

each with an appropriate Federal or private entity, under which such entity may, under this subchapter—

- (1) process applications for loan guarantees;
- (2) administer repayment of loans; and
- (3) provide any other services to the Secretary to administer this subchapter.

(b) TREATMENT OF COSTS.—The costs of such agreements shall be considered, for purposes of the special account established under section 2541a(c), to be costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(Added Pub. L. 106-398, § 1 [[div. A], title X, § 1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-259.)

#### § 2541c. Transferability, additional limitations, and definition

The following provisions of subchapter VI of this chapter apply to guarantees issued under this subchapter:

- (1) Section 2540a, relating to transferability of guarantees.
- (2) Subsections (b) and (c) of section 2540b, providing limitations.
- (3) Section 2540d(2), providing a definition of the term “cost”.

(Added Pub. L. 106-398, § 1 [[div. A], title X, § 1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-260; amended Pub. L. 107-107, div. A, title X, § 1048(a)(24), Dec. 28, 2001, 115 Stat. 1224.)

#### AMENDMENTS

2001—Pub. L. 107-107 substituted “subchapter” for “subtitle” in two places in introductory provisions.

#### § 2541d. Reports

The Secretary of Defense shall require each qualified commercial firm for which a loan is guaranteed under this subchapter to submit to the Secretary a report on the improvements financed or refinanced with the loan. The report shall include an assessment of the value of the improvements for the protection of the critical infrastructure of that commercial firm. The Secretary shall prescribe the time for submitting the report.

(Added Pub. L. 106-398, § 1 [[div. A], title X, § 1033(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-260; amended Pub. L. 108-136, div. A, title X, § 1031(a)(25), Nov. 24, 2003, 117 Stat. 1598.)

#### PRIOR PROVISIONS

Prior sections 2542 to 2550 were renumbered sections 2552 to 2560 of this title, respectively.

#### AMENDMENTS

2003—Pub. L. 108-136 struck out subsec. (a) designation and heading and struck out subsec. (b) which directed that the Secretary of Defense annually submit to Congress a report on the loan guarantee program under this subchapter.

### CHAPTER 149—DEFENSE ACQUISITION SYSTEM

Sec.  
2545. Definitions.

Sec.  
2546. Civilian management of the defense acquisition system.  
2547. Acquisition-related functions of chiefs of the armed forces.  
2548. Performance assessments of the defense acquisition system.

#### PRIOR PROVISIONS

A prior chapter 149, comprised of sections 2511 to 2518, relating to manufacturing technology, was repealed, except for sections 2517 and 2518, by Pub. L. 102-484, div. D, title XLII, § 4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2517 and 2518 of that chapter were renumbered sections 2523 and 2522, respectively, of this chapter by Pub. L. 102-484, div. D, title XLII, §§ 4232(a), 4233(a), Oct. 23, 1992, 106 Stat. 2687, and were subsequently repealed.

Another prior chapter 149, comprised of section 2511, was successively renumbered chapter 150 of this title, comprised of section 2521, then chapter 152 of this title, comprised of section 2540 et seq.

A prior chapter 150, comprised of sections 2521 to 2526, relating to development of dual-use critical technologies, was repealed, except for sections 2524 to 2526, by Pub. L. 102-484, div. D, title XLII, § 4202(a), Oct. 23, 1992, 106 Stat. 2659. Sections 2524, 2525, and 2526 of that chapter were renumbered sections 2513, 2517, and 2518, respectively, of this chapter by Pub. L. 102-484, div. D, title XLII, §§ 4223(a), 4227(a), 4228, Oct. 23, 1992, 106 Stat. 2681, 2685. Section 2513 of this chapter was subsequently repealed.

Another prior chapter 150, comprised of section 2521, was renumbered chapter 152 of this title, comprised of section 2540 et seq.

#### § 2545. Definitions

In this chapter:

(1) The term “acquisition” has the meaning provided in section 4(16)<sup>1</sup> of the Office of Federal Procurement Policy Act (41 U.S.C. 403(16)).

(2) The term “defense acquisition system” means the workforce engaged in carrying out the acquisition of property and services for the Department of Defense; the management structure responsible for directing and overseeing the acquisition of property and services for the Department of Defense; and the statutory, regulatory, and policy framework that guides the acquisition of property and services for the Department of Defense.

(3) The term “element of the defense acquisition system” means an organization that employs members of the acquisition workforce, carries out acquisition functions, and focuses primarily on acquisition.

(4) The term “acquisition workforce” has the meaning provided in section 101(a)(18) of this title.

(Added Pub. L. 111-383, div. A, title VIII, § 861(a), Jan. 7, 2011, 124 Stat. 4288.)

#### REFERENCES IN TEXT

Section 4(16) of the Office of Federal Procurement Policy Act, referred to in par. (1), means section 4(16) of Pub. L. 93-400, which was classified to section 403(16) of former Title 41, Public Contracts, and was repealed and restated as section 131 of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

#### PRIOR PROVISIONS

A prior section 2545 was renumbered section 2555 of this title.

<sup>1</sup> See References in Text note below.

## SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title VIII, §860, Jan. 7, 2011, 124 Stat. 4287, provided that: “This subtitle [subtitle F (§§860-896) of title VIII of div. A of Pub. L. 111-383, enacting this chapter and sections 139e, 1701a, 1722b, 1748, 1762, and 2508 of this title, amending sections 101, 1723, 1746, 2302, 2500, 2501, 2505, and 2506 of this title, enacting provisions set out as notes under sections 1723, 1748, 2222, 2302, 2306a, 2330, and 2501 of this title, amending provisions set out as notes under section 2371 of this title and section 637 of Title 15, Commerce and Trade, and repealing provisions set out as notes under sections 1701 and 1723 of this title] may be cited as the ‘Improve Acquisition Act of 2010.’”

**§ 2546. Civilian management of the defense acquisition system**

(a) RESPONSIBILITY OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for the management of the defense acquisition system and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of the defense acquisition system, including the duties enumerated and assigned to the Under Secretary elsewhere in this title.

(b) RESPONSIBILITY OF THE SERVICE ACQUISITION EXECUTIVES.—Subject to the direction of the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters pertaining to acquisition, and subject to the authority, direction, and control of the Secretary of the military department concerned, a service acquisition executive of a military department shall be responsible for the management of elements of the defense acquisition system in that military department and shall exercise such control of the system and perform such duties as are necessary to ensure the successful and efficient operation of such elements of the defense acquisition system.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4288.)

## PRIOR PROVISIONS

A prior section 2546 was renumbered section 2556 of this title.

**§ 2547. Acquisition-related functions of chiefs of the armed forces**

(a) PERFORMANCE OF CERTAIN ACQUISITION-RELATED FUNCTIONS.—The Secretary of Defense shall ensure that the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps assist the Secretary of the military department concerned in the performance of the following acquisition-related functions of such department:

(1) The development of requirements relating to the defense acquisition system (subject, where appropriate, to validation by the Joint Requirements Oversight Council pursuant to section 181 of this title).

(2) The coordination of measures to control requirements creep in the defense acquisition system.

(3) The development of career paths in acquisition for military personnel (as required by section 1722a of this title).

(4) The assignment and training of contracting officer representatives when such representatives are required to be members of the armed forces because of the nature of the contract concerned.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the assignment of functions under section 3014(c)(1)(A), section 5014(c)(1)(A), or section 8014(c)(1)(A) of this title, except as explicitly provided in this section.

(c) DEFINITIONS.—In this section:

(1) The term “requirements creep” means the addition of new technical or operational specifications after a requirements document is approved by the appropriate validation authority for the requirements document.

(2) The term “requirements document” means a document produced in the requirements process that is provided for an acquisition program to guide the subsequent development, production, and testing of the program and that—

(A) justifies the need for a materiel approach, or an approach that is a combination of materiel and non-materiel, to satisfy one or more specific capability gaps;

(B) details the information necessary to develop an increment of militarily useful, logistically supportable, and technically mature capability, including key performance parameters; or

(C) identifies production attributes required for a single increment of a program.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289.)

## PRIOR PROVISIONS

A prior section 2547 was renumbered section 2557 of this title.

**§ 2548. Performance assessments of the defense acquisition system**

(a) PERFORMANCE ASSESSMENTS REQUIRED.—Not later than 180 days after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Director of Procurement and Acquisition Policy, and the Director of the Office of Performance Assessment and Root Cause Analysis, shall issue guidance, with detailed implementation instructions, for the Department of Defense to provide for periodic independent performance assessments of elements of the defense acquisition system for the purpose of—

(1) determining the extent to which such elements of the defense acquisition system deliver value to the Department of Defense, taking into consideration the performance elements identified in subsection (b);

(2) assisting senior officials of the Department of Defense in identifying and developing lessons learned from best practices and shortcomings in the performance of such elements of the defense acquisition system; and

(3) assisting senior officials of the Department of Defense in developing acquisition workforce excellence under section 1701a of this title<sup>1</sup>

(b) AREAS CONSIDERED IN PERFORMANCE ASSESSMENTS.—(1) Each performance assessment conducted pursuant to subsection (a) shall consider, at a minimum—

(A) the extent to which acquisitions conducted by the element of the defense acquisition system under review meet applicable cost, schedule, and performance objectives; and

(B) the staffing and quality of the acquisition workforce and the effectiveness of the management of the acquisition workforce, including workforce incentives and career paths.

(2) The Secretary of Defense shall ensure that the performance assessments required by this section are appropriately tailored to reflect the diverse nature of the work performed by each element of the defense acquisition system. In addition to the mandatory areas under paragraph (1), a performance assessment may consider, as appropriate, specific areas of acquisition concern, such as—

(A) the selection of contractors, including—

(i) the extent of competition and the use of exceptions to competition requirements;

(ii) compliance with Department of Defense policies regarding the participation of small business concerns and various categories of small business concerns, including the use of contract bundling and the availability of non-bundled contract vehicles;

(iii) the quality of market research;

(iv) the effective consideration of contractor past performance; and

(v) the number of bid protests, the extent to which such bid protests have been successful, and the reasons for such success;

(B) the negotiation of contracts, including—

(i) the appropriate application of section 2306a of this title (relating to truth in negotiations);

(ii) the appropriate use of contract types appropriate to specific procurements;

(iii) the appropriate use of performance requirements;

(iv) the appropriate acquisition of technical data and other rights and assets necessary to support long-term sustainment and follow-on procurement; and

(v) the timely definitization of any un-definitized contract actions; and

(C) the management of contractor performance, including—

(i) the assignment of appropriately qualified contracting officer representatives and other contract management personnel;

(ii) the extent of contract disputes, the reasons for such disputes, and the extent to which they have been successfully addressed;

(iii) the appropriate consideration of long-term sustainment and energy efficiency objectives; and

(iv) the appropriate use of integrated testing.

(c) CONTENTS OF GUIDANCE.—The guidance issued pursuant to subsection (a) shall ensure that each element of the defense acquisition system is subject to a performance assessment under this section not less often than once every four years, and shall address, at a minimum—

(1) the designation of elements of the defense acquisition system that are subject to performance assessment at an organizational level that ensures such assessments can be performed in an efficient and integrated manner;

(2) the frequency with which such performance assessments should be conducted;

(3) goals, standards, tools, and metrics for use in conducting performance assessments;

(4) the composition of the teams designated to perform performance assessments;

(5) any phase-in requirements needed to ensure that qualified staff are available to perform performance assessments;

(6) procedures for tracking the implementation of recommendations made pursuant to performance assessments;

(7) procedures for developing and disseminating lessons learned from performance assessments; and

(8) procedures for ensuring that information from performance assessments are retained electronically and are provided in a timely manner to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of the Office of Performance Assessment and Root Cause Analysis as needed to assist them in performing their responsibilities under this section.

(d) PERFORMANCE GOALS UNDER GOVERNMENT PERFORMANCE RESULTS ACT OF 1993.—Beginning with fiscal year 2012, the annual performance plan prepared by the Department of Defense pursuant to section 1115 of title 31 shall include appropriate performance goals for elements of the defense acquisition system.

(e) REPORTING REQUIREMENTS.—Beginning with fiscal year 2012—

(1) the annual report prepared by the Secretary of Defense pursuant to section 1116 of title 31, United States Code, shall address the Department's success in achieving performance goals established pursuant to such section for elements of the defense acquisition system; and

(2) the annual report prepared by the Director of the Office of Performance Assessment and Root Cause Analysis pursuant to section 103(f) of the Weapon Systems Acquisition Reform Act of 2009 (10 U.S.C. 2430 note), shall include information on the activities undertaken by the Department pursuant to such section, including a summary of significant findings or recommendations arising out of performance assessments.

(Added Pub. L. 111-383, div. A, title VIII, §861(a), Jan. 7, 2011, 124 Stat. 4289.)

#### REFERENCES IN TEXT

The date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, referred to in subsec. (a), is the date of enactment of Pub. L. 111-383, which was approved Jan. 7, 2011.

The Government Performance Results Act of 1993, referred to in subsec. (d), probably means the Govern-

<sup>1</sup> So in original. Probably should be followed by a period.

ment Performance and Results Act of 1993, Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

Section 103 of the Weapon Systems Acquisition Reform Act of 2009, referred to in subsec. (e)(2), is section 103 of Pub. L. 111-23, which was formerly set out as a note under section 2430 of this title, and was transferred, renumbered as section 2438 of this title, and amended by Pub. L. 111-383, div. A, title IX, § 901(d), (k)(1)(F), Jan. 7, 2011, 124 Stat. 4321, 4325.

#### PRIOR PROVISIONS

A prior section 2548 was renumbered section 2558 of this title.

### CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

Sec.	
2551.	Equipment and barracks: national veterans' organizations.
2552.	Equipment for instruction and practice: American National Red Cross.
2553.	Equipment and services: Presidential inaugural ceremonies.
2554.	Equipment and other services: Boy Scout Jamborees.
2555.	Transportation services: international Girl Scout events.
2556.	Shelter for homeless; incidental services.
2557.	Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance.
2558.	National military associations: assistance at national conventions.
2559.	Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services.
2560.	Aircraft and vehicles: limitation on leasing to non-Federal agencies.
2561.	Humanitarian assistance.
2562.	Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs.
2563.	Articles and services of industrial facilities: sale to persons outside the Department of Defense.
2564.	Provision of support for certain sporting events.
2564a.	Provision of assistance for adaptive sports programs for members of the armed forces.
2565.	Nuclear test monitoring equipment: furnishing to foreign governments.
2566.	Space and services: provision to military welfare societies.
[2567.	Repealed.]
2568.	Retention of combat uniforms by members deployed in support of contingency operations.

#### PRIOR PROVISIONS

Chapter was comprised of subchapter I, former section 2540, and subchapter II, sections 2541 to 2553, prior to amendment by Pub. L. 104-106, div. A, title XV, § 1503(a)(29), Feb. 10, 1996, 110 Stat. 512, which struck out headings for subchapters I and II.

#### AMENDMENTS

2011—Pub. L. 112-81, div. A, title V, § 589(b), Dec. 31, 2011, 125 Stat. 1438, which directed amendment of table

of sections at the beginning of this chapter by adding item 2564a after the item relating to section 717, was executed by adding item 2564a after item 2564, to reflect the probable intent of Congress.

Pub. L. 111-383, div. A, title X, § 1074(b)(2), Jan. 7, 2011, 124 Stat. 4368, substituted "Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance" for "Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief" in item 2557.

2008—Pub. L. 110-181, div. A, title III, § 376(b), title X, §§ 1063(a)(12), 1068(b)(2), Jan. 28, 2008, 122 Stat. 84, 322, 326, inserted period at end of item 2567 and then struck out item 2567 "Supplies, services, and equipment: provision in major public emergencies" and added item 2568.

2006—Pub. L. 109-364, div. A, title X, § 1076(b)(2), Oct. 17, 2006, 120 Stat. 2406, added item 2567.

2002—Pub. L. 107-314, div. A, title X, § 1066(b), Dec. 2, 2002, 116 Stat. 2656, added item 2566.

2001—Pub. L. 107-107, div. A, title III, § 361(b)(2), title XII, § 1201(a)(2), Dec. 28, 2001, 115 Stat. 1065, 1245, substituted "Excess nonlethal supplies: availability for homeless veteran initiatives and humanitarian relief" for "Excess nonlethal supplies: humanitarian relief" in item 2557 and substituted "2565." for "2555." in item 2565.

2000—Pub. L. 106-398, § 1 [[div. A], title X, § 1033(b)(2), title XII, § 1203(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-260, 1654A-325, renumbered items 2541 to 2554 as 2551 to 2564, respectively, and added item 2555 "Nuclear test monitoring equipment: furnishing to foreign governments" at end.

1997—Pub. L. 105-85, div. A, title X, § 1073(c)(2)(B), Nov. 18, 1997, 111 Stat. 1904, amended directory language of Pub. L. 104-201, § 367(b). See 1996 Amendment note below.

1996—Pub. L. 104-201, div. A, title III, § 367(b), Sept. 23, 1996, 110 Stat. 2497, as amended by Pub. L. 105-85, div. A, title X, § 1073(c)(2)(B), Nov. 18, 1997, 111 Stat. 1904, added item 2554.

Pub. L. 104-201, div. A, title III, § 366(b), Sept. 23, 1996, 110 Stat. 2496, substituted "Equipment and services: Presidential inaugural ceremonies" for "Equipment: Inaugural Committee" in item 2543.

Pub. L. 104-106, div. A, title XV, § 1503(a)(29), Feb. 10, 1996, 110 Stat. 512, struck out subchapter analysis consisting of items for subchapters I "Issue to the Armed Forces" and II "Issue of Serviceable Material Other Than to the Armed Forces" and struck out headings for subchapters I "ISSUE TO THE ARMED FORCES" and II "ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES".

1994—Pub. L. 103-337, div. A, title III, § 339(a)(2), title XVI, § 1671(b)(14), Oct. 5, 1994, 108 Stat. 2720, 3014, struck out item 2540 "Reserve components: supplies, services, and facilities" and added item 2553.

1992—Pub. L. 102-484, div. A, title III, § 304(c)(2), div. D, title XLIII, § 4304(b), Oct. 23, 1992, 106 Stat. 2362, 2700, added items 2551 and 2552.

1991—Pub. L. 102-190, div. A, title VIII, § 821(e)(1), (2), Dec. 5, 1991, 105 Stat. 1431, substituted "152" for "150" as chapter number, "ISSUE OF SUPPLIES, SERVICES, AND FACILITIES" for "ISSUE TO ARMED FORCES" as chapter heading, added subchapter analysis and subchapter I heading, renumbered item 2521 as 2540, and substituted subchapter II heading for former chapter 151 heading "ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES".

1990—Pub. L. 101-510, div. A, title VIII, § 823(a)(1), (b)(2), title XIV, § 1481(f)(2), (g)(2), Nov. 5, 1990, 104 Stat. 1600, 1602, 1707, substituted "150" for "149" as chapter number, renumbered item 2511 as 2521, and added items 2549 and 2550.

1989—Pub. L. 101-189, div. A, title III, § 329(a)(2), Nov. 29, 1989, 103 Stat. 1417, added item 2548.

1985—Pub. L. 99-145, title XIV, § 1454(b), Nov. 8, 1985, 99 Stat. 761, added item 2547.

1983—Pub. L. 98-94, title III, § 305(a)(2), Sept. 24, 1983, 97 Stat. 629, added item 2546.