

quirements established in the acquisition program baseline;

(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the assets or capabilities; and

(4) prepare an acquisition project or program transition plan to enter into programmatic sustainment, operations, and support.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2947, §574; renumbered §1134, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 574 of this title as this section.

§ 1135. Acquisition program baseline breach

(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

(b) CONTENT.—The report submitted under subsection (a) shall include—

(1) a detailed description of the breach and an explanation of its cause;

(2) the projected impact to performance, cost, and schedule;

(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

(4) the updated acquisition schedule and the complete history of changes to the original schedule;

(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

(7) a description of how progress in the remediation plan will be measured and monitored.

(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written determination, with a supporting explanation, of whether—

(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

(2) there are no alternatives to such capability or asset or capability or asset class that will provide equal or greater capability in both a more cost-effective and timely manner;

(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

(d) NOTICE TO CONGRESS WITH RESPECT TO BREACH OF CONTRACT.—Not later than 48 hours after the Commandant becomes aware that a major acquisition contract cannot be carried out under the terms specified in the contract, the Commandant shall provide a written notification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) a description of the terms of the contract that cannot be met; and

(2) an assessment of whether the applicable contract officer has issued a cease and desist order to the contractor based on the breach of such terms of the contract.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2947, §575; amended Pub. L. 115-232, div. C, title XXXV, §3533(g), Aug. 13, 2018, 132 Stat. 2321; renumbered §1135, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208; Pub. L. 116-283, div. G, title LVXXXII [LXXXII], §8221(b), Jan. 1, 2021, 134 Stat. 4657.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d). Pub. L. 116-283 added subsec. (d).

2018—Pub. L. 115-282 renumbered section 575 of this title as this section.

Subsec. (c). Pub. L. 115-232, in introductory provisions, substituted “determination, with a supporting explanation, of whether” for “certification, with a supporting explanation, that”.

§ 1136. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16¹ of the Office of Federal Procurement Policy

¹ See References in Text note below.

Act (41 U.S.C. 414) and related implementing regulations and directives.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2948, §576; renumbered §1136, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208.)

Editorial Notes

REFERENCES IN TEXT

Section 16 of the Office of Federal Procurement Policy Act, referred to in par. (2), is section 16 of Pub. L. 93-400, which was classified to section 414 of former Title 41, Public Contracts, and was repealed and reenacted as section 1702 of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 576 of this title as this section.

§ 1137. Contracting for major acquisitions programs

(a) IN GENERAL.—In carrying out authorities provided to the Secretary to design, construct, accept, or otherwise acquire assets and systems under section 501(d), the Secretary, acting through the Commandant or the head of an integrated program office established for a major acquisition program, may enter into contracts for a major acquisition program and 3 Polar Security Cutters in addition to those approved as part of a major acquisition program on November 1, 2019.

(b) AUTHORIZED METHODS.—Contracts entered into under subsection (a)—

- (1) may be block buy contracts;
- (2) may be incrementally funded;
- (3) may include combined purchases, also known as economic order quantity purchases, of—
 - (A) materials and components; and
 - (B) long lead time materials; and

(4) as provided in section 3501 of title 10, may be multiyear contracts.

(c) SUBJECT TO APPROPRIATIONS.—Any contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of amounts specifically provided in advance for that purpose in subsequent appropriations Acts.

(Added Pub. L. 115-282, title III, §311(b), Dec. 4, 2018, 132 Stat. 4249; amended Pub. L. 116-283, div. G, title LVXXXI [LXXXI], §8111(b), Jan. 1, 2021, 134 Stat. 4639; Pub. L. 117-81, div. A, title XVII, §1702(d)(2), Dec. 27, 2021, 135 Stat. 2156.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283 inserted “and 3 Polar Security Cutters in addition to those approved as part of a major acquisition program on November 1, 2019” before period at end.

Subsec. (b)(4). Pub. L. 117-81 substituted “section 3501” for “section 2306b”.

Statutory Notes and Related Subsidiaries

INTERNAL REGULATIONS AND POLICY

Pub. L. 115-282, title III, §311(e), Dec. 4, 2018, 132 Stat. 4249, provided that: “Not later than 180 days after the

date of enactment of this Act [Dec. 4, 2018], the Secretary of the department in which the Coast Guard is operating shall establish the internal regulations and policies necessary to exercise the authorities provided under this section [enacting this section, amending section 501 of this title, enacting provisions set out as a note under section 1133 of this title, amending provisions formerly set out as a note under former section 573 of this title, and repealing provisions set out as notes under former sections 87 and 577 of this title], including the amendments made in this section.”

SUBCHAPTER III—PROCUREMENT

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282, title I, §108(c)(4), Dec. 4, 2018, 132 Stat. 4210, inserted subchapter III designation and heading.

Statutory Notes and Related Subsidiaries

PROHIBITION ON MAJOR ACQUISITION CONTRACTS WITH ENTITIES ASSOCIATED WITH CHINESE COMMUNIST PARTY

Pub. L. 117-263, div. K, title CXII, §11267, Dec. 23, 2022, 136 Stat. 4063, provided that:

“(a) IN GENERAL.—The Commandant [of the Coast Guard] may not award any major acquisition contract until the Commandant receives a certification from the party that it has not, during the 10-year period preceding the planned date of award, directly or indirectly held an economic interest in an entity that is—

“(1) owned or controlled by the People’s Republic of China; and

“(2) part of the defense industry of the Chinese Communist Party.

“(b) INAPPLICABILITY TO TAIWAN.—Subsection (a) shall not apply with respect to an economic interest in an entity owned or controlled by Taiwan.”

§ 1151. Restriction on construction of vessels in foreign shipyards

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

(Added Pub. L. 100-448, §26(a), Sept. 28, 1988, 102 Stat. 1847, §665; renumbered §1151, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 665 of this title as this section.

§ 1152. Advance procurement funding

(a) IN GENERAL.—With respect to any Coast Guard vessel for which amounts are appropriated and any amounts otherwise made available for vessels for the Coast Guard in any fiscal year, the Commandant may enter into a con-