

under an agreement entered into by the Secretary pursuant to any provision of law.

(D) The costs to the Secretary of carrying out the lease.

(E) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (D).

(Added Pub. L. 112—154, title II, §211(i)(1), Aug. 6, 2012, 126 Stat. 1181; amended Pub. L. 114—226, §3(c)(2), Sept. 29, 2016, 130 Stat. 931.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 112—154, which was approved Aug. 6, 2012.

PRIOR PROVISIONS

A prior section 8168, added Pub. L. 102—86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421, limited number of enhanced-use leases that could be entered into under this subchapter, prior to repeal by Pub. L. 105—114, title II, §205(b)(1), Nov. 21, 1997, 111 Stat. 2288.

AMENDMENTS

2016—Pub. L. 114—226, §3(c)(2)(A), substituted “to the congressional veterans’ affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate” for “to Congress” wherever appearing.

Subsec. (a). Pub. L. 114—226, §3(c)(2)(B), designated existing provisions as par. (1), substituted “a report on enhanced-use leases.” for “a report identifying the actions taken by the Secretary to implement and administer enhanced-use leases.”, and added par. (2).

Subsec. (b). Pub. L. 114—226, §3(c)(2)(C), designated existing provisions as par. (1), substituted “this subchapter.” for “this subchapter, along with an overview of how the Secretary is utilizing such consideration to support veterans.”, and added par. (2).

Statutory Notes and Related Subsidiaries

ELEMENTS OF INITIAL REPORT

Pub. L. 112—154, title II, §211(i)(2), Aug. 6, 2012, 126 Stat. 1182, provided that: “The first report submitted by the Secretary under section 8168(a) of title 38, United States Code, as added by paragraph (1) [and prior to amendment by Pub. L. 114—226], shall include a summary of those measures the Secretary is taking to address the following recommendations from the February 9, 2012, audit report of the Department of Veterans Affairs Office of Inspector General on enhanced-use leases under subchapter V of chapter 81 of title 38, United States Code:

“(A) Improve standards to ensure complete lease agreements are negotiated in line with strategic goals of the Department of Veterans Affairs.

“(B) Institute improved policies and procedures to govern activities such as monitoring enhanced-use lease projects and calculating, classifying, and reporting on enhanced-use lease benefits and expenses.

“(C) Recalculate and update enhanced-use lease expenses and benefits reported in the most recent Enhanced-Use Lease Consideration Report of the Department.

“(D) Establish improved oversight mechanisms to ensure major enhanced-use lease project decisions are documented and maintained in accordance with policy.

“(E) Establish improved criteria to measure timeliness and performance in enhanced-use lease project development and execution.

“(F) Establish improved criteria and guidelines for assessing projects to determine whether they are or remain viable candidates for enhanced-use leases.”

§ 8169. Repealed. Pub. L. 117—168, title VII, § 705(d), Aug. 10, 2022, 136 Stat. 1800]

Section, added Pub. L. 102—86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 103—452, title I, §103(d), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104—110, title I, §101(k), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105—114, title II, §205(a), Nov. 21, 1997, 111 Stat. 2288; Pub. L. 106—117, title II, §208(e), Nov. 30, 1999, 113 Stat. 1568; Pub. L. 112—154, title II, §211(j), Aug. 6, 2012, 126 Stat. 1182, provided that the authority of the Secretary to enter into enhanced-use leases under this subchapter would expire on Dec. 31, 2023.

SUBCHAPTER VI—INFORMATION TECHNOLOGY PROJECTS AND ACTIVITIES

§ 8171. Definitions

In this subchapter:

(1) The term “appropriate congressional committees” means—

(A) the Committee on Veterans’ Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Veterans’ Affairs and the Committee on Appropriations of the House of Representatives.

(2) The term “information technology” has the meaning given that term in section 11101 of title 40.

(3)(A) The term “information technology project” means a project or program of the Department (including a project or program of any element of the Department) for, or including, the acquisition or implementation of information technology.

(B) In cases where the Secretary transmits to the Director of the Office of Management and Budget information regarding information technology investments, which may consist of individual or multiple projects, the term “information technology project” refers to an individual project or program or a grouping of multiple projects or programs resulting in the acquisition or implementation of discrete information technology.

(4) The term “life cycle costs” means all direct and indirect costs to acquire, implement, operate, and maintain information technology, including with respect to costs of any element of the Department.

(5) The term “major information technology project” means an information technology project if—

(A) the project is designated by the Secretary, the Chief Information Officer of the Department, or the Director of the Office of Management and Budget as a major information technology investment, as defined in section 11302 of title 40; or

(B) the dollar value of the project is estimated by the Secretary to exceed—

(i) \$1,000,000,000 (as adjusted for inflation pursuant to section 1908 of title 41) for the total life cycle costs of the project; or

(ii) \$200,000,000 (as adjusted for inflation pursuant to section 1908 of title 41) annually.

(6) The term “business owner” means, with respect to an information technology project, the program manager, project manager, or other supervisory official of the Department responsible for the project.

(Added Pub. L. 117–328, div. U, title IV, §403(a), Dec. 29, 2022, 136 Stat. 5486.)

§ 8172. Management of major information technology projects

(a) COST, SCHEDULE, AND PERFORMANCE INFORMATION.—(1) The Secretary shall, acting through the Chief Information Officer of the Department, submit to the appropriate congressional committees a report containing information on the cost, schedule, and performance of each major information technology project that begins after the date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, as generated by the business owner of the project, prior to the commencement of such project.

(2) Each report submitted under paragraph (1) for a project shall include, with respect to such project, the following:

(A) An estimate of acquisition costs, implementation costs, and life cycle costs.

(B) An intended implementation schedule indicating significant milestones, initial operating capability, and full operating capability or completion.

(C) Key business, functional, and performance objectives.

(b) BASELINE.—(1) The Secretary shall use the information on the cost, schedule, and performance of a major information technology project included in the report under subsection (a) as the baseline against which changes or variances are measured during the life cycle of such project.

(2) The Secretary shall—

(A) annually update the baseline of a major information technology project pursuant to subsection (c); and

(B) include such updated baseline in the documents providing detailed information on the budget for the Department that the Secretary submits to Congress in conjunction with the President's budget submission pursuant to section 1105 of title 31.

(c) CHANGES AND VARIANCES.—(1) Not later than 60 days after the date on which the Secretary identifies a change or variance described in paragraph (2) in the cost, schedule, or performance of a major information technology project, the Secretary, acting through the Chief Information Officer, shall submit to the appropriate congressional committees a notification of such change or variance, including a description and explanation for such change or variance.

(2) A change or variance in the cost, schedule, or performance of a major information technology project described in this paragraph is—

(A) with respect to the acquisition, implementation, or life cycle cost of the project, or development increment therein, a change or variance that is 10 percent or greater compared to the baseline;

(B) with respect to the schedule for a development increment or for achieving a significant milestone, initial operating capability, or full operating capability, or for the final completion of the project, a change or variance that is 180 days or greater compared to the baseline; or

(C) with respect to the performance, an instance where a key business, functional, or performance objective is not attained, or is not anticipated to be attained, in whole or in part.

(d) MANAGEMENT.—The Secretary shall ensure that each major information technology project is managed by an interdisciplinary team consisting of the following:

(1) A project manager who—

(A)(i) is certified in project management at level three by—

(I) the Department;

(II) the Federal Acquisition Institute pursuant to section 1201 of title 41; or

(III) the Department of Defense pursuant to section 1701a of title 10; or

(ii) holds an equivalent certification by a private sector project management certification organization, as determined appropriate by the Secretary; and

(B) is an employee of the Office of Information and Technology of the Department or an employee of an element of the Department at which the project originates.

(2) A functional lead who is an employee of the element of the Department at which the project originates.

(3) A technical lead who is an employee of the Office of Information and Technology of the Department.

(4) A contracting officer.

(5) Sufficient other project management, functional, technical, and procurement personnel as the Secretary determines appropriate.

(Added Pub. L. 117–328, div. U, title IV, §403(a), Dec. 29, 2022, 136 Stat. 5486.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022, referred to in subsec. (a)(1), is the date of enactment of div. U of Pub. L. 117–328, which was approved Dec. 29, 2022.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117–328, div. U, title IV, §403(c)(1), (3), Dec. 29, 2022, 136 Stat. 5490, provided that:

“(1) CURRENT AND NEW MAJOR PROJECTS.—Except as specifically provided in subsection (a) of section 8172 of title 38, United States Code, as added by subsection (a) of this section, such section 8172 shall apply with respect to major information technology projects that begin before, on, or after the date of the enactment of this Act [Dec. 29, 2022].

“(3) DEFINITIONS.—In this subsection [enacting this note and provisions not set out in the Code], the terms ‘appropriate congressional committees’ and ‘major in-