

intelligence staff activity of the Chairman of the Joint Chiefs of Staff.

“(C) RESPONSIVENESS TO COMMAND AUTHORITIES.—The Secretary shall ensure that the center is fully responsive to the intelligence needs of the Secretary, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.”

[§ 202. Repealed. Pub. L. 105–107, title V, § 503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 97–269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, § 191; amended Pub. L. 98–525, title XIV, § 1405(6), Oct. 19, 1984, 98 Stat. 2622; renumbered § 201, Pub. L. 99–433, title III, § 301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered § 202, Pub. L. 102–190, div. A, title IX, § 922(a)(1), Dec. 5, 1991, 105 Stat. 1453; Pub. L. 105–107, title V, § 503(b), Nov. 20, 1997, 111 Stat. 2262, related to unauthorized use of Defense Intelligence Agency name, initials, or seal, after amendment by Pub. L. 105–107, which transferred subsec. (b) to end of section 425.

[§ 203. Repealed. Pub. L. 114–328, div. A, title V, § 502(d)(1), Dec. 23, 2016, 130 Stat. 2102]

Section, added Pub. L. 105–85, div. A, title II, § 235(a), Nov. 18, 1997, 111 Stat. 1665; amended Pub. L. 107–314, div. A, title II, § 225(b)(1)(A), (B)(i), Dec. 2, 2002, 116 Stat. 2486, related to appointment of Director of Missile Defense Agency.

§ 204. Small Business Ombudsman for defense audit agencies

(a) SMALL BUSINESS OMBUDSMAN.—The Secretary of Defense shall designate within each defense audit agency an official as the Small Business Ombudsman to have the duties described in subsection (b) and such other responsibilities as may be determined by the Secretary.

(b) DUTIES.—The Small Business Ombudsman of a defense audit agency shall—

(1) advise the Director of the defense audit agency on policy issues related to small business concerns;

(2) serve as the defense audit agency’s primary point of contact and source of information for small business concerns;

(3) collect and monitor relevant data regarding the defense audit agency’s conduct of audits of small business concerns, including—

(A) data regarding the timeliness of audit closeouts for small business concerns; and

(B) data regarding the responsiveness of the defense audit agency to issues or other matters raised by small business concerns; and

(4) make recommendations to the Director regarding policies, processes, and procedures related to the timeliness of audits of small business concerns and the responsiveness of the defense audit agency to issues or other matters raised by small business concerns.

(c) AUDIT INDEPENDENCE.—The Small Business Ombudsman of a defense audit agency shall be segregated from ongoing audits in the field and shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term “defense audit agency” means the Defense Contract Audit Agency and the Defense Contract Management Agency.

(Added Pub. L. 112–239, div. A, title XVI, § 1612(a), Jan. 2, 2013, 126 Stat. 2064.)

CHAPTER 9—DEFENSE BUDGET MATTERS

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AMENDMENTS

2016—Pub. L. 114–328, div. A, title X, § 1064(a)(2), Dec. 23, 2016, 130 Stat. 2409, added item 222a.

2015—Pub. L. 114–92, div. A, title X, § 1073(a)(2), title XVI, § 1601(a)(2), Nov. 25, 2015, 129 Stat. 995, 1096, struck out item 228 “Biannual reports on allocation of funds within operation and maintenance budget subactivities” and added item 239.

2014—Pub. L. 113–291, div. A, title XVI, § 1631(a)(2), Dec. 19, 2014, 128 Stat. 3638, added item 238.

2013—Pub. L. 113–66, div. A, title I, § 141(b), title VII, § 721(b), title X, § 1091(a)(4), Dec. 26, 2013, 127 Stat. 697, 799, 875, added items 236 and 237 and inserted a period at end of item 231.

Pub. L. 112–239, div. A, title X, §§ 1076(f)(6), 1081(1)(B), Jan. 2, 2013, 126 Stat. 1952, 1960, transferred item 225 to appear after item 224 and struck out item 232 “United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts”.

2011—Pub. L. 112–81, div. A, title X, §§ 1011(b), 1061(3)(B), 1064(4)(B)(ii), 1069(c), Dec. 31, 2011, 125 Stat. 1560, 1583, 1587, 1592, struck out item 226 “Scoring of outlays”, added item 228 and struck out former item 228 “Quarterly reports on allocation of funds within operation and maintenance budget subactivities”, added item 231 and struck out former item 231 “Long-range plan for construction of naval vessels”, and amended item 231a generally. Prior to amendment, item 231a read as follows: “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Pub. L. 112–81, div. A, title II, § 231(a)(2), Dec. 31, 2011, 125 Stat. 1339, added item 225 at the end of this analysis.

Pub. L. 111–383, div. A, title X, § 1023(b), Jan. 7, 2011, 124 Stat. 4350, added item 231 and struck out former

item 231 “Budgeting for construction of naval vessels: annual plan and certification”.

2009—Pub. L. 111-84, div. A, title VIII, §803(a)(2), Oct. 28, 2009, 123 Stat. 2402, added item 235.

2008—Pub. L. 110-417, [div. A], title I, §141(b), Oct. 14, 2008, 122 Stat. 4380, added item 231a.

2006—Pub. L. 109-364, div. A, title V, §563(b), Oct. 17, 2006, 120 Stat. 2222, added item 234.

2004—Pub. L. 108-375, div. A, title II, §214(b), title X, §1003(a)(2), Oct. 28, 2004, 118 Stat. 1834, 2035, added items 232 and 233.

2003—Pub. L. 108-136, div. A, title II, §223(a)(2), title X, §1031(a)(6)(B)(ii), Nov. 24, 2003, 117 Stat. 1420, 1596, added item 223a and substituted “Quarterly” for “Monthly” in item 228.

2002—Pub. L. 107-314, div. A, title X, §§1022(b), 1041(a)(2)(B), Dec. 2, 2002, 116 Stat. 2640, 2645, struck out item 230 “Amounts for declassification of records” and added item 231.

2001—Pub. L. 107-107, div. A, title II, §231(b)(2), Dec. 28, 2001, 115 Stat. 1037, substituted “research, development, test, and evaluation” for “procurement” in item 224.

1999—Pub. L. 106-65, div. A, title IX, §932(b)(2), title X, §1041(a)(2), Oct. 5, 1999, 113 Stat. 728, 758, added items 229 and 230.

1998—Pub. L. 105-261, div. A, title II, §235(a)(2), Oct. 17, 1998, 112 Stat. 1953, added item 223.

1997—Pub. L. 105-85, div. A, title II, §232(a)(2), title III, §321(a)(2), Nov. 18, 1997, 111 Stat. 1663, 1673, added items 224 and 228.

1996—Pub. L. 104-106, div. A, title X, §1061(f)(2), Feb. 10, 1996, 110 Stat. 443, struck out item 227 “Recruiting costs”.

1993—Pub. L. 103-160, div. A, title III, §374(b), Nov. 30, 1993, 107 Stat. 1637, added item 227.

1992—Pub. L. 102-484, div. A, title X, §1002(d)(2), Oct. 23, 1992, 106 Stat. 2481, added items 221 and 222 and redesignated former item 221 as 226.

1991—Pub. L. 102-190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, substituted “DEFENSE BUDGET MATTERS” for “REGULAR COMPONENTS” in chapter heading and added item 221.

§ 221. Future-years defense program: submission to Congress; consistency in budgeting

(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President’s budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years defense program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activi-

ties of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

(c) Nothing in this section shall be construed to prohibit the inclusion in the future-years defense program of amounts for management contingencies, subject to the requirements of subsection (b).

(Added Pub. L. 101-189, div. A, title XVI, §1602(a)(1), Nov. 29, 1989, 103 Stat. 1596, §114a; amended Pub. L. 101-510, div. A, title XIV, §1402(a)(1)-(3)(A), Nov. 5, 1990, 104 Stat. 1674; renumbered §221 and amended Pub. L. 102-484, div. A, title X, §1002(c), Oct. 23, 1992, 106 Stat. 2480.)

PRIOR PROVISIONS

A prior section 221 was renumbered section 226 of this title.

AMENDMENTS

1992—Pub. L. 102-484 renumbered section 114a of this title as this section, amended section catchline generally, and substituted “future-years” for “multiyear” wherever appearing in text.

1990—Pub. L. 101-510, §1402(a)(3)(A), which directed amendment of section catchline by substituting “Multiyear” for “Five-year”, was executed by substituting “Multiyear” for “Five-Year” as the probable intent of Congress.

Subsec. (a). Pub. L. 101-510, §1402(a)(1), (2), substituted “a multiyear” for “the current five-year” and inserted at end “Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.”

Subsecs. (b)(2)(A), (c). Pub. L. 101-510, §1402(a)(2)(A), substituted “multiyear” for “five-year”.

REPORTING OF BALANCES CARRIED FORWARD BY THE DEPARTMENT OF DEFENSE AT THE END OF EACH FISCAL YEAR

Pub. L. 113-291, div. A, title X, §1003, Dec. 19, 2014, 128 Stat. 3482, provided that: “Not later March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and make publicly available on the Internet website of the Department of Defense, the following information:

“(1) The total dollar amount, by account, of all balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.

“(2) The total dollar amount, by account, of all unobligated balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.

“(3) The total dollar amount, by account, of any balances (both obligated and unobligated) that have been carried forward by the Department of Defense for five years or more as of the end of the fiscal year preceding the fiscal year during which such information is submitted.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1003 of Pub. L. 113-291, set out above, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.]

BUDGET DOCUMENTATION REQUIREMENT

Pub. L. 113-66, div. A, title II, §213(c), Dec. 26, 2013, 127 Stat. 704, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the

budget for fiscal year 2015, and each subsequent fiscal year, the Secretary shall include individual project lines for each program segment of the unmanned carrier-launched surveillance and strike system, within program element 0604404N, that articulate all costs, contractual actions, and other information associated with technology development for each such program segment.”

EVALUATION AND ASSESSMENT OF THE DISTRIBUTED COMMON GROUND SYSTEM

Pub. L. 113-66, div. A, title II, §219, Dec. 26, 2013, 127 Stat. 708, provided that:

“(a) PROJECT CODES FOR BUDGET SUBMISSIONS.—In the budget submitted by the President to Congress under section 1105 of title 31, United States Code, for fiscal year 2015 and each subsequent fiscal year, each capability component within the distributed common ground system program shall be set forth as a separate project code within the program element line, and each covered official shall submit supporting justification for the project code within the program element descriptive summary.

“(b) ANALYSIS.—

“(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct an analysis of capability components that are compliant with the intelligence community data standards and could be used to meet the requirements of the distributed common ground system program.

“(2) ELEMENTS.—The analysis required under paragraph (1) shall include the following:

“(A) Revalidation of the distributed common ground system program requirements based on current program needs, recent operational experience, and the requirement for nonproprietary solutions that adhere to open-architecture principles.

“(B) Market research of current commercially available tools to determine whether any such tools could potentially satisfy the requirements described in subparagraph (A).

“(C) Analysis of the competitive acquisition options for any tools identified in subparagraph (B).

“(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Under Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the results of the analysis conducted under paragraph (1).

“(c) COVERED OFFICIAL DEFINED.—In this section, the term ‘covered official’ means the following:

“(1) The Secretary of the Army, with respect to matters concerning the Army.

“(2) The Secretary of the Navy, with respect to matters concerning the Navy.

“(3) The Secretary of the Air Force, with respect to matters concerning the Air Force.

“(4) The Commandant of the Marine Corps, with respect to matters concerning the Marine Corps.

“(5) The Commander of the United States Special Operations Command, with respect to matters concerning the United States Special Operations Command.”

CONSOLIDATED BUDGET JUSTIFICATION DISPLAY FOR AEROSPACE CONTROL ALERT MISSION

Pub. L. 112-239, div. A, title III, §352(a), Jan. 2, 2013, 126 Stat. 1701, provided that: “The Secretary of Defense shall establish a consolidated budget justification display that fully identifies the baseline aerospace control alert budget for each of the military services and encompasses all programs and activities of the aerospace control alert mission for each of the following functions:

“(1) Procurement.

“(2) Operation and maintenance.

“(3) Research, development, testing, and evaluation.

“(4) Military construction.”

BUDGET JUSTIFICATION DOCUMENTS; BUDGET FOR FULL-SPECTRUM MILITARY CYBERSPACE OPERATIONS

Pub. L. 112-239, div. A, title X, §1079(c), Jan. 2, 2013, 126 Stat. 1959, provided that: “The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] dedicated budget documentation materials to accompany the budget submissions for fiscal year 2015 and each subsequent fiscal year, including a single Department of Defense-wide budget estimate and detailed budget planning data for full-spectrum military cyberspace operations. Such materials shall be submitted in unclassified form but may include a classified annex.”

SEPARATE PROCUREMENT LINE ITEM FOR CERTAIN LITTORAL COMBAT SHIP MISSION MODULES

Pub. L. 112-81, div. A, title I, §122, Dec. 31, 2011, 125 Stat. 1319, provided that:

“(a) IN GENERAL.—In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2013, and each subsequent fiscal year, the Secretary shall ensure that a separate, dedicated procurement line item is designated for each covered module that includes the quantity and cost of each such module requested.

“(b) FORM.—The Secretary shall ensure that any classified components of covered modules not included in a procurement line item under subsection (a) shall be included in a classified annex.

“(c) COVERED MODULE.—In this section, the term ‘covered module’ means, with respect to mission modules of the Littoral Combat Ship, the following modules:

“(1) Surface warfare.

“(2) Mine countermeasures.

“(3) Anti-submarine warfare.”

DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS

Pub. L. 112-81, div. A, title X, §1003A, Dec. 31, 2011, 125 Stat. 1556, provided that: “Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program.”

DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR ORGANIZATIONAL CLOTHING AND INDIVIDUAL EQUIPMENT

Pub. L. 112-81, div. A, title X, §1094, Dec. 31, 2011, 125 Stat. 1607, provided that:

“(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2013 and each subsequent fiscal year, the Secretary of Defense shall submit to the President, for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a budget justification display that covers all programs and activities associated with the procurement of organizational clothing and individual equipment.

“(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget justification display under subsection (a) for a fiscal year shall include the following:

“(1) The funding requirements in each budget activity and for each Armed Force for organizational clothing and individual equipment.

“(2) The amount in the budget for each of the Armed Forces for organizational clothing and equipment for that fiscal year.

“(c) DEFINITION.—In this section, the term ‘organizational clothing and individual equipment’ means an item of organizational clothing or equipment prescribed for wear or use with the uniform.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF JOINT LIGHT TACTICAL VEHICLE

Pub. L. 111-383, div. A, title II, §213, Jan. 7, 2011, 124 Stat. 4163, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2012, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of the Army and the Navy a separate, dedicated program element is assigned to the Joint Light Tactical Vehicle.”

SEPARATE PROCUREMENT LINE ITEM FOR BODY ARMOR

Pub. L. 111-84, div. A, title I, §141(b), Oct. 28, 2009, 123 Stat. 2223, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each military department procurement account, a separate, dedicated procurement line item is designated for body armor.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF INDIVIDUAL BODY ARMOR AND ASSOCIATED COMPONENTS

Pub. L. 111-84, div. A, title II, §216, Oct. 28, 2009, 123 Stat. 2227, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of each military department a separate, dedicated program element is assigned to the research and development of individual body armor and associated components.”

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR THE F-35B AND F-35C JOINT STRIKE FIGHTER AIRCRAFT

Pub. L. 111-84, div. A, title II, §217, Oct. 28, 2009, 123 Stat. 2228, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within the Navy research, development, test, and evaluation account and the Navy aircraft procurement account, a separate, dedicated line item and program element is assigned to each of the F-35B aircraft and the F-35C aircraft, to the extent that such accounts include funding for each such aircraft.”

GUIDANCE ON BUDGET JUSTIFICATION MATERIALS DESCRIBING FUNDING REQUESTED FOR OPERATION, SUSTAINMENT, MODERNIZATION, AND PERSONNEL OF MAJOR RANGES AND TEST FACILITIES

Pub. L. 111-84, div. A, title II, §220, Oct. 28, 2009, 123 Stat. 2229, provided that:

“(a) GUIDANCE ON BUDGET JUSTIFICATION MATERIALS.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and the Director of the Department of Defense Test Resource Management Center, shall issue guidance clarifying and standardizing the information required in budget justification materials describing amounts to be re-

quested in the budget of the President for a fiscal year (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) for funding for each facility and resource of the Major Range and Test Facility Base in connection with each of the following:

- “(1) Operation.
- “(2) Sustainment.
- “(3) Investment and modernization.
- “(4) Government personnel.
- “(5) Contractor personnel.

“(b) APPLICABILITY.—The guidance issued under subsection (a) shall apply with respect to budgets of the President for fiscal years after fiscal year 2010.

“(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section, the term ‘Major Range and Test Facility Base’ has the meaning given that term in section 196(h) [now 196(i)] of title 10, United States Code.”

MILITARY MUNITIONS RESPONSE PROGRAM AND INSTALLATION RESTORATION PROGRAM

Pub. L. 111-84, div. A, title III, §318(b), Oct. 28, 2009, 123 Stat. 2250, provided that: “As part of the annual budget submission of the Secretary of Defense to Congress, the Secretary shall include the funding levels requested for the Military Munitions Response Program and the Installation Restoration Program.”

SEPARATE PROCUREMENT LINE ITEMS FOR FUTURE COMBAT SYSTEMS PROGRAM

Pub. L. 110-417, [div. A], title I, §111, Oct. 14, 2008, 122 Stat. 4373, provided that: “Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2011 and for each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated procurement line item is designated for each of the following elements of the Future Combat Systems program (in this section referred to as ‘FCS’), to the extent the budget includes funding for such elements:

- “(1) FCS Manned Ground Vehicles.
- “(2) FCS Unmanned Ground Vehicles.
- “(3) FCS Unmanned Aerial Systems.
- “(4) FCS Unattended Ground Systems.
- “(5) Other FCS elements.”

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR SKY WARRIOR UNMANNED AERIAL SYSTEMS PROJECT

Pub. L. 110-417, [div. A], title II, §214, Oct. 14, 2008, 122 Stat. 4386, provided that: “Effective for fiscal year 2010 and for each fiscal year thereafter, the Secretary of Defense shall ensure that, in the annual budget submission of the Department of Defense to the President, within both the account for procurement and the account for research, development, test, and evaluation, a separate, dedicated line item and program element is designated for the Sky Warrior Unmanned Aerial Systems project, to the extent such accounts include funding for such project.”

DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION

Pub. L. 110-417, [div. A], title III, §354, Oct. 14, 2008, 122 Stat. 4426, which required the Secretary of Defense to submit to the President a display of annual budget requirements for the Air Sovereignty Alert Mission of the Air Force, was repealed by Pub. L. 113-188, title IV, §401(a), Nov. 26, 2014, 128 Stat. 2019.

[Pub. L. 113-291, div. A, title X, §1060(b), Dec. 19, 2014, 128 Stat. 3502, which directed repeal of section 354 of Pub. L. 110-417, formerly set out above, could not be executed because of the prior repeal by Pub. L. 113-188, title IV, §401(a), Nov. 26, 2014, 128 Stat. 2019.]

REQUIREMENT FOR SEPARATE DISPLAY OF BUDGETS FOR AFGHANISTAN AND IRAQ

Pub. L. 110-417, [div. A], title XV, §1502, Oct. 14, 2008, 122 Stat. 4649, provided that:

“(a) OPERATIONS IN IRAQ AND AFGHANISTAN.—In any annual or supplemental budget request for the Department of Defense that is submitted to Congress after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall set forth separately any funding requested in such budget request for—

“(1) operations of the Department of Defense in Afghanistan; and

“(2) operations of the Department of Defense in Iraq.

“(b) SPECIFICITY OF DISPLAY.—Each budget request covered by subsection (a) shall, for any funding requested for operations in Iraq or Afghanistan—

“(1) clearly display the amount of such funding at the appropriation account level and at the program, project, or activity level; and

“(2) include a detailed description of the assumptions underlying the funding for the period covered by the budget request, including the anticipated troop levels, the operations intended to be carried out, and the equipment reset requirements necessary to support such operations.”

REPORT ON FUNDING OF THE DEPARTMENT OF DEFENSE FOR HEALTH CARE

Pub. L. 110-181, div. A, title VII, § 718, Jan. 28, 2008, 122 Stat. 197, provided that:

“(a) REPORT.—If the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, and the aggregate amount included in that budget for the Department of Defense for health care for such fiscal year is less than the aggregate amount provided by Congress for the Department for health care for the preceding fiscal year, and, in the case of the Department, the total allocation from the Defense Health Program to any military department is less than the total of such allocation in the preceding fiscal year, the President shall submit to Congress a report on—

“(1) the reasons for the determination that inclusion of a lesser aggregate amount or allocation to any military department is in the national interest; and

“(2) the anticipated effects of the inclusion of such lesser aggregate amount or allocation to any military department on the access to and delivery of medical and support services to members of the Armed Forces and their family members.

“(b) TERMINATION.—The section shall not be in effect after December 31, 2017.”

SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES

Pub. L. 110-181, div. A, title VIII, § 806, Jan. 28, 2008, 122 Stat. 213, which required that materials submitted to Congress in support of the Defense Department budget identify clearly and separately the amounts requested in each budget account for procurement of contract services, was repealed and restated as section 235 of this title by Pub. L. 111-84, div. A, title VIII, § 803(a)(1), (3), Oct. 28, 2009, 123 Stat. 2402.

REPORT ON MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES PERSONNEL

Pub. L. 110-181, div. A, title IX, § 901(b), (c), Jan. 28, 2008, 122 Stat. 272, which required that the Secretary of Defense include a report with the defense budget materials for each fiscal year concerning the number of military personnel and civilian employees of the Department of Defense assigned to major headquarters activities for each component of the Department, any increase in personnel assigned to major headquarters activities attributable to certain reasons, and any cost savings associated with the elimination of contracts for the performance of major headquarters activities, was repealed by Pub. L. 111-84, div. A, title XI, § 1109(b)(3), Oct. 28, 2009, 123 Stat. 2493.

MAJOR FORCE PROGRAM CATEGORY FOR SPACE

Pub. L. 112-10, div. A, title VIII, § 8092, Apr. 15, 2011, 125 Stat. 77, provided that: “The Secretary of Defense

shall create a major force program category for space for each future-years defense program of the Department of Defense submitted to Congress under section 221 of title 10, United States Code, during fiscal year 2011. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111-118, div. A, title VIII, § 8099, Dec. 19, 2009, 123 Stat. 3450.

Pub. L. 110-329, div. C, title VIII, § 8104, Sept. 30, 2008, 122 Stat. 3644.

Pub. L. 110-116, div. A, title VIII, § 8111, Nov. 13, 2007, 121 Stat. 1339.

REQUEST FOR FUNDS FOR ONGOING MILITARY OPERATION OVERSEAS

Pub. L. 110-116, div. A, title VIII, § 8116, Nov. 13, 2007, 121 Stat. 1340, provided that: “Any request for funds for a fiscal year after fiscal year 2008 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, shall be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.”

ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM

Pub. L. 109-364, div. A, title III, § 347(a), (b), Oct. 17, 2006, 120 Stat. 2158, which required that the Secretary of Defense include in budget justification documents for each fiscal year a report on future requirements of the Department of Defense concerning Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service, was repealed by Pub. L. 112-81, div. A, title X, § 1062(d)(1), Dec. 31, 2011, 125 Stat. 1585.

BUDGETING FOR ONGOING MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

Pub. L. 109-364, div. A, title X, § 1008, Oct. 17, 2006, 120 Stat. 2374, provided that: “The President’s budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2007 shall include—

“(1) a request for the appropriation of funds for such fiscal year for ongoing military operations in Afghanistan and Iraq;

“(2) an estimate of all funds expected to be required in that fiscal year for such operations; and

“(3) a detailed justification of the funds requested.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM

Pub. L. 109-163, div. A, title II, § 214, Jan. 6, 2006, 119 Stat. 3168, provided that:

“(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following systems development and demonstration projects of the Armored Systems Modernization program:

“(1) Manned Ground Vehicles.

“(2) Systems of Systems Engineering and Program Management.

“(3) Future Combat Systems Reconnaissance Platforms and Sensors.

“(4) Future Combat Systems Unmanned Ground Vehicles.

“(5) Unattended Sensors.

“(6) Sustainment.

“(b) EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

“(c) TECHNOLOGY INSERTION TO CURRENT FORCE.—

“(1) REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

“(2) DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program.”

ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS

Pub. L. 107-314, div. A, title III, §351, Dec. 2, 2002, 116 Stat. 2516, as amended by Pub. L. 110-417, [div. A], title X, §1051, Oct. 14, 2008, 122 Stat. 4604; Pub. L. 113-66, div. A, title III, §333, Dec. 26, 2013, 127 Stat. 739, which related to annual submission of information regarding information technology capital assets, was repealed by Pub. L. 114-92, div. A, title X, §1079(h), Nov. 25, 2015, 129 Stat. 1000.

DEPARTMENT OF DEFENSE REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS

Pub. L. 107-249, §131, Oct. 23, 2002, 116 Stat. 1586, provided that:

“(a) REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2003, the amount requested for environmental restoration, waste management, and environmental compliance activities in such fiscal year with respect to military installations approved for closure or realignment under the base closure laws shall accurately reflect the anticipated cost of such activities in such fiscal year.

“(b) BASE CLOSURE LAWS DEFINED.—In this section, the term ‘base closure laws’ means the following:

“(1) Section 2687 of title 10, United States Code.

“(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

“(3) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107-64, §131, Nov. 5, 2001, 115 Stat. 482.

BUDGET JUSTIFICATION DOCUMENTS FOR COSTS OF ARMED FORCES’ PARTICIPATION IN CONTINGENCY OPERATIONS

Pub. L. 107-248, title VIII, §8132, Oct. 23, 2002, 116 Stat. 1568, provided that: “The budget of the President for

fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces’ participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 114-113, div. C, title VIII, §8075, Dec. 18, 2015, 129 Stat. 2370.

Pub. L. 113-235, div. C, title VIII, §8078, Dec. 16, 2014, 128 Stat. 2272.

Pub. L. 113-76, div. C, title VIII, §8075, Jan. 17, 2014, 128 Stat. 123.

Pub. L. 113-6, div. C, title VIII, §8075, Mar. 26, 2013, 127 Stat. 315.

Pub. L. 112-74, div. A, title VIII, §8077, Dec. 23, 2011, 125 Stat. 824.

Pub. L. 112-10, div. A, title VIII, §8077, Apr. 15, 2011, 125 Stat. 74.

Pub. L. 111-118, div. A, title VIII, §8083, Dec. 19, 2009, 123 Stat. 3447.

Pub. L. 110-329, div. C, title VIII, §8086, Sept. 30, 2008, 122 Stat. 3641.

Pub. L. 110-116, div. A, title VIII, §8091, Nov. 13, 2007, 121 Stat. 1335.

Pub. L. 109-289, div. A, title VIII, §8089, Sept. 29, 2006, 120 Stat. 1294.

Pub. L. 109-148, div. A, title VIII, §8100, Dec. 30, 2005, 119 Stat. 2721.

Pub. L. 108-287, title VIII, §8116, Aug. 5, 2004, 118 Stat. 998.

Pub. L. 108-87, title VIII, §8115, Sept. 30, 2003, 117 Stat. 1099.

Pub. L. 107-117, div. A, title VIII, §8097, Jan. 10, 2002, 115 Stat. 2268.

Pub. L. 106-259, title VIII, §8097, Aug. 9, 2000, 114 Stat. 695.

Pub. L. 106-79, title VIII, §8110, Oct. 25, 1999, 113 Stat. 1257.

BUDGET SUBMISSIONS ON ACTIVE AND RESERVE MILITARY PERSONNEL ACCOUNTS

Pub. L. 105-262, title VIII, §8093, Oct. 17, 1998, 112 Stat. 2319, provided that: “At the time the President submits his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] a budget justification document for the active and reserve Military Personnel accounts, to be known as the ‘M-1’, which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-56, title VIII, §8104, Oct. 8, 1997, 111 Stat. 1243.

MODIFICATION OF BUDGET DATA EXHIBITS

Pub. L. 105-85, div. A, title III, §324(c), Nov. 18, 1997, 111 Stat. 1678, provided that: "The Under Secretary of Defense (Comptroller) shall ensure that aircraft budget data exhibits of the Department of Defense that are submitted to Congress display total numbers of active aircraft where numbers of primary aircraft or primary authorized aircraft are displayed in those exhibits."

INCLUSION OF AIR FORCE DEPOT MAINTENANCE AS OPERATION AND MAINTENANCE BUDGET LINE ITEMS

Pub. L. 105-85, div. A, title III, §327, Nov. 18, 1997, 111 Stat. 1679, provided that: "For fiscal year 1999 and each fiscal year thereafter, Air Force depot-level maintenance of materiel shall be displayed as one or more separate line items under each subactivity within the authorization request for operation and maintenance, Air Force, in the proposed budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, United States Code."

IDENTIFICATION IN PRESIDENT'S BUDGET OF NATO COSTS

Pub. L. 106-79, title VIII, §8091, Oct. 25, 1999, 113 Stat. 1253, provided that: "The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as 'subactivities') in all appropriations accounts provided in this Act [see Tables for classification], as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2001, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-262, title VIII, §8095, Oct. 17, 1998, 112 Stat. 2319.

Pub. L. 105-56, title VIII, §8116, Oct. 8, 1997, 111 Stat. 1245.

PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 104-106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which required that in budget justification materials submitted to Congress in support of Department of Defense budget, the amount requested for activities of the Ballistic Missile Defense Organization be set forth in accordance with specified program elements, was repealed and restated as section 223 of this title by Pub. L. 105-261, div. A, title II, §235(a)(1), (b), Oct. 17, 1998, 112 Stat. 1953.

BUDGET SUBMISSIONS ON SALARIES AND EXPENSES RELATED TO ADMINISTRATIVE ACTIVITIES

Pub. L. 109-148, div. A, title VIII, §8032, Dec. 30, 2005, 119 Stat. 2705, provided that: "The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-287, title VIII, §8036, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108-87, title VIII, §8036, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107-248, title VIII, §8036, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107-117, div. A, title VIII, §8039, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106-259, title VIII, §8039, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106-79, title VIII, §8042, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105-262, title VIII, §8042, Oct. 17, 1998, 112 Stat. 2306.

Pub. L. 105-56, title VIII, §8046, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8047], Sept. 30, 1996, 110 Stat. 3009-71, 3009-98.

Pub. L. 104-61, title VIII, §8058, Dec. 1, 1995, 109 Stat. 663.

Pub. L. 103-335, title VIII, §8069, Sept. 30, 1994, 108 Stat. 2635.

Pub. L. 103-139, title VIII, §8082, Nov. 11, 1993, 107 Stat. 1458.

Pub. L. 102-396, title IX, §9132, Oct. 6, 1992, 106 Stat. 1936.

SUBMISSION OF MULTIYEAR DEFENSE PROGRAM

Pub. L. 101-510, div. A, title XIV, §1402(b), Nov. 5, 1990, 104 Stat. 1674, provided for limitations on obligation by Secretary of Defense of fiscal year 1991 advance procurement funds if, as of end of 90-day period beginning on date on which President's budget for fiscal year 1992 was submitted to Congress, the Secretary had not submitted to Congress fiscal year 1992 multiyear defense program.

MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN BUDGET

Pub. L. 101-510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, directed President to submit with budget submitted to Congress each year of programs of Department of Defense, a budget that organizes programs within major functional category 050 (National Defense) on basis of major roles and missions of Department of Defense, prior to repeal by Pub. L. 102-484, div. A, title X, §1002(b), Oct. 23, 1992, 106 Stat. 2480. See section 222 of this title.

§ 222. Future-years mission budget

(a) FUTURE-YEARS MISSION BUDGET.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.

(b) CONSISTENCY WITH FUTURE-YEARS DEFENSE PROGRAM.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b¹ of this title.

(c) RELATIONSHIP TO OTHER DEFENSE BUDGET FORMATS.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year.

¹ See References in Text note below.

(Added Pub. L. 102-484, div. A, title X, §1002(a)(2), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103-337, div. A, title X, §1004, Oct. 5, 1994, 108 Stat. 2834; Pub. L. 110-181, div. A, title IX, §944(a), (b), Jan. 28, 2008, 122 Stat. 289, 290.)

REFERENCES IN TEXT

Section 118b of this title, referred in subsec. (b), was repealed by Pub. L. 113-291, div. A, title X, §1072(b)(1), Dec. 19, 2014, 128 Stat. 3516.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102-484, §1002(b).

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181, §944(a), amended last sentence generally. Prior to amendment, last sentence read as follows: “That budget shall be submitted for any fiscal year not later than 60 days after the date on which the President’s budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.”

Subsec. (b). Pub. L. 110-181, §944(b), substituted “on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.” for “on the basis of major roles, missions, or forces of the Department of Defense.”

1994—Subsec. (a). Pub. L. 103-337 substituted “not later than 60 days after the date on which” for “at the same time that”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title IX, §944(c), Jan. 28, 2008, 122 Stat. 290, provided that: “The amendments made by this section [amending this section] shall apply with respect to the future-years mission budget for fiscal year 2010 and each fiscal year thereafter.”

§ 222a. Unfunded priorities of the armed forces and combatant commands: annual report

(a) ANNUAL REPORT.—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, each officer specified in subsection (b) shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the armed force or forces or combatant command under the jurisdiction or command of such officer.

(b) OFFICERS.—The officers specified in this subsection are the following:

- (1) The Chief of Staff of the Army.
- (2) The Chief of Naval Operations.
- (3) The Chief of Staff of the Air Force.
- (4) The Commandant of the Marine Corps.
- (5) The commanders of the combatant commands established under section 161 of this title.

(c) ELEMENTS.—

(1) IN GENERAL.—Each report under this subsection 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 shall present the unfunded priorities covered by such report in order of urgency of priority.

(d) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement 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;

(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 officer submitting the report required by subsection (a) in connection with the budget if—

(A) additional resources been¹ available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement has emerged since the budget was formulated.

(Added Pub. L. 114-328, div. A, title X, §1064(a)(1), Dec. 23, 2016, 130 Stat. 2408.)

§ 223. Ballistic missile defense programs: program elements

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency shall be set forth in accordance with such program elements as the President may specify.

(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term “engineering and manufacturing development” means the period in the course of an acquisition program during which the primary objectives are to—

- (A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

¹ So in original. Probably should be preceded by “had”.

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

(Added Pub. L. 105–261, div. A, title II, §235(a)(1), Oct. 17, 1998, 112 Stat. 1953; amended Pub. L. 107–107, div. A, title II, §232(a), (b), Dec. 28, 2001, 115 Stat. 1037; Pub. L. 107–314, div. A, title II, §225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, §221(a), (b)(1), (c)(1), Nov. 24, 2003, 117 Stat. 1419.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 104–106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 105–261, §235(b).

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §221(a), inserted “by President” after “Specified” in heading, substituted “such program elements as the President may specify.” for “program elements governing functional areas as follows:” in introductory provisions, and struck out pars. (1) to (6), which read as follows:

- “(1) Technology.
- “(2) Ballistic Missile Defense System.
- “(3) Terminal Defense Segment.
- “(4) Midcourse Defense Segment.
- “(5) Boost Defense Segment.
- “(6) Sensors Segment.”

Subsec. (b)(2). Pub. L. 108–136, §221(c)(1), substituted “means the period in the course of an acquisition program during which the” for “means the development phase whose”.

Subsec. (c). Pub. L. 108–136, §221(b)(1), substituted “for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a)” for “for each program element specified in subsection (a)”.

2002—Subsec. (a). Pub. L. 107–314 substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization”.

2001—Subsec. (a). Pub. L. 107–107, §232(a), substituted “in accordance with program elements governing functional areas as follows:” for “in accordance with the following program elements:” in introductory provisions, added pars. (1) to (6), and struck out former pars. (1) to (12) which read as follows:

- “(1) The Patriot system.
- “(2) The Navy Area system.
- “(3) The Theater High-Altitude Area Defense system.
- “(4) The Navy Theater Wide system.
- “(5) The Medium Extended Air Defense System.
- “(6) Joint Theater Missile Defense.
- “(7) National Missile Defense.
- “(8) Support Technologies.
- “(9) Family of Systems Engineering and Integration.
- “(10) Ballistic Missile Defense Technical Operations.
- “(11) Threat and Countermeasures.
- “(12) International Cooperative Programs.”

Subsec. (b). Pub. L. 107–107, §232(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.”

ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 111–383, div. A, title II, §225, Jan. 7, 2011, 124 Stat. 4170, related to acquisition baselines, elements of baselines, and annual reports, prior to repeal by Pub. L. 112–81, div. A, title II, §231(b)(1), Dec. 31, 2011, 125 Stat. 1339.

BUDGET AND ACQUISITION REQUIREMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES

Pub. L. 110–181, div. A, title II, §223, Jan. 28, 2008, 122 Stat. 39, as amended by Pub. L. 112–81, div. A, title II, §231(b)(2), Dec. 31, 2011, 125 Stat. 1339, provided that:

“(a) REVISED BUDGET STRUCTURE.—The budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall set forth separately amounts requested for the Missile Defense Agency for each of the following:

- “(1) Research, development, test, and evaluation.
- “(2) Procurement.
- “(3) Operation and maintenance.
- “(4) Military construction.

“(b) REVISED BUDGET STRUCTURE FOR FISCAL YEAR 2009.—The budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall—

“(1) identify all known and estimated operation and support costs; and

“(2) set forth separately amounts requested for the Missile Defense Agency for each of the following:

- “(A) Research, development, test, and evaluation.
- “(B) Procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.
- “(C) Military construction.

“(c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL YEAR 2009.—Upon approval by the Secretary of Defense, and consistent with the plan submitted under subsection (f), funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2009 for research, development, test, and evaluation for the Missile Defense Agency—

“(1) may be used for the fielding of ballistic missile defense capabilities approved previously by Congress; and

“(2) may not be used for—

- “(A) military construction activities; or
- “(B) procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

“(d) FULL FUNDING REQUIREMENT NOT APPLICABLE TO USE OF PROCUREMENT FUNDS FOR FISCAL YEARS 2009 AND 2010.—In any case in which funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement for the Missile Defense Agency for fiscal years 2009 and 2010 are used for the fielding of ballistic missile defense capabilities, the funds may be used for the fielding of those capabilities on an ‘incremental’ basis, notwithstanding any law or policy of the Department of Defense that would otherwise require a ‘full funding’ basis.

“(e) RELATIONSHIP TO OTHER LAW.—Nothing in this provision shall be construed to alter or otherwise affect in any way the applicability of the requirements and other provisions of section 234(a) through (d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1837; 10 U.S.C. 2431 note).

“(f) PLAN REQUIRED.—Not later than March 1, 2008, the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Rep-

representatives a plan for transitioning the Missile Defense Agency from using exclusively research, development, test, and evaluation funds to using procurement, military construction, operations and maintenance, and research, development, test, and evaluation funds for the appropriate budget activities, and for transitioning from incremental funding to full funding for fiscal years after fiscal year 2010.”

REFERENCES TO NEW NAME FOR BALLISTIC MISSILE
DEFENSE ORGANIZATION

Pub. L. 107-314, div. A, title II, §225(a), Dec. 2, 2002, 116 Stat. 2486, provided that: “Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency.”

COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM
ELEMENT

Pub. L. 105-85, div. A, title II, §233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107-314, div. A, title II, §225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, provided that:

“(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Missile Defense Agency, to be referred to as the ‘Cooperative Ballistic Missile Defense Program’, to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

“(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act [Nov. 18, 1997] is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

“(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Missile Defense Agency required under section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 233; [former] 10 U.S.C. 221 note).”

§ 223a. Ballistic missile defense programs: procurement

(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-

years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(Added Pub. L. 108-136, div. A, title II, §223(a)(1), Nov. 24, 2003, 117 Stat. 1420; amended Pub. L. 113-291, div. A, title X, §1060(a)(1), Dec. 19, 2014, 128 Stat. 3502.)

AMENDMENTS

2014—Subsec. (d). Pub. L. 113-291 struck out subsec. (d). Text read as follows: “The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY
OF TEST PLANS

Pub. L. 108-136, div. A, title II, §223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

§ 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the integration of a ballistic missile defense element into the overall ballistic missile defense architecture shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation and, within that account, under the subaccount (or other budget activity level) for the Missile Defense Agency.

(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense 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. 105-85, div. A, title II, §232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107-107, div. A, title II, §231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107-314, div. A, title II, §§222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108-136, div. A, title II, §226, title X, §1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §226(b), substituted “the integration of a ballistic missile defense element into the overall ballistic missile defense architecture” for “a Department of Defense missile defense program described in subsection (b)”.

Subsec. (e). Pub. L. 108-136, §226(a), substituted “before a” for “for each”, inserted “is” before “transferred”, and substituted “roles and responsibilities” for “responsibility” and “are clearly delineated” for “remains with the Director”.

Subsec. (f). Pub. L. 108-136, §1043(b)(4), struck out heading and text of subsec. (f). Text read as follows: “In this section, the term ‘congressional defense committees’ means the following:

“(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

“(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2002—Subsecs. (a), (b)(1), (c), (d). Pub. L. 107-314, §225(b)(1)(A), substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization”.

Subsec. (e). Pub. L. 107-314 substituted “for each” for “before a”, “transferred” for “is transferred”, “Missile Defense Agency” for “Ballistic Missile Defense Organization”, and “responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director” for “roles

and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined”.

2001—Pub. L. 107-107, §231(b)(1), substituted “research, development, test, and evaluation” for “procurement” in section catchline.

Subsec. (a). Pub. L. 107-107, §231(a)(1), substituted “research, development, test, and evaluation” for “procurement” in two places.

Subsecs. (b) to (f). Pub. L. 107-107, §231(a)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) and (c) which related to covered programs and core theater ballistic missile defense program, respectively.

§ 225. Acquisition accountability reports on the ballistic 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 ballistic missile defense system, as specified in section 223 of this title; and

(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 (d), 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 and flight 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 identified by the commanders of the combatant commands on a prioritized capabilities list;

(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; and

(D) an identification of when the document regarding the program joint cost analysis requirements description is scheduled to be approved.

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

(c) ANNUAL REPORTS ON ACQUISITION BASELINES.—(1) Not later than February 15 of each year, the Director shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a).

(2)(A) The first report under paragraph (1) shall set forth each acquisition baseline required by subsection (a) for a program element or major subprogram.

(B) Each subsequent report under paragraph (1) shall include—

(i) any new acquisition baselines required by subsection (a) for a program element or major subprogram; and

(ii) with respect to an acquisition baseline that was previously included in a report under paragraph (1), an identification of any changes or variances made to the elements described in subsection (b) for such acquisition baseline, as compared to—

(I) the initial acquisition baseline for such program element or major subprogram; and

(II) the acquisition baseline for such program element or major subprogram that was submitted in the report during the previous year.

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

(d) 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.

(e) 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; and

(2) a description of the operations and sustainment functions and costs for which a military department is responsible.

(Added Pub. L. 112-81, div. A, title II, §231(a)(1), Dec. 31, 2011, 125 Stat. 1337; amended Pub. L. 113-66, div. A, title II, §231(b), Dec. 26, 2013, 127 Stat. 711.)

AMENDMENTS

2013—Subsec. (e). Pub. L. 113-66 added subsec. (e).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

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 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.”

[§ 226. Repealed. Pub. L. 112-81, div. A, title X, § 1061(3)(A), Dec. 31, 2011, 125 Stat. 1583]

Section, added Pub. L. 102-190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, §221; renumbered §226, Pub. L. 102-484, div. A, title X, §1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103-160, div. A, title XI, §1104, Nov. 30, 1993, 107 Stat. 1749; Pub. L. 108-136, div. A, title X, §1031(a)(5), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 109-364, div. A, title X, §1007, Oct. 17, 2006, 120 Stat. 2373, related to scoring of outlays by the Director of the Office of Management and Budget and the Director of the Congressional Budget Office.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-189, §5(a), Nov. 29, 1989, 103 Stat. 1364, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102-190, §1002(b)(1).

[§ 227. Repealed. Pub. L. 104-106, div. A, title X, § 1061(f)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 103-160, div. A, title III, §374(a), Nov. 30, 1993, 107 Stat. 1636, directed Secretary of Defense to include recruiting costs in budget justification documents submitted to Congress each year in connection with submission of budget.

[§ 228. Repealed. Pub. L. 114-92, div. A, title X, § 1073(a)(1), Nov. 25, 2015, 129 Stat. 995]

Section, added Pub. L. 105-85, div. A, title III, §321(a)(1), Nov. 18, 1997, 111 Stat. 1672; amended Pub. L. 107-314, div. A, title III, §361, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108-136, div. A, title X, §§1031(a)(6)(A), (B)(i), 1043(b)(5), Nov. 24, 2003, 117 Stat. 1596, 1611; Pub. L. 112-81, div. A, title X, §1064(4)(A), (B)(i), Dec. 31, 2011, 125 Stat. 1587, related to biannual reports on allocation of funds within operation and maintenance budget subactivities.

§ 229. Programs for combating terrorism: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President’s annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) shall include—

(1) the amount requested, by appropriation and functional area, for each of the program elements, projects, and initiatives that support the Department of Defense combating terrorism program, with supporting narrative descriptions and rationale for the funding levels requested; and

(2) a summary, to the program element and project level of detail, of estimated expenditures for the current year, funds requested for the budget year, and budget estimates through the completion of the current future-years defense plan for the Department of Defense combating terrorism program.

(c) EXPLANATION OF INCONSISTENCIES.—As part of the budget display under subsection (a) for any fiscal year, the Secretary shall identify and explain—

(1) any inconsistencies between (A) the information submitted under subsection (b) for that fiscal year, and (B) the information provided to the Director of the Office of Management and Budget in support of the annual report of the President to Congress on funding for executive branch counterterrorism and antiterrorism programs and activities for that fiscal year in accordance with section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998 (31 U.S.C. 1113 note); and

(2) any inconsistencies between (A) the execution, during the previous fiscal year and the current fiscal year, of programs and activities of the Department of Defense combating terrorism program, and (B) the funding and specification for such programs and activities for those fiscal years in the manner provided by Congress (both in statutes and in relevant legislative history).

(d) DEPARTMENT OF DEFENSE COMBATING TERRORISM PROGRAM.—In this section, the term “Department of Defense combating terrorism program” means the programs, projects, and activities of the Department of Defense related to combating terrorism inside and outside the United States.

(Added Pub. L. 106-65, div. A, title IX, §932(b)(1), Oct. 5, 1999, 113 Stat. 727; amended Pub. L. 108-136, div. A, title X, §1043(b)(6), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 114-92, div. A, title X, §1044, Nov. 25, 2015, 129 Stat. 977.)

REFERENCES IN TEXT

Section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(1), is section 1051(b) of Pub. L. 105-85, which is set out as a note under section 1113 of Title 31, Money and Finance.

AMENDMENTS

2015—Subsecs. (d), (e). Pub. L. 114-92 redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: “The Secretary shall submit to the congressional defense committees a semiannual report on the obligation and expenditure of funds for the Department of Defense combating terrorism program. Such reports shall be submitted not later than April 15 each year, with respect to the first half of a fiscal year, and not later than November 15 each year, with respect to the second half of a fiscal year. Each such report shall compare the amounts of those obligations and expenditures to the amounts authorized and appropriated for the Department of Defense combating terrorism program for

that fiscal year, by budget activity, sub-budget activity, and program element or line item. The second report for a fiscal year shall show such information for the second half of the fiscal year and cumulatively for the whole fiscal year. The report shall be submitted in unclassified form, but may have a classified annex.”

2003—Subsec. (f). Pub. L. 108-136 struck out heading and text of subsec. (f). Text read as follows: “In this section, the term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

PRIORITIZATION OF FUNDS FOR EQUIPMENT READINESS AND STRATEGIC CAPABILITY

Pub. L. 109-364, div. A, title III, §323, Oct. 17, 2006, 120 Stat. 2146, as amended by Pub. L. 110-181, div. A, title III, §353, Jan. 28, 2008, 122 Stat. 72; Pub. L. 111-383, div. A, title III, §332(a)-(f), Jan. 7, 2011, 124 Stat. 4185, 4187; Pub. L. 113-66, div. A, title III, §332, Dec. 26, 2013, 127 Stat. 739, provided that:

“(a) PRIORITIZATION OF FUNDS.—The Secretary of Defense shall take such steps as may be necessary through the planning, programming, budgeting, and execution systems of the Department of Defense to ensure that financial resources are provided for each fiscal year as necessary to enable—

“(1) the Secretary of each military department to meet the requirements of that military department for that fiscal year for the repair, recapitalization, and replacement of equipment used in overseas contingency operations; and

“(2) the Secretary of the Army to meet the requirements of the Army, and the Secretary of the Navy to meet the requirements of the Marine Corps, for that fiscal year, in addition to the requirements under paragraph (1), for the reconstitution of equipment and materiel in prepositioned stocks in accordance with requirements under the policy or strategy implemented under the guidelines in section 2229 of title 10, United States Code.

“(b) SUBMISSION OF BUDGET INFORMATION.—

“(1) SUBMISSION OF INFORMATION.—As part of the budget justification materials submitted to Congress in support of the President’s budget for a fiscal year or a request for supplemental appropriations, the Secretary of Defense shall include the following:

“(A) The information described in paragraph (2) for the fiscal year for which the budget justification materials are submitted, the fiscal year during which the materials are submitted, and the preceding fiscal year.

“(B) The information described in paragraph (2) for each of the fiscal years covered by the future-years defense program for the fiscal year in which the report is submitted based on estimates of any amounts required to meet each of the requirements under subsection (a) that are not met for that fiscal year and are deferred to the future-years defense program.

“(C) A consolidated budget justification summary of the information submitted under subparagraphs (A) and (B).

“(2) INFORMATION DESCRIBED.—The information described in this paragraph is information that clearly and separately identifies, by appropriations account, budget activity, activity group, sub-activity group, and program element or line item, the amounts requested for the programs, projects, and activities of—

“(A) each of the military departments for the repair, recapitalization, or replacement of equipment used in overseas contingency operations; and

“(B) the Army and the Marine Corps for the re-constitution of equipment and materiel in pre-positioned stocks.

“(c) CONTINGENCY OPERATION DEFINED.—In this section, the term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.”

QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM

Pub. L. 108-375, div. A, title X, §1041, Oct. 28, 2004, 118 Stat. 2048, which required the Secretary of Defense to submit quarterly reports on Operation Iraqi Freedom, Operation Enduring Freedom, Operation Noble Eagle, and any other operation designated by the President as being an operation of the Global War on Terrorism, was repealed by Pub. L. 112-81, div. A, title X, §1062(f)(2), Dec. 31, 2011, 125 Stat. 1585.

[§ 230. Repealed. Pub. L. 107-314, div. A, title X, § 1041(a)(2)(A), Dec. 2, 2002, 116 Stat. 2645]

Section, added Pub. L. 106-65, div. A, title X, §1041(a)(1), Oct. 5, 1999, 113 Stat. 758; amended Pub. L. 106-398, §1 [(div. A)], title X, §1075(a), Oct. 30, 2000, 114 Stat. 1654, 1654A-280, related to inclusion in the budget justification materials submitted to Congress of specific identification of amounts required for declassification of records.

§ 231. Budgeting for construction of naval vessels: annual plan and certification

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year—

(1) a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1) shall be designed so that the naval vessel force provided for under that plan supports the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan shall be designed so that the naval vessel force provided for under that plan supports the ship force structure recommended in the report of the most recent quadrennial defense review.

(2) Each such naval vessel construction plan shall include the following:

(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

(B) A description of the necessary naval vessel force structure and capabilities to meet the requirements of the national security strategy of the United States or the most recent quadrennial defense review, whichever is applicable under paragraph (1).

(C) The estimated levels of annual funding by ship class in both graphical and tabular form necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

(D) The estimated total cost of construction for each vessel used to determine estimated levels of annual funding under subparagraph (C).

(c) ASSESSMENT WHEN ANNUAL NAVAL VESSEL CONSTRUCTION PLAN DOES NOT MEET FORCE STRUCTURE REQUIREMENTS.—If the annual naval vessel construction plan for a fiscal year under subsection (b) does not result in a force structure or capabilities that meet the requirements identified in subsection (b)(2)(B), the Secretary shall include with the defense budget materials for that fiscal year an assessment of the extent of the strategic and operational risk to national security associated with the reduced force structure of naval vessels over the period of time that the required force structure or capabilities are not achieved. Such assessment shall include an analysis of whether the risks are acceptable, and plans to mitigate such risks. Such assessment shall be coordinated in advance with the commanders of the combatant commands and the Nuclear Weapons Council under section 179 of this title.

(d) CBO EVALUATION.—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a)(1), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which the plan is submitted and the future-years defense program submitted under section 221 of this title.

(e) LIMITATION ON AVAILABILITY OF FUNDS FOR FISCAL YEARS WITHOUT PLAN AND CERTIFICATION.—(1) If the Secretary of Defense does not include with the defense budget materials for a fiscal year the plan and certification under subsection (a), the Secretary of the Navy may not use more than 50 percent of the funds described in paragraph (2) during the fiscal year in which such materials are submitted until the date on which such plan and certification are submitted to the congressional defense committees.

(2) The funds described in this paragraph are funds made available to the Secretary of the Navy for operation and maintenance, Navy, for emergencies and extraordinary expenses.

(f) 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 “quadrennial defense review” means the review of the defense programs and policies of the United States that is carried out every four years under section 118¹ of this title.

(4) The term “combatant and support vessel” means any commissioned ship built or armed for naval combat or any naval ship designed to provide support to combatant ships and other naval operations. Such term does not include patrol coastal ships, non-commissioned combatant craft specifically designed for combat roles, or ships that are designated for potential mobilization.

(Added Pub. L. 107-314, div. A, title X, §1022(a)(1), Dec. 2, 2002, 116 Stat. 2639; amended Pub. L. 111-383, div. A, title X, §1023(a), Jan. 7, 2011, 124 Stat. 4349; Pub. L. 112-81, div. A, title X, §1011(a), Dec. 31, 2011, 125 Stat. 1558; Pub. L. 112-239, div. A, title X, §1014(a), Jan. 2, 2013, 126 Stat. 1908; Pub. L. 113-66, div. A, title X, §1021, Dec. 26, 2013, 127 Stat. 844; Pub. L. 113-291, div. A, title X, §§1021, 1071(c)(2), Dec. 19, 2014, 128 Stat. 3486, 3508; Pub. L. 114-92, div. A, title X, §1021, Nov. 25, 2015, 129 Stat. 965.)

REFERENCES IN TEXT

Section 118 of this title, referred to in subsec. (f)(3), was repealed by Pub. L. 114-328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367. For provisions related to national defense strategy similar to those contained in former section 118, see section 113(g) of this title.

AMENDMENTS

2015—Subsec. (b)(2)(C). Pub. L. 114-92 inserted “by ship class in both graphical and tabular form” after “The estimated levels of annual funding”.

2014—Subsec. (b)(1). Pub. L. 113-291, §1071(c)(2), substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

Subsec. (f)(4). Pub. L. 113-291, §1021, added par. (4).

2013—Subsec. (b)(1). Pub. L. 113-66, §1021(a)(1), substituted “shall be designed” for “should be designed” in two places and “supports” for “is capable of supporting” in two places.

Subsec. (b)(2)(B). Pub. L. 113-66, §1021(a)(2)(A), inserted “and capabilities” after “naval vessel force structure”.

Subsec. (b)(2)(D). Pub. L. 113-66, §1021(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 113-66, §1021(b), added subsec. (c) and struck out former subsec. (c). Text read as follows: “If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.”

Subsecs. (e), (f). Pub. L. 112-239 added subsec. (e) and redesignated former subsec. (e) as (f).

2011—Pub. L. 112-81 amended section generally. Prior to amendment, section related to submission of a long-range plan for construction of combatant and support naval vessels that supports the force structure recommendations of a quadrennial defense review.

Pub. L. 111-383 amended section generally. Prior to amendment, section related to submission of an annual

plan for construction of naval vessels and certification that the budget for the current fiscal year and the future-years defense program is sufficient for procurement of vessels provided for in the plan.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

§ 231a. Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees—

(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy, the Department of the Army, and the Department of the Air Force developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:

- (1) Fighter aircraft.
- (2) Attack aircraft.
- (3) Bomber aircraft.
- (4) Intertheater lift aircraft.
- (5) Intratheater lift aircraft.
- (6) Intelligence, surveillance, and reconnaissance aircraft.
- (7) Tanker aircraft.
- (8) Remotely piloted aircraft.
- (9) Rotary-wing aircraft.
- (10) Operational support and executive lift aircraft.

(11) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.

(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the aviation force provided for under the plan is capable of supporting the national military strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043), except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

¹ See References in Text note below.

(2) Each annual aircraft procurement plan shall include the following:

(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Navy, the Department of the Army, and the Department of the Air Force over the next 30 fiscal years.

(B) A description of the necessary aviation force structure to meet the requirements of the national military strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

(C) The estimated levels of annual investment funding necessary to carry out each aircraft program, together with a discussion of the procurement strategies on which such estimated levels of annual investment funding are based, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(D) The estimated level of annual funding necessary to operate, maintain, sustain, and support each aircraft program throughout the life-cycle of the program, set forth in aggregate for the Department of Defense and in aggregate for each military department.

(E) For each of the cost estimates required by subparagraphs (C) and (D)—

(i) a description of whether the cost estimate is derived from the cost estimate position of the military department or derived from the cost estimate position of the Cost Analysis and Program Evaluation office of the Secretary of Defense;

(ii) if the cost estimate position of the military department and the cost estimate position of the Cost Analysis and Program Evaluation office differ by more than .5 percent for any aircraft program, an annotated cost estimate difference and sufficient rationale to explain the difference; and

(iii) the confidence or certainty level associated with the cost estimate for each aircraft program.

(F) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Navy, the Department of the Army, and the Department of the Air Force meet the national security requirements of the United States.

(3) For any cost estimate required by paragraph (2)(C) or (D), for any aircraft program for which the Secretary is required to include in a report under section 2432 of this title, the source of the cost information used to prepare the annual aircraft plan, shall be sourced from the Selected Acquisition Report data that the Secretary plans to submit to the congressional defense committees in accordance with subsection (f) of that section for the year for which the annual aircraft plan is prepared.

(4) The annual aircraft procurement plan shall be submitted in unclassified form and shall contain a classified annex.

(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy, the

Department of the Army, or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

(e) 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 “Quadrennial Defense Review” means the review of the defense programs and policies of the United States that is carried out every 4 years under section 118¹ of this title.

(Added Pub. L. 110–417, [div. A], title I, §141(a), Oct. 14, 2008, 122 Stat. 4379; amended Pub. L. 112–81, div. A, title X, §1069(a), (b), Dec. 31, 2011, 125 Stat. 1589, 1591; Pub. L. 113–66, div. A, title X, §1091(a)(5), Dec. 26, 2013, 127 Stat. 875; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title I, §137, Dec. 23, 2016, 130 Stat. 2039.)

REFERENCES IN TEXT

Section 118 of this title, referred to in subsec. (e)(2), was repealed by Pub. L. 114–328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367. For provisions related to national defense strategy similar to those contained in former section 118 prior to repeal, see section 113(g) of this title.

AMENDMENTS

2016—Subsecs. (e), (f). Pub. L. 114–328 redesignated subsec. (f) as (e) and struck out former subsec. (e), which required the Secretary of Defense to include a report on the aircraft in the inventory of the Department of Defense as part of the annual plan and certification required to be submitted under this section.

2014—Subsec. (c)(1). Pub. L. 113–291 substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Subsec. (a). Pub. L. 113–66 substituted “fiscal year, the Secretary of Defense” for “fiscal year of Defense” in introductory provisions.

2011—Pub. L. 112–81, §1069(b), amended section catchline generally, substituting “Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification” for “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Subsec. (a). Pub. L. 112–81, §1069(a)(1)(A), substituted “Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year” for “The Secretary” and “submit to the congressional defense committees” for “include with the defense budget materials for each fiscal year” in introductory provisions.

Subsec. (a)(1). Pub. L. 112–81, §1069(a)(1)(B), inserted “, the Department of the Army,” after “Navy”.

Subsec. (b)(4). Pub. L. 112–81, §1069(a)(2)(A), substituted “Intertheater” for “Strategic”.

Subsec. (b)(8) to (11). Pub. L. 112–81, §1069(a)(2)(B), (C), added pars. (8) to (10) and redesignated former par. (8) as (11).

Subsec. (c)(1). Pub. L. 112–81, §1069(a)(3)(A), substituted “national military strategy of the United

¹ See References in Text note below.

States” for “national security strategy of the United States”.

Subsec. (c)(2)(A). Pub. L. 112–81, § 1069(a)(3)(B)(i), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(2)(B). Pub. L. 112–81, § 1069(a)(3)(B)(ii), substituted “national military strategy of the United States” for “national security strategy of the United States”.

Subsec. (c)(2)(C). Pub. L. 112–81, § 1069(a)(3)(B)(iii)(II), (III), substituted “each aircraft program” for “the program” and inserted before period at end “, set forth in aggregate for the Department of Defense and in aggregate for each military department”.

Pub. L. 112–81, § 1069(a)(3)(B)(iii)(I), which directed the insertion of “investment” before “funding”, was executed by inserting “investment” before “funding” both places it appeared, to reflect the probable intent of Congress.

Subsec. (c)(2)(D) to (F). Pub. L. 112–81, § 1069(a)(3)(B)(iv)–(vi), added subpars. (D) and (E), redesignated former subpar. (D) as (F), and, in subpar. (F), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(3), (4). Pub. L. 112–81, § 1069(a)(3)(C), added pars. (3) and (4).

Subsec. (d). Pub. L. 112–81, § 1069(a)(4), inserted “, the Department of the Army,” after “Navy”.

Subsec. (e). Pub. L. 112–81, § 1069(a)(6), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112–81, § 1069(a)(5), (7), redesignated subsec. (e) as (f), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “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.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

§ 232. Repealed. Pub. L. 112–239, div. A, title X, § 1081(1)(A), Jan. 2, 2013, 126 Stat. 1960

Section, added Pub. L. 108–375, div. A, title II, § 214(a), Oct. 28, 2004, 118 Stat. 1834, provided that amounts for research, development, test, and evaluation for the United States Joint Forces Command would be derived only from Defense-wide amounts and required a separate display for such amounts in the budget.

§ 233. Operation and maintenance budget presentation

(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President’s budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

(c) DEFINITIONS.—In this section:

(1) The term “O&M justification documents” means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President’s budget for any fiscal year.

(2) The term “President’s budget” means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

(3) The term “current year” means the fiscal year during which the President’s budget is submitted in any year.

(Added Pub. L. 108–375, div. A, title X, § 1003(a)(1), Oct. 28, 2004, 118 Stat. 2035.)

§ 234. POW/MIA activities: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

(3) The amount in the budget for that organization.

(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph (1), when compared to the amount shown pursuant to paragraph (3).

(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term “Department of Defense POW/MIA accounting and recovery organization” means any of the following (and any successor organization):

(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

(2) The Joint POW/MIA Accounting Command (JPAC).

(3) The Armed Forces DNA Identification Laboratory (AFDIL).

(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

(d) OTHER DEFINITIONS.—In this section:

(1) 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.

(2) 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.

(Added Pub. L. 109-364, div. A, title V, § 563(a), Oct. 17, 2006, 120 Stat. 2221.)

§ 235. Procurement of contract services: specification of amounts requested in budget

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include the information described in subsection (b) with respect to the procurement of contract services.

(b) INFORMATION PROVIDED.—For each budget account, the materials submitted shall clearly and separately identify—

(1) the amount requested for the procurement of contract services for each Department of Defense component, installation, or activity; and

(2) the number of full-time contractor employees (or the equivalent of full-time in the case of part-time contractor employees) projected and justified for each Department of Defense component, installation, or activity based on the inventory of contracts for services required by subsection (c) of section 2330a of this title and the review required by subsection (e) of such section.

(c) CONTRACT SERVICES DEFINED.—In this section, the term “contract services”—

(1) means services from contractors; but

(2) excludes services relating to research and development and services relating to military construction.

(Added Pub. L. 111-84, div. A, title VIII, § 803(a)(1), Oct. 28, 2009, 123 Stat. 2401.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 110-181, div. A, title VIII, § 806, Jan. 28, 2008, 122 Stat. 213, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 111-84, § 803(a)(3).

§ 236. Personal protection equipment procurement: display of budget information

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2014, a consolidated budget justification display that covers all programs and activities associated with the procurement of personal protection equipment during the period covered by the future-years defense program submitted in that fiscal year under section 221.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The consolidated budget justification display under

subsection (a) for a fiscal year shall include the following:

(1) The amount for personal protection equipment included in both the base budget of the President and any overseas contingency operations budget of the President.

(2) A brief description of each category of personal protection equipment for each military department planned to be procured and developed.

(3) For each category planned to be procured using funds made available for operation and maintenance (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, budget activity, and subactivity group for the category; and

(B) the funding profile for the fiscal year as requested, including cost and quantities, and an estimate of projected investments or procurements for each of the subsequent five fiscal years.

(4) For each category planned to be developed using funds made available for research, development, test, and evaluation (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, program, project or activity; program element number, and line number; and

(B) the funding profile for the fiscal year as requested and an estimate of projected investments for each of the subsequent five fiscal years.

(c) DEFINITIONS.—In this section:

(1) The terms “budget” and “defense budget materials” have the meaning given those terms in section 234 of this title.

(2) The term “category of personal protection equipment” means the following:

(A) Body armor components.

(B) Combat helmets.

(C) Combat protective eyewear.

(D) Other items as determined appropriate by the Secretary.

(Added Pub. L. 113-66, div. A, title I, § 141(a), Dec. 26, 2013, 127 Stat. 696.)

§ 237. Embedded mental health providers of the reserve components: display of budget information

The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President’s annual budget for the Department of Defense, a budget justification display with respect to embedded mental health providers within each reserve component, including the amount requested for each such component.

(Added Pub. L. 113-66, div. A, title VII, § 721(a), Dec. 26, 2013, 127 Stat. 799.)

§ 238. Cyber mission forces: program elements

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for fiscal year 2017 and each fiscal year thereafter, a budget justification display that includes—

(1) a major force program category for the five-year defense plan of the Department of Defense for the training, manning, and equipping of the cyber mission forces; and

(2) program elements for the cyber mission forces.

(b) **WAIVER.**—The Secretary may waive the requirement under subsection (a) for fiscal year 2017 if the Secretary—

(1) determines the Secretary is unable to comply with such requirement for fiscal year 2017; and

(2) establishes a plan to implement the requirement for fiscal year 2018.

(Added Pub. L. 113–291, div. A, title XVI, § 1631(a)(1), Dec. 19, 2014, 128 Stat. 3637.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

§ 239. National security space 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 national security space programs pursuant to section 222(b) of this title to prioritize national security space activities 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 2017 through 2020 a report on the budget for national security space programs of the Department of Defense.

(2) Each report on the budget for national security space programs of the Department of Defense 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, and the amounts appropriated for such 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.

(Added Pub. L. 114–92, div. A, title XVI, § 1601(a)(1), Nov. 25, 2015, 129 Stat. 1095.)

PLAN TO CARRY OUT UNIFIED MAJOR FORCE PROGRAM DESIGNATION

Pub. L. 114–92, div. A, title XVI, § 1601(b), Nov. 25, 2015, 129 Stat. 1096, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to carry out the unified major force program designation required by section 239(a) of title 10, United States Code, as added by subsection (a)(1), including any recommendations for legislative action the Secretary determines appropriate.”

CHAPTER 11—RESERVE COMPONENTS

Sec.

261.¹ Reference to chapters 1003, 1005, and 1007.

AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, § 1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2979, added item 261 and struck out former items 261 to 281.

1993—Pub. L. 103–160, div. A, title VIII, § 828(c)(1), Nov. 30, 1993, 107 Stat. 1714, added item 279.

1984—Pub. L. 98–525, title XIV, § 1405(7)(C), Oct. 19, 1984, 98 Stat. 2622, in item 264 substituted “armed force” for “military department” and “Reserves” for “reserves” and struck out “; reports to Congress” at end.

1978—Pub. L. 95–485, title IV, § 406(b)(2), Oct. 20, 1978, 92 Stat. 1616, struck out item 279 “Training reports”.

1967—Pub. L. 90–168, § 2(7), Dec. 1, 1967, 81 Stat. 522, substituted “designation of general or flag officers of each military department; personnel and logistic support for reserves; reports to Congress” for “responsibility for” in item 264.

1960—Pub. L. 86–559, § 1(2)(D), June 30, 1960, 74 Stat. 264, added item 281.

1958—Pub. L. 85–861, § 1(6), Sept. 2, 1958, 72 Stat. 1439, added items 270, 271, 272 and 279.

§ 241. Reference to chapters 1003, 1005, and 1007

Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.

(Added Pub. L. 103–337, div. A, title XVI, § 1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2980, § 261; renumbered § 241, Pub. L. 114–328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

AMENDMENTS

2016—Pub. L. 114–328 renumbered section 261 of this title as this section.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

CHAPTER 12—THE MILITIA

Sec.

246. Militia: composition and classes.

¹ So in original. Probably should be section “241”. Section renumbered by Pub. L. 114–328 without corresponding amendment of chapter analysis.