

fense Agency to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

- (A) The technical maturity of the program.
- (B) The availability of facilities for production.

(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Missile Defense Agency to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly delineated.

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2190.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 224 of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

§ 5513. Unfunded priorities of the missile defense agency:¹ annual report

(a) REPORTS.—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 Director of the Missile Defense Agency shall submit to the Secretary of Defense and the Chairman of the Joint

¹ So in original. Probably should be capitalized as “Missile Defense Agency.”

Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the Missile Defense Agency.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report 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.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

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

(c) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement of the Missile Defense Agency 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, United States Code;

(2) is necessary to fulfill a requirement associated with an operational or contingency plan of a combatant command or other validated requirement; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the Director of the Missile Defense Agency in connection with the budget if additional resources had been available for the budget to fund the program, activity, or mission requirement.

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2190.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 222b of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

§ 5514. Acquisition accountability on the missile defense system

(a) BASELINES REQUIRED.—(1) In accordance with paragraph (2), the Director of the Missile Defense Agency shall establish and maintain an acquisition baseline for—

(A) each program element of the missile defense system, as specified in section 223¹ of this title; and

¹ See References in Text note below.

(B) each designated major subprogram of such program elements.

(2) The Director shall establish an acquisition baseline required by paragraph (1) before the date on which the program element or major subprogram enters—

- (A) engineering and manufacturing development (or its equivalent); and
- (B) production and deployment.

(3) Except as provided by subsection (c), the Director may not adjust or revise an acquisition baseline established under this section.

(b) ELEMENTS OF BASELINES.—Each acquisition baseline required by subsection (a) for a program element or major subprogram shall include the following:

- (1) A comprehensive schedule, including—
 - (A) research and development milestones;
 - (B) acquisition milestones, including design reviews and key decision points;
 - (C) key test events, including ground, flight, and cybersecurity tests and ballistic missile defense system tests;
 - (D) delivery and fielding schedules;
 - (E) quantities of assets planned for acquisition and delivery in total and by fiscal year; and
 - (F) planned contract award dates.

(2) A detailed technical description of—

- (A) the capability to be developed, including hardware and software;
- (B) system requirements, including performance requirements;
- (C) how the proposed capability satisfies a capability requirement or performance attribute identified through—
 - (i) the missile defense warfighter involvement process, as governed by United States Strategic Command Instruction 538-03, or such successor document; or
 - (ii) processes and products approved by the Joint Chiefs of Staff or Joint Requirements Oversight Council;
- (D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and
- (E) how the Director plans to improve the capability over time.

(3) A cost estimate, including—

- (A) a life-cycle cost estimate that separately identifies the costs regarding research and development, procurement, military construction, operations and sustainment, and disposal;
- (B) program acquisition unit costs for the program element;
- (C) average procurement unit costs and program acquisition costs for the program element;
- (D) an identification of when the document regarding the program joint cost analysis requirements description is scheduled to be approved; and
- (E) an explanation for why a program joint cost analysis requirements description has not been prepared and approved, and, if a program joint cost analysis requirements description is not applicable, the rationale for such inapplicability.

(4) A test baseline summarizing the comprehensive test program for the program element or major subprogram outlined in the integrated master test plan.

(c) EXCEPTION TO LIMITATION ON REVISION.—The Director may adjust or revise an acquisition baseline established under this section if the Director submits to the congressional defense committees notification of—

- (1) a justification for such adjustment or revision;
- (2) the specific adjustments or revisions made to the acquisition baseline, including to the elements described in subsection (b); and
- (3) the effective date of the adjusted or revised acquisition baseline.

(d) OPERATIONS AND SUSTAINMENT COST ESTIMATES.—The Director shall ensure that each life-cycle cost estimate included in an acquisition baseline pursuant to subsection (b)(3)(A) includes—

- (1) all of the operations and sustainment costs for which the Director is responsible;
- (2) a description of the operations and sustainment functions and costs for which a military department is responsible;
- (3) the amount of operations and sustainment costs (dollar value and base year) for which the military department or other element of the Department of Defense is responsible; and
- (4)(A) a citation to the source (such as a joint cost estimate or one or more military department estimates) that captures the operations and sustainment costs for which a military department or other element of the Department of Defense is responsible;
- (B) the date the source was prepared; and
- (C) if and when the source was independently verified by the Office for Cost Assessment and Program Evaluation.

(Added Pub. L. 118-159, div. A, title XVI, §1649(a), Dec. 23, 2024, 138 Stat. 2191.)

Editorial Notes

REFERENCES IN TEXT

Section 223 of this title, referred to in subsec. (a)(1)(A), was repealed by Pub. L. 118-159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199. See section 5511 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 225 of this title prior to repeal by Pub. L. 118-159, div. A, title XVI, §1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

Statutory Notes and Related Subsidiaries

IMPROVEMENT TO OPERATIONS AND SUSTAINMENT COST ESTIMATES

Pub. L. 113-66, div. A, title II, §231(a), Dec. 26, 2013, 127 Stat. 710, provided that: “In preparing the acquisition accountability reports on the ballistic missile defense system required by [former] section 225 of title 10, United States Code, the Director of the Missile Defense Agency shall improve the quality of cost estimates relating to operations and sustainment that are included in such reports under subsection (b)(3)(A) of such section, including with respect to the confidence levels of such cost estimates.”

§ 5515. Missile defense and defeat programs: major force program and budget assessment

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for missile defense and defeat programs pursuant to section 222(b) of this title to prioritize missile defense and defeat programs in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2019 through 2030 a report on the budget for missile defense and defeat programs of the Department of Defense.

(2) Each report on the budget for missile defense and defeat programs of the Department under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title (such comparison shall exclude the responsibility for research and development of the continuing improvement of such missile defense and defeat program), and the amounts appropriated for such missile defense and defeat programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term “missile defense and defeat programs” means active and passive ballistic missile defense programs, cruise missile defense programs for the homeland, and missile defeat programs.

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2193.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 239a of this title prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(1), Dec. 23, 2024, 138 Stat. 2199.

SUBCHAPTER III—MISSILE DEFENSE CAPABILITIES

§ 5531. Technical authority for integrated air and missile defense activities and programs

(a) IN GENERAL.—The Director of the Missile Defense Agency is the technical authority of the Department of Defense for integrated air and missile defense activities and programs, including joint engineering and integration efforts for such activities and programs, including with respect to defining and controlling the interfaces of such activities and programs and the allocation of technical requirements for such activities and programs.

(b) DETAILEES.—(1) In carrying out the technical authority under paragraph (1),¹ the Director may seek to have staff detailed to the Missile Defense Agency from the Joint Functional Component Command for Integrated Missile Defense and the Joint Integrated Air and Missile Defense Organization in a number the Director determines necessary in accordance with subparagraph (B).²

(2) In detailing staff under subparagraph (A)³ to carry out the technical authority under paragraph (1),¹ the total number of staff, including detailees, of the Missile Defense Agency who carry out such authority may not exceed the number that is twice the number of such staff carrying out such authority as of January 1, 2016.

(Added Pub. L. 118–159, div. A, title XVI, § 1649(a), Dec. 23, 2024, 138 Stat. 2194.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 114–328, div. A, title XVI, § 1686(a), Dec. 23, 2016, 130 Stat. 2628, which was set out in a note under section 4205 of this title, prior to repeal by Pub. L. 118–159, div. A, title XVI, § 1649(b)(4), Dec. 23, 2024, 138 Stat. 2199.

§ 5532. Hypersonic defense capability development

(a) EXECUTIVE AGENT.—The Director of the Missile Defense Agency shall serve as the executive agent for the Department of Defense for the development of a capability by the United States to counter hypersonic boost-glide vehicle capabilities and conventional prompt strike capabilities that may be employed against the United States, the allies of the United States, and the deployed forces of the United States.

(b) DUTIES.—In carrying out subsection (a), the Director shall—

(1) develop architectures for a hypersonic defense capability, from detecting threats to intercepting such threats, that—

(A) involves systems of the military departments and the Defense Agencies; and

(B) includes both kinetic and nonkinetic options for such interception; and

(2) not later than September 30, 2017, establish a program of record to develop a hypersonic defense capability.

¹ So in original. Probably should be “subsection (a).”

² So in original. Probably should be “paragraph (2).”

³ So in original. Probably should be “paragraph (1).”