual employment of such annuitant, which amount shall be determined in a manner specified by the director for purposes of this paragraph to ensure the most cost effective execution of designated missions by the laboratory while retaining critical technical skills.

“(3) EARLY RETIREMENT INCENTIVES.—Authorities to authorize the director of any STRL to authorize voluntary early retirement of employees in accordance with section 8336 or 8414 of title 5, United States Code, without regard to section 8336(d)(2)(D) or 8414(b)(1)(B) of such title, and with employees so separated voluntarily from service.

“(4) SEPARATION INCENTIVE PAY.—Authorities to authorize the director of any STRL to pay voluntary separation pay to employees in accordance with section 3522 of title 5, United States Code, and with—

“(A) employees so separated voluntarily from service under regulations prescribed by the Secretary of Defense for purposes of the pilot program; and

“(B) payments to employees so separated authorized under section 3523 of such title without regard to—

“(i) the plan otherwise required by section 3522 of such title; and

“(ii) paragraph (1) or (3) of section 3523(b) of such title.

“(c) LABORATORIES.—The Department of Defense laboratories specified in this subsection are the laboratories designated under subsections (a) and (b) of section 4121 of title 10, United States Code.

“(d) EXPIRATION.—

“(1) IN GENERAL.—The authority in this section shall expire on December 31, 2027.

“(2) CONTINUATION OF AUTHORITIES EXERCISED BEFORE TERMINATION.—The expiration in paragraph (1) shall not be construed to effect the continuation after the date specified in paragraph (1) of any term of employment or other benefit authorized under this