

“(3) The term ‘Department’ means the Department of Defense.

“(4) The term ‘digital technologies’ includes digital models, digital simulations, and digital twin capabilities that may be used to test the survivability and lethality of a covered system.

“(5) The term ‘Director’ means the Director of Operational Test and Evaluation.

“(6) The term ‘full spectrum survivability and lethality testing’ means a series of assessments of the effects of kinetic and non-kinetic threats on the communications, firepower, mobility, catastrophic survivability, and lethality of a covered system.

“(7) The term ‘non-kinetic threats’ means unconventional threats, including—

“(A) cyber attacks;

“(B) electromagnetic spectrum operations;

“(C) chemical, biological, radiological, nuclear effects and high yield explosives; and

“(D) directed energy weapons.

“(8) The term ‘Secretary’ means the Secretary of Defense.”

§ 4173. Department of Defense Test Resource Management Center

(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the “Center”). The Secretary shall designate the Center as a Department of Defense Field Activity.

(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.

(2) There shall be a Deputy Director of the Center, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

(c) DUTIES OF DIRECTOR.—(1) The Director shall have the following duties:

(A) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

(i) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

(ii) all other test and evaluation facilities and resources within and outside of the Department of Defense, other than budgets and expenditures for activities described in section 139(j) of this title.

(B) To review proposed significant changes to the test and evaluation facilities and resources of the Major Range and Test Facility Base, including with respect to the expansion, divestment, consolidation, or curtailment of activities, before they are implemented by the Secretaries of the military departments or the heads of the Defense Agencies with test and evaluation responsibilities and advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering of the impact of such changes on the adequacy of such test and evaluation facilities and resources to meet the test and evaluation requirements of the Department.

(C) To complete and maintain the quadrennial strategic plan required by subsection (d).

(D) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

(E) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

(F) To the extent practicable, to consult with the Secretary of the Army on installation infrastructure, workforce requirements, information technology, and other resources that support the activities of the Major Range and Test Facility Base.

(2) The Director shall have access to such records and data of the Department of Defense (including the appropriate records and data of each military department and Defense Agency) that are necessary in order to carry out the duties of the Director under this section.

(d) QUADRENNIAL STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every four fiscal years, and within one year after release of the National Defense Strategy, the Under Secretary of Defense for Research and Engineering, in coordination with the Director of the Department of Defense Test Resource Management Center, the Director of Operational Test and Evaluation, the Director of the Defense Intelligence Agency, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a quadrennial strategic plan reflecting the future needs of the Department of Defense with respect to test and evaluation facilities and resources. Each quadrennial strategic plan shall cover the period of thirty fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The quadrennial strategic plan shall be based on a comprehensive review of both funded and unfunded test and evaluation requirements of the Department, future threats to national security, and the adequacy of the test and evaluation facilities and resources of the Department to meet those future requirements and threats.

(2) The quadrennial strategic plan shall include the following:

(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

(C) An assessment of the test and evaluation facilities and resources that will be needed to meet current and future requirements for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats.

(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

(E) An assessment of plans and business case analyses supporting any significant modification of the test and evaluation facilities and resources of the Department projected, proposed, or recommended by the Secretary of a

military department or the head of a Defense Agency for such period, including with respect to the expansion, divestment, consolidation, or curtailment of activities.

(F) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

(G) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

(3) Upon completing a quadrennial strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

(5)(A) In addition to the quadrennial strategic plan completed under paragraph (1), the Director of the Department of Defense Test Resource Management Center shall also complete an annual update to the quadrennial strategic plan.

(B) Each annual update completed under subparagraph (A) shall include the following:

(i) A summary of changes to the assessment provided in the most recent quadrennial strategic plan.

(ii) Comments and recommendations the Director considers appropriate.

(iii) Test and evaluation challenges raised since the completion of the most recent quadrennial strategic plan.

(iv) Actions taken or planned to address such challenges.

(e) **CERTIFICATION OF BUDGETS.**—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's or Defense Agency head's proposed budget for test and evaluation activities, including modeling and simulation activities, for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the

Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such quadrennial strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) **APPROVAL OF CERTAIN MODIFICATIONS.**—(1) The Secretary of a military department or the head of a Defense Agency with test and evaluation responsibilities may not implement a projected, proposed, or recommended significant modification of the test and evaluation facilities and resources of the Department, including with respect to the expansion, divestment, consolidation, or curtailment of activities, until—

(A) the Secretary or the head, as the case may be, submits to the Director a business case analysis for such modification; and

(B) the Director reviews such analysis and approves such modification.

(2) The Director shall submit to the Secretary of Defense an annual report containing the comments of the Director with respect to each business case analysis reviewed under paragraph (1)(B) during the year covered by the report.

(g) **SUPERVISION OF DIRECTOR BY UNDER SECRETARY.**—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Research and Engineering. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(h) **ADMINISTRATIVE SUPPORT OF CENTER.**—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(i) **INFRASTRUCTURE ON KWAJALEIN ATOLL.**—Beginning on the date of the enactment of this subsection and ending on October 1, 2030, for purposes of this section, any infrastructure located on Kwajalein Atoll that supports the operations of test and evaluation facilities of the Department of Defense shall be considered to be part of the Army Kwajalein Major Range and Test Facility Base and subject to the requirements of subsections (e) and (f).

(j) **DEFINITION.**—In this section, the term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Secretary of Defense

as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107-314, div. A, title II, § 231(a)(1), Dec. 2, 2002, 116 Stat. 2487, § 196; amended Pub. L. 108-136, div. A, title II, § 212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109-163, div. A, title II, § 258(a), title IX, § 902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111-84, div. A, title II, § 251, Oct. 28, 2009, 123 Stat. 2241; Pub. L. 113-291, div. A, title II, § 214, Dec. 19, 2014, 128 Stat. 3326; Pub. L. 114-328, div. A, title V, § 502(c), title X, § 1081(a)(3), Dec. 23, 2016, 130 Stat. 2102, 2417; Pub. L. 115-91, div. A, title II, § 222, Dec. 12, 2017, 131 Stat. 1333; Pub. L. 115-232, div. A, title II, § 221, title IX, § 904, Aug. 13, 2018, 132 Stat. 1681, 1922; renumbered § 4173 and amended Pub. L. 116-283, div. A, title II, § 272, title XVIII, § 1845(b), Jan. 1, 2021, 134 Stat. 3502, 4247; Pub. L. 117-81, div. A, title X, § 1081(a)(5), title XVII, § 1701(u)(6)(B), Dec. 27, 2021, 135 Stat. 1919, 2154; Pub. L. 118-159, div. B, title XXVIII, § 2871(a), (b), Dec. 23, 2024, 138 Stat. 2281.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (i), is the date of enactment of Pub. L. 118-159, which was approved Dec. 23, 2024.

AMENDMENTS

2024—Subsec. (c)(1)(F). Pub. L. 118-159, § 2871(a), added subpar. (F).

Subsecs. (i), (j). Pub. L. 118-159, § 2871(b), added subsec. (i) and redesignated former subsec. (i) as (j).

2021—Pub. L. 116-283, § 1845(b), as amended by Pub. L. 117-81, § 1701(u)(6)(B), renumbered section 196 of this title as this section.

Subsec. (c)(1)(C). Pub. L. 116-283, § 272(a)(1), inserted “quadrennial” before “strategic plan”.

Subsec. (d). Pub. L. 117-81, § 1081(a)(5), substituted “National Defense Strategy,” for “National Defense Strategy,.”

Pub. L. 116-283, § 272(a)(2), inserted “Quadrennial” before “Strategic Plan” in heading and “quadrennial” before “strategic plan” wherever appearing in text.

Subsec. (d)(1). Pub. L. 116-283, § 272(e), which directed substitution of “Test Resource Management Center” for “Test Resources Management Center” in subsec. (d)(1) “of such”, was executed by making substitution to “such section”, meaning subsec. (d)(1) of this section, to reflect the probable intent of Congress.

Pub. L. 116-283, § 272(b), substituted “four fiscal years, and within one year after release of the National Defense Strategy,” for “two fiscal years” in first sentence.

Subsec. (d)(2)(C). Pub. L. 116-283, § 272(c), substituted “for test and evaluation of the Department of Defense major weapon systems based on current and emerging threats,” for “based on current and emerging threats and satisfy such performance measures.”

Subsec. (d)(5). Pub. L. 116-283, § 272(d), added par. (5).
Subsec. (e)(2)(B). Pub. L. 116-283, § 272(a)(1), inserted “quadrennial” before “strategic plan”.

2018—Subsec. (c)(1)(B). Pub. L. 115-232, § 904, which directed substitution of “Under Secretary of Defense for Research and Engineering” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”, was executed by making the substitution for “Under Secretary of Acquisition, Technology, and Logistics” to reflect the probable intent of Congress.

Subsec. (d)(1). Pub. L. 115-232, § 221(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the

military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources, including modeling and simulation capabilities. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements.”

Subsec. (d)(2)(C). Pub. L. 115-232, § 221(2), substituted “needed to meet current and future requirements based on current and emerging threats” for “needed to meet such requirements”.

Subsec. (g). Pub. L. 115-232, § 904, substituted “Under Secretary of Defense for Research and Engineering” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

2017—Subsec. (d)(1). Pub. L. 115-91, § 222(1), inserted “, including modeling and simulation capabilities” after “and resources” in the first sentence.

Subsec. (e)(1). Pub. L. 115-91, § 222(2), inserted “, including modeling and simulation activities,” after “evaluation activities”.

2016—Subsec. (b)(1). Pub. L. 114-328, § 502(c), struck out second and third sentences which read as follows: “A commissioned officer serving as the Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral. A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.”

Subsec. (c)(1)(A)(ii). Pub. L. 114-328, § 1081(a)(3), substituted “section 139(j)” for “section 139(i)”.

2014—Subsec. (c)(1)(B). Pub. L. 113-291, § 214(a), inserted “, including with respect to the expansion, divestment, consolidation, or curtailment of activities,” after “Base”.

Subsec. (d)(2)(E) to (G). Pub. L. 113-291, § 214(b), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 113-291, § 214(c), inserted “and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year” after “activities for a fiscal year”.

Subsecs. (f) to (i). Pub. L. 113-291, § 214(d), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

2009—Subsec. (c). Pub. L. 111-84 inserted par. (1) designation before “The Director”, redesignated former par. (1) as subpar. (A) and former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), added subpar. (B), redesignated former pars. (2) to (4) as subpars. (C) to (E), respectively, and added par. (2).

2006—Subsec. (b)(1). Pub. L. 109-163, § 902(a), substituted “individuals who have substantial experience in the field of test and evaluation.” for “commissioned officers of the armed forces on active duty or from among senior civilian officers and employees of the Department of Defense.”

Subsec. (b)(2). Pub. L. 109-163, § 902(b), substituted “individuals” for “senior civilian officers and employees of the Department of Defense”.

Subsec. (h). Pub. L. 109-163, § 258(a), substituted “Secretary of Defense” for “Director of Operational Test and Evaluation”.

2003—Subsec. (b)(1). Pub. L. 108-136, § 212(a), substituted “on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director” for “on active duty. The Director” and inserted at end “A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.”

Subsec. (c)(1)(B). Pub. L. 108-136, § 212(b)(1), inserted “, other than budgets and expenditures for activities

described in section 139(i) of this title” after “Department of Defense”.

Subsec. (e)(1). Pub. L. 108-136, §212(b)(2), struck out “, the Director of Operational Test and Evaluation,” after “each military department” and substituted “or Defense Agency head’s” for “, Director’s, or head’s”.

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 section 1845(b) of 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.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (d)(1), (4) and (e)(3) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

PROTECTION OF MAJOR RANGE AND TEST FACILITY BASE

Pub. L. 117-81, div. A, title XVI, §1686, Dec. 27, 2021, 135 Stat. 2126, provided that: “The Secretary of Defense may authorize, consistent with the authorities of the Secretary, such actions as are necessary to mitigate threats posed by space-based assets to the security or operation of the Major Range and Test Facility Base (as defined in section 196(i) of title 10, United States Code) [now 10 U.S.C. 4173(j)].”

§ 4174. Contracts: acquisition, construction, or furnishing of test facilities and equipment

(a) A contract of a military department for research or development, or both, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, or test facilities and equipment that the Secretary of the military department concerned determines to be necessary for the performance of the contract. The acquisition or construction of these research, developmental, or test facilities shall be subject to the cost principles applicable to allowable contract expenses. The facilities and equipment, and specialized housing for them, may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to him at fair value. This subsection does not authorize new construction or improvements having general utility. The Secretary of Defense and the Secretaries of the military departments shall promulgate regulations necessary to give full force and effect to this section.

(b) Facilities that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract contains—

(1) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(2) an option in the United States to acquire the underlying land; or

(3) an alternative provision that the Secretary concerned considers to be adequate to protect the interests of the United States in the facilities.

(c) Proceeds of sales or reimbursements under this section shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 134, §2353; Pub. L. 115-232, div. B, title XXVIII, §2801, Aug. 13, 2018, 132 Stat. 2260; renumbered §4174 and amended Pub. L. 116-283, div. A, title XVIII, §§1844(b)(1), 1845(b), Jan. 1, 2021, 134 Stat. 4245, 4247; Pub. L. 117-81, div. A, title XVII, §1701(u)(5)(B), (6)(B), Dec. 27, 2021, 135 Stat. 2154.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|---|
| 2353(a) | 5:235e (1st sentence; and 2d sentence, less 2d and last provisos). 5:475j (1st sentence; and 2d sentence, less 2d and last provisos). 5:628e (1st sentence; and 2d sentence, less 2d and last provisos). | July 16, 1952, ch. 882, § 4 (less 3d and last sentences), 66 Stat. 725. |
| 2353(b) | 5:235e (2d proviso of 2d sentence). 5:475j (2d proviso of 2d sentence). 5:628e (2d proviso of 2d sentence). | |
| 2353(c) | 5:235e (last proviso of 2d sentence). 5:475j (last proviso of 2d sentence). 5:628e (last proviso of 2d sentence). | |

In subsection (a), the words “furnished to” and “for the use thereof” are omitted as surplusage.

In subsections (a) and (b), the words “United States” are substituted for the word “Government”.

In subsection (b), the introductory clause is substituted for 5:235e (words of 2d proviso before clause (1)), 475j, and 628e. The words “that * * * considers” are substituted for the words “as will in the opinion”. The words “an alternative” are substituted for the words “such other”.

In subsection (c), the words “Proceeds of” are substituted for the words “That all moneys arising from”.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1845(b), as amended by Pub. L. 117-81, §1701(u)(6)(B), renumbered section 2353 of this title as this section.

Pub. L. 116-283, §1844(b)(1), which directed the renumbering of section 2353 of this title as section 4141 instead of this section, was repealed by Pub. L. 117-81, §1701(u)(5)(B).

2018—Subsec. (a). Pub. L. 115-232 inserted after first sentence “The acquisition or construction of these research, developmental, or test facilities shall be subject to the cost principles applicable to allowable contract expenses.” and at end “The Secretary of Defense and the Secretaries of the military departments shall promulgate regulations necessary to give full force and effect to this section.”

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