defense committees a report on the financial balances for each atomic energy defense program.

(2) Presentation of information

In each report required by paragraph (1), the Secretary shall—

(A) present information on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development; and

(B) present financial balances in connection with funding under recurring DOE national security authorizations (as defined in section 2741 of this title) separately from balances in connection with funding under any other provision of law.

(b) Elements

(1) Format

Each report required by subsection (a) shall—

(A) be divided into two parts, as specified in paragraphs (2) and (3); and

(B) set forth the information required by those paragraphs in summary form and by fiscal year.

(2) Part 1

The first part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information, as of the end of the most recently completed fiscal year:

(A) The balance of any unobligated funds and an explanation for why those funds are unobligated.

(B) The total funds available to cost.

(C) The total balance of costed funds.

(D) The total balance of uncosted funds.

(E) The threshold for the balance of uncosted funds, stated in dollars.

(F) The amount of any balance of uncosted funds that is over or under that threshold and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(G) The total balance of encumbered, uncosted funds.

(H) The total balance of unencumbered, uncosted funds.

(I) The amount of any balance of unencumbered, uncosted funds that is over or under the threshold described in subparagraph (E) and, in the case of a balance over that threshold, an explanation for why the balance is over that threshold.

(3) Part 2

The second part of the report required by subsection (a) shall set forth, for each atomic energy defense program, the following information:

(A) The balance of any unobligated funds, as of the end of the first quarter of the current fiscal year.

(B) The total balance of uncosted funds, as of the end of the first quarter of the current fiscal year.

(C) Unalloted budget authority.

(c) Definitions

In this section:

(1) Costed

The term ''costed'', with respect to funds, means the funds have been obligated to a contract and goods or services have been received from the contractor in exchange for the funds.

(2) Encumbered

The term ''encumbered'', with respect to funds, means the funds have been obligated to a contract and are being held for a specific known purpose by the contractor.

(3) Uncosted

The term ''uncosted'', with respect to funds, means the funds have been obligated to a contract and goods or services have not been received from the contractor in exchange for the funds.

(4) Unencumbered

The term ''unencumbered'', with respect to funds, means the funds have been obligated to a contract and are not being held for a specific known purpose by the contractor.

(5) Threshold

The term ''threshold'' means a benchmark over which a balance carried over at the end of a fiscal year should be given greater scrutiny by Congress.

(6) Total funds available to cost

The term ''total funds available to cost'' means the sum of—

(A) total uncosted obligations from prior fiscal years;

(B) current fiscal year obligations; and

(C) current fiscal year deobligations.

(Pub. L. 107–314, div. D, title XLVII, §4732, as added Pub. L. 112–239, div. C, title XXXI, §3143(a), Jan. 2, 2013, 126 Stat. 2196; amended Pub. L. 116–283, div. C, title XXXI, §3151(a), Jan. 1, 2021, 134 Stat. 4389; Pub. L. 117–81, div. C, title XXXI, §3132, Dec. 27, 2021, 135 Stat. 2230.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 amended section generally. Prior to amendment, section related to quarterly reports on financial balances for atomic energy defense activities.

Subsec. (b)(2)(G). Pub. L. 117–81, §3132(1)(A), substituted ''encumbered'' for ''committed''.

Subsec. (b)(2)(H), (I). Pub. L. 117–81, §3132(1)(B), (C), substituted ''unencumbered'' for ''uncommitted''.

Subsec. (c). Pub. L. 117–81, §3132(2), struck out pars. (1) and (3), which defined ''committed'' and ''uncommitted'', respectively; redesignated former pars. (2) and (4) as (1) and (3), respectively; substituted ''from the contractor'' for ''by the contractor'' in pars. (1) and (3); and added pars. (2) and (4).

§2773. Independent acquisition project reviews of capital assets acquisition projects

(a) Reviews

The appropriate head shall ensure that an independent entity conducts reviews of each capital assets acquisition project as the project moves toward the approval of each of critical decision 0, critical decision 1, and critical decision 2 in the acquisition process.

(b) Pre-critical decision 1 reviews

In addition to any other matters, with respect to each review of a capital assets acquisition project under subsection (a) that has not reached critical decision 1 approval in the acquisition process, such review shall include—

(1) a review using best practices of the analysis of alternatives for the project; and

(2) identification of any deficiencies in such analysis of alternatives for the appropriate head to address.

(c) Independent entities

The appropriate head shall ensure that each review of a capital assets acquisition project under subsection (a) is conducted by an independent entity with the appropriate expertise with respect to the project and the stage in the acquisition process of the project.

(d) Definitions

In this section:

(1) The term ''acquisition process'' means the acquisition process for a project, as defined in Department of Energy Order 413.3B (relating to project management and project management for the acquisition of capital assets), or a successor order.

(2) The term ''appropriate head'' means—

(A) the Administrator, with respect to capital assets acquisition projects of the Administration; and

(B) the Assistant Secretary of Energy for Environmental Management, with respect to capital assets acquisition projects of the Office of Environmental Management.

(3) The term ''capital assets acquisition project'' means a project—

(A) the total project cost of which is more than $500,000,000; and

(B) that is covered by Department of Energy Order 413.3B, or a successor order, for the acquisition of capital assets for atomic energy defense activities.

(Pub. L. 107–314, div. D, title XLVII, § 4733, as added Pub. L. 114–328, div. C, title XXXI, § 3111(a), Dec. 23, 2016, 130 Stat. 2755; amended Pub. L. 116–92, div. C, title XXXI, § 3139(b)(8), Dec. 20, 2019, 133 Stat. 1963.)

Editorial Notes

AMENDMENTS

2019—Subsec. (d)(3)(B). Pub. L. 116–92 substituted ''413.3B'' for ''413.3''.

SUBCHAPTER VIII—ADMINISTRATIVE MATTERS

PART A—CONTRACTS

§ 2781. Costs not allowed under covered contracts

(a) In general

The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

(b) Regulations; costs of information provided to Congress or State legislatures and related costs

(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(c) "Covered contract" defined

In this section, ''covered contract'' means a contract for an amount more than $100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

(d) Effective date

Subsection (a) shall apply with respect to costs incurred under a covered contract on or