

104TH CONGRESS
1ST SESSION

S. 646

To amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29 (legislative day, MARCH 27), 1995

Mr. ROTH (for himself, Mr. GRASSLEY, and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Defense
5 Acquisition Management Reform Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—PERFORMANCE BASED ACQUISITION PROCESS

Subtitle A—Performance Goals

- Sec. 101. Strengthened reporting requirement.
- Sec. 102. Termination of major defense acquisition programs not meeting goals.
- Sec. 103. Enhanced performance incentives for acquisition workforce.

Subtitle B—Results-Oriented Acquisition Process

- Sec. 111. Revision of regulations relating to acquisition of major systems and information technology systems.
- Sec. 112. Results oriented acquisition program cycle.
- Sec. 113. Operational test and evaluation requirements in relation to low-rate production.
- Sec. 114. Acquisition of information technology.

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- Sec. 142. Maximized benefit funding.
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- Sec. 151. Consideration of past performance in assignment to acquisition positions.
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- Sec. 162. Amendments to title 18, United States Code.
- Sec. 163. Repeal of superseded and obsolete laws.
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Subtitle H—Clerical Amendments

- Sec. 171. Clerical amendments to title 10.
- Sec. 172. Other laws.

TITLE II—REORGANIZATION AND REFORM OF THE DEFENSE ACQUISITION SYSTEM

Subtitle A—Streamlining and Improvement of Acquisition Management

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 Sec. 226. Major defense acquisition programs.
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- Sec. 241. Effective date.

TITLE III—DEPOT-LEVEL MAINTENANCE

- Sec. 301. Elimination of 60/40 rule for public/private division of depot-level maintenance workload.
 Sec. 302. Preservation of core maintenance and repair capability.
 Sec. 303. Performance of depot-level maintenance workload by private sector whenever possible.

1 **TITLE I—PERFORMANCE BASED**
 2 **ACQUISITION PROCESS**

3 **Subtitle A—Performance Goals**

4 **SEC. 101. STRENGTHENED REPORTING REQUIREMENT.**

5 Section 2220(b) of title 10, United States Code, is
 6 amended in the first sentence by striking out “an assess-
 7 ment of whether major and nonmajor acquisition pro-
 8 grams of the Department of Defense are achieving” and
 9 inserting in lieu thereof “an assessment, for each Depart-
 10 ment of Defense appropriation account, of whether the

1 major and nonmajor acquisition programs funded from
2 such account are achieving”.

3 **SEC. 102. TERMINATION OF MAJOR DEFENSE ACQUISITION**
4 **PROGRAMS NOT MEETING GOALS.**

5 Section 2220 of title 10, United States Code, is amend-
6 ed by adding at the end the following:

7 “(d) TERMINATION OF PROGRAMS SIGNIFICANTLY
8 UNDER GOALS.—The Secretary of Defense shall termi-
9 nate any major defense acquisition program that—

10 “(1) is more than 50 percent over the cost goal
11 established for a phase of the program;

12 “(2) fails to achieve at least 50 percent of the
13 performance capability goals established for a phase
14 of the program; or

15 “(3) is more than 50 percent behind schedule,
16 as determined in accordance with the schedule goal
17 established for a phase of the program.”.

18 **SEC. 103. ENHANCED PERFORMANCE INCENTIVES FOR AC-**
19 **QUISITION WORKFORCE.**

20 (a) CLARIFICATION OF REQUIREMENTS FOR SYSTEM
21 OF INCENTIVES.—Subsection (b) of section 5001 of the
22 Federal Acquisition Streamlining Act of 1994 (Public Law
23 103–355; 108 Stat. 3350; 10 U.S.C. 2220 note) is
24 amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 subparagraphs (A) and (B), respectively;

3 (2) by designating the second sentence as para-
4 graph (2); and

5 (3) by inserting “(1)” after “(b) ENHANCED
6 SYSTEM OF PERFORMANCE INCENTIVES.—”; and

7 (4) by adding at the end the following:

8 “(3) The Secretary shall include in the enhanced sys-
9 tem of incentives the following:

10 “(A) Pay bands.

11 “(B) Significant and material pay and pro-
12 motion incentives to be awarded, and significant and
13 material unfavorable personnel actions to be im-
14 posed, under the system exclusively, or primarily, on
15 the basis of the contributions of personnel to the
16 performance of the acquisition program in relation
17 to cost goals, performance goals, and schedule goals.

18 “(C) Provisions for pay incentives and pro-
19 motion incentives to be awarded under the system
20 only if—

21 “(i) the cost of the acquisition program is
22 less than 90 percent of the baseline parameter
23 established for the cost of the program under
24 section 2435 of title 10, United States Code;

1 “(ii) the period for completion of the pro-
2 gram is less than 90 percent of the period pro-
3 vided under the baseline parameter established
4 for the program schedule under such section;
5 and

6 “(iii) the results of the phase of the pro-
7 gram being executed exceed the performance
8 parameter established for the system under
9 such section by more than 10 percent.

10 “(D) Provisions for unfavorable personnel ac-
11 tions to be taken under the system only if the acqui-
12 sition program performance for the phase being exe-
13 cuted exceeds by more than 10 percent the cost and
14 schedule parameters established for the program
15 phase under section 2435 of title 10, United States
16 Code, and the performance of the system acquired or
17 to be acquired under the program fails to achieve at
18 least 90 percent of the baseline parameters estab-
19 lished for performance of the program under such
20 section.”.

21 (b) RECOMMENDED LEGISLATION.—Subsection (c)
22 of such section is amended by adding at the end the follow-
23 ing: “The Secretary shall include in the recommendations
24 provisions necessary to implement the requirements of
25 subsection (b)(3).”.

1 (c) IMPLEMENTATION OF INCENTIVES SYSTEM.—
 2 Section 5001 of the Federal Acquisition Streamlining Act
 3 of 1994 is further amended by adding at the end the fol-
 4 lowing:

5 “(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—
 6 (1) The Secretary shall complete the review required by
 7 subsection (b) and take such actions as are necessary to
 8 provide an enhanced system of incentives in accordance
 9 with such subsection not later than October 1, 1997.

10 “(2) Not later than October 1, 1996, the Secretary
 11 shall submit to the Committee on Armed Services of the
 12 Senate and the Committee on National Security of the
 13 House of Representatives a report on the actions taken
 14 to satisfy the requirements of paragraph (1).”.

15 **Subtitle B—Results-Oriented**
 16 **Acquisition Process**

17 **SEC. 111. REVISION OF REGULATIONS RELATING TO ACQUI-**
 18 **SITION OF MAJOR SYSTEMS AND INFORMA-**
 19 **TION TECHNOLOGY SYSTEMS.**

20 Not later than October 1, 1996, the Secretary of De-
 21 fense shall revise the regulations of the Department of De-
 22 fense relating to the acquisition of major systems and of
 23 information technology systems to ensure that, in the ac-
 24 quisition of those systems, program managers focus on
 25 achieving results rather than on preparing and transmit-

1 ting reports and building consensus among interested per-
2 sons.

3 **SEC. 112. RESULTS ORIENTED ACQUISITION PROGRAM**
4 **CYCLE.**

5 (a) CYCLE DEFINED.—Chapter 131 of title 10,
6 United States Code, is amended by adding at the end the
7 following:

8 **“§ 2221. Results oriented acquisition program cycle**

9 “(a) PROGRAM PHASES.—The Secretary of Defense
10 shall define in regulations a simplified acquisition program
11 cycle that is results-oriented and consists of the following
12 phases:

13 “(1) The integrated decision team meeting
14 which—

15 “(A) may be requested by a potential user
16 of the system or component to be acquired, the
17 head of a laboratory, or a program office on
18 such bases as the emergence of a new military
19 requirement, cost savings opportunity, or new
20 technology opportunity;

21 “(B) shall be conducted by the program
22 executive officer;

23 “(C) shall include representatives of com-
24 manders of unified and specified combatant

1 commands, all armed forces (other than the
2 Coast Guard), laboratories, and industry;

3 “(D) shall result in the team recommend-
4 ing to the potential user a range of solutions for
5 meeting user requirements or for evaluating op-
6 portunities; and

7 “(E) shall be completed within one to three
8 months.

9 “(2) The prototype development and testing
10 phase which—

11 “(A) shall include operational tests and
12 concerns relating to manufacturing operations
13 and life cycle support;

14 “(B) shall be completed within 6 to 36
15 months; and

16 “(C) shall produce sufficient numbers of
17 prototypes to assess operational utility.

18 “(3) Product integration, development, and
19 testing which—

20 “(A) shall include full-scale development,
21 operational testing, and integration of compo-
22 nents; and

23 “(B) shall be completed within one to five
24 years.

1 “(4) Production, integration into existing sys-
2 tems, or production and integration into existing
3 systems.

4 “(b) RELATIONSHIP BETWEEN EXTENT OF TECH-
5 NICAL RISK AND COMPLETION OF PHASES.—(1) The time
6 constraints set forth in subsections (a)(1)(E), (a)(2)(B),
7 and (a)(3)(B) establish maximum limits for completion of
8 the acquisition program cycle and for each phase of the
9 program cycle. The regulations prescribed for the acquisi-
10 tion program cycle shall provide for reducing the maxi-
11 mum time limits for an acquisition program in relation
12 to the degree of the technical difficulty that is involved
13 in the execution of the various recommendations developed
14 for the program in the integrated decision team phase
15 under subsection (a)(1)(D).

16 “(2) The regulations shall provide three alternatives
17 for maximum time limits that are to apply to completion
18 of the acquisition program cycle for a program and for
19 each phase of the program cycle, as follows:

20 “(A) In the case of an acquisition that involves
21 complex technical risks and integration issues, com-
22 pletion within the maximum time limits set forth in
23 subsection (a).

24 “(B) In the case of an acquisition of a compo-
25 nent primarily using existing technology or of a

1 modification of a component or system primarily
2 using existing technology, accelerated completion.

3 “(C) In the case of an acquisition of a commer-
4 cial item or a nondevelopmental item, relatively
5 rapid completion.

6 “(c) SINGLE MAJOR DECISION POINT.—(1) The ac-
7 quisition program approval process within the Department
8 of Defense shall have one major decision point which shall
9 occur for an acquisition program before that program pro-
10 ceeds into product integration, development, and testing.

11 “(2) At the major decision point for an acquisition
12 program, the Under Secretary of Defense for Acquisition,
13 in consultation with the Vice Chairman of the Joint Chiefs
14 of Staff, shall—

15 “(A) review the program;

16 “(B) determine whether the program should
17 continue to be carried out beyond product integra-
18 tion and development; and

19 “(C) decide whether—

20 “(i) to direct the program manager to re-
21 quest an integrated decision team meeting;

22 “(ii) to proceed into product integration or
23 development; or

24 “(iii) to terminate the program.

1 “(3) In the review of an acquisition program, the
2 Under Secretary shall consider the potential benefits,
3 independent cost estimates, affordability, needs, and risks
4 of the program.

5 “(d) USER INVOLVEMENT IN INTEGRATION MAT-
6 TERS.—The regulations under subsection (a) shall ensure
7 that the potential users (within the military departments)
8 of an item being acquired under the program cycle set
9 forth in subsection (a) are afforded an opportunity to par-
10 ticipate meaningfully in the acquisition decisions concern-
11 ing such item during the phases described in paragraphs
12 (3) and (4) of that subsection.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) COORDINATION AND COMMUNICATION OF
15 DEFENSE RESEARCH ACTIVITIES.—Section 2364 of
16 title 10, United States Code, is amended—

17 (A) in subsection (b)(5), by striking out
18 “making milestone 0, milestone I, and mile-
19 stone II decision” and inserting in lieu thereof
20 “the integrated decision team meeting, the
21 making of the decision at the single major deci-
22 sion point under subsection (c) of section 2221
23 of this title, and, as appropriate, the making of
24 other acquisition program decisions during the

1 acquisition program cycle described in section
2 2221 of this title”; and

3 (B) by striking out subsection (c).

4 (2) SURVIVABILITY AND LETHALITY TEST-
5 ING.—Section 2366(c) of such title is amended by
6 striking out “engineering and manufacturing devel-
7 opment” in paragraph (1) and in the second sen-
8 tence of paragraph (2) and inserting in lieu thereof
9 “product integration, development, and testing”.

10 (3) LOW-RATE INITIAL PRODUCTION OF NEW
11 SYSTEMS.—Section 2400(a)(2) of such title is
12 amended by striking out “engineering and manufac-
13 turing development” and inserting in lieu thereof
14 “product integration, development, and testing”.

15 (4) SELECTED ACQUISITION REPORTS.—Section
16 2432 of such title is amended—

17 (A) in subsection (b)(3)(A)(i), by striking
18 out “engineering and manufacturing devel-
19 opment” and inserting in lieu thereof “product in-
20 tegration, development, and testing”;

21 (B) in subsection (c)(3)(A), by striking out
22 “engineering and manufacturing development
23 phase or has completed that stage” and insert-
24 ing in lieu thereof “product integration, devel-

1 opment, and testing phase or has completed
2 that phase”;

3 (C) in subsection (h)(1)—

4 (i) in the first sentence, by striking
5 out “engineering and manufacturing devel-
6 opment” and inserting in lieu thereof “pro-
7 totype development and testing”; and

8 (ii) in the second sentence, by striking
9 out “engineering and manufacturing devel-
10 opment” and inserting in lieu thereof
11 “product integration, development, and
12 testing”.

13 (5) MAJOR DEFENSE ACQUISITION PRO-
14 GRAMS.—

15 (A) INDEPENDENT COST ESTIMATES.—

16 Section 2434(a) of such title is amended by
17 striking out “engineering and manufacturing
18 development, or the production and deploy-
19 ment,” and inserting in lieu thereof “product
20 integration, development, and testing”.

21 (B) BASELINE DESCRIPTION.—Section
22 2435 of such title is amended—

23 (i) in subsection (b), by striking out
24 “engineering and manufacturing develop-

1 ment” and inserting in lieu thereof “proto-
2 type development and testing”; and

3 (ii) by striking out subsection (c) and
4 inserting in lieu thereof the following:

5 “(c) SCHEDULE.—A baseline description for a major
6 defense acquisition program shall be prepared under this
7 section—

8 “(1) before the program enters prototype devel-
9 opment and testing;

10 “(2) before the program enters product integra-
11 tion and development; and

12 “(3) before the program enters production, in-
13 tegration into existing systems, or production and
14 integration into existing systems.”.

15 **SEC. 113. OPERATIONAL TEST AND EVALUATION REQUIRE-**
16 **MENTS IN RELATION TO LOW-RATE PRODUC-**
17 **TION.**

18 (a) REQUIREMENTS.—Section 2399 of title 10,
19 United States Code, is amended to read as follows:

20 **“§ 2399. Operational test and evaluation of major sys-**
21 **tems**

22 “(a) CONDITION FOR PROCEEDING INTO LOW-RATE
23 INITIAL PRODUCTION.—(1) The Secretary of Defense
24 may not issue a notice to proceed with production of a
25 major system until—

1 “(A) at least one phase of initial operational
2 test and evaluation has been completed, during the
3 prototype development and testing phase and again
4 during the product integration, development, and
5 testing phase, in order to demonstrate that the sys-
6 tem—

7 “(i) meets the minimum performance re-
8 quirements established for the system;

9 “(ii) is suitable for the purposes for which
10 the system is to be acquired; and

11 “(iii) does not require significant design
12 changes or other significant modifications in
13 order to demonstrate required operational capa-
14 bilities; and

15 “(B) the Director of Operational Test and
16 Evaluation has certified to the Secretary and to the
17 congressional defense committees that—

18 “(i) the test and evaluation performed on
19 the system were adequate; and

20 “(ii) the conditions set forth in clauses (i),
21 (ii), and (iii) of subparagraph (A) were satis-
22 fied.

23 “(2) The Secretary may waive the requirements of
24 paragraph (1)(B) in the case of a major system if the Sec-
25 retary—

1 “(A) determines and certifies to the congres-
2 sional defense committees that the waiver is vital to
3 national security interests; or

4 “(B) certifies to the congressional defense com-
5 mittees that the Secretary has information that
6 demonstrates that the conditions set forth in clauses
7 (i), (ii), and (iii) of paragraph (1)(A) can be satis-
8 fied without increasing—

9 “(i) the production unit cost of the system
10 by more than 10 percent over the production
11 unit cost estimated at the time of the waiver;
12 and

13 “(ii) the production period for the system
14 by more than 10 percent over the production
15 period estimated at the time of the waiver.

16 “(3) Paragraph (1) does not apply to acquisition of
17 a naval vessel or a satellite.

18 “(b) CONDITION FOR PROCEEDING BEYOND LOW-
19 RATE INITIAL PRODUCTION.—The Secretary of Defense
20 shall provide that a program for the acquisition of a major
21 system may not proceed beyond low-rate initial production
22 until initial operational test and evaluation of the program
23 is completed.

24 “(c) OPERATIONAL TEST AND EVALUATION.—(1)
25 Operational testing of a major system may not be con-

1 ducted until the Director of Operational Test and Evalua-
2 tion of the Department of Defense—

3 “(A) approves (in writing) the adequacy of the
4 plans for operational test and evaluation of the sys-
5 tem, including the adequacy of the plans with regard
6 to—

7 “(i) the projected level of funding; and

8 “(ii) demonstration of the matters set
9 forth in clauses (i), (ii), and (iii) of subsection
10 (a)(1)(A); and

11 “(B) determines the quantity of articles of the
12 system that are needed for operational testing.

13 “(2) The Director shall analyze the results of the
14 operational test and evaluation of each major system. At
15 the conclusion of such testing, the Director shall deter-
16 mine whether—

17 “(A) the test and evaluation performed were
18 adequate; and

19 “(B) the results of such test and evaluation
20 confirm that the items or components actually tested
21 are effective and suitable for combat.

22 “(3) A final decision within the Department of De-
23 fense to proceed with a program for the acquisition of a
24 major system beyond low-rate initial production may not
25 be made until the Director submits to the Secretary of

1 Defense and the congressional defense committees a writ-
2 ten opinion on the matters.

3 “(d) NON-MAJOR SYSTEMS.—Operational testing of
4 a new system other than a major system may not be con-
5 ducted until the head of the operational test and evalua-
6 tion agency of the military department concerned deter-
7 mines the quantity of articles of the system that are to
8 be procured for operational testing.

9 “(e) IMPARTIALITY OF CONTRACTOR TESTING PER-
10 SONNEL.—No person employed by the contractor under
11 a program for the acquisition of a major system may be
12 involved in the conduct of the operational test and evalua-
13 tion necessary for the program to proceed beyond low-rate
14 production in accordance with subsection (b). The limita-
15 tion in the preceding sentence does not apply to the extent
16 that the Secretary of Defense plans for persons employed
17 by that contractor to be involved in the operation, mainte-
18 nance, and support of the system when the system is de-
19 ployed in combat.

20 “(f) IMPARTIAL CONTRACTED ADVISORY AND AS-
21 SISTANCE SERVICES.—(1) The Director may not contract
22 with any person for advisory and assistance services with
23 regard to the test and evaluation of a major system if that
24 person participated in (or is participating in) the develop-
25 ment, production, or testing of such system for a military

1 department or Defense Agency (or for another contractor
2 of the Department of Defense).

3 “(2) The Director may waive the limitation under
4 paragraph (1) in any case if the Director determines in
5 writing that sufficient steps have been taken to ensure the
6 impartiality of the contractor in providing the services.
7 The Inspector General of the Department of Defense shall
8 review each such waiver and shall include in the Inspector
9 General’s semi-annual report an assessment of those waiv-
10 ers made since the last such report.

11 “(3)(A) A contractor that has participated in (or is
12 participating in) the development, production, or testing
13 of a system for the Department of Defense or for another
14 contractor of the Department of Defense may not be in-
15 volved in any way in the establishment of criteria for data
16 collection, performance assessment, or evaluation activities
17 for the operational test and evaluation of that system.

18 “(B) The limitation in subparagraph (A) does not
19 apply to a contractor that has participated solely in testing
20 for the Federal Government.

21 “(g) SOURCE OF FUNDS FOR TESTING.—The costs
22 for all tests required under subsection (b) shall be paid
23 from funds available for the system being tested.

24 “(h) DIRECTOR’S ANNUAL REPORT.—As part of the
25 annual report of the Director under section 139 of this

1 title, the Director shall describe for each program covered
2 in the report the status of test and evaluation activities
3 in comparison with the test and evaluation master plan
4 for that program, as approved by the Director. The Direc-
5 tor shall include in such annual report a description of
6 each waiver granted under subsection (f)(2) since the last
7 such report.

8 “(i) DEFINITIONS.—In this section:

9 “(1) The term ‘major system’ has the meaning
10 given that term in section 2302(5) of this title.

11 “(2) The term ‘operational test and evaluation’
12 has the meaning given that term in section
13 139(a)(2)(A) of this title. For purposes of subsection
14 (a), that term does not include an operational as-
15 sessment based exclusively on—

16 “(A) computer modeling;

17 “(B) simulation; or

18 “(C) an analysis of system requirements,
19 engineering proposals, design specifications, or
20 any other information contained in program
21 documents.

22 “(3) The term ‘congressional defense commit-
23 tees’ means—

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

4 “(B) the Committee on National Security
5 and the Committee on Appropriations of the
6 House of Representatives.”.

7 (b) QUANTITIES PROCURED FOR LOW-RATE INITIAL
8 PRODUCTION.—(1) Subsection (a) of section 2400 of such
9 title is amended—

10 (A) by striking out paragraph (3);

11 (B) by redesignating paragraphs (4) and (5) as
12 paragraphs (3) and (4), respectively;

13 (C) by striking out the second sentence of para-
14 graph (4), as so redesignated; and

15 (D) by adding at the end the following new
16 paragraph:

17 “(5)(A) Except as provided in subparagraph (B), the
18 quantity determined for a system under paragraph (1)
19 may not exceed the quantity equal to 10 percent of the
20 total quantity of articles of the system that is to be ac-
21 quired under the program for the acquisition of such sys-
22 tem, determined as of the date on which funds appro-
23 priated for procurement are first obligated for the pro-
24 gram.

1 “(B) The quantity of articles determined for a system
2 under paragraph (1) may exceed the maximum quantity
3 provided under subparagraph (A)—

4 “(i) during a war declared by Congress or a na-
5 tional emergency declared by Congress or the Presi-
6 dent; or

7 “(ii) if the Secretary of Defense certifies to the
8 congressional defense committees referred to in sec-
9 tion 2399(i)(3) of this title that it is necessary to do
10 so in order to provide for completion of initial oper-
11 ational test and evaluation of the system and that it
12 is impracticable to limit the quantity of the articles
13 procured to such maximum quantity.

14 “(6) The additional quantity of articles that may be
15 determined for a system pursuant to the exception in
16 paragraph (5)(B)(ii) may not exceed the quantity equal
17 to 5 percent of the total quantity of articles of the system
18 that are to be acquired under the program, determined
19 as of the date referred to in paragraph (5)(A).”.

20 (2) Subsection (b) of such section is amended to read
21 as follows:

22 “(b) LOW-RATE INITIAL PRODUCTION OF WEAPON
23 SYSTEMS.—Except as provided in subsection (c), low-rate
24 initial production with respect to a new system is produc-
25 tion of the system in the minimum quantity necessary—

1 “(1) to establish an initial production base with
2 the capacity to provide production-configured or rep-
3 resentative articles for operational tests pursuant to
4 section 2399 of this title; and

5 “(2) to maintain such production base until ini-
6 tial operational test and evaluation of the system is
7 completed and a decision is made regarding whether
8 to proceed into full-rate production.”.

9 (c) DUTIES AND AUTHORITY OF DIRECTOR OF OPER-
10 ATIONAL TEST AND EVALUATION.—Section 139(c) of title
11 10, United States Code, is amended by striking out the
12 first sentence and inserting in lieu thereof the following:
13 “The Director reports directly, without intervening review
14 or approval, to the Secretary of Defense personally.”.

15 (d) EFFECTIVE DATE AND SAVINGS PROVISION.—(1)
16 The amendments made by this section shall take effect
17 on the date of the enactment of this Act.

18 (2) The amendments made by subsections (a), (b),
19 and (c) shall apply with respect to programs for the acqui-
20 sition of systems that, as of the date of the enactment
21 of this Act, are scheduled to enter low-rate initial produc-
22 tion on or after October 1, 1996.

23 (3) The provisions of sections 2399 and 2400 of title
24 10, United States Code, as in effect on the day before
25 the date of the enactment of this Act, shall continue to

1 apply after that date to programs for the acquisition of
2 major systems that enter or, as of the date of the enact-
3 ment of this Act, are scheduled to enter low-rate initial
4 production before October 1, 1996.

5 **SEC. 114. ACQUISITION OF INFORMATION TECHNOLOGY.**

6 The Secretary of Defense shall revise the existing De-
7 partment of Defense directives regarding development and
8 procurement of information systems (numbered in the
9 8000 series) and the Department of Defense directives
10 numbered in the 5000 series in order to consolidate those
11 directives into one series of directives that is consistent
12 with the simplified acquisition program cycle provided for
13 in section 2221 of title 10, United States Code, as added
14 by section 112.

15 **Subtitle C—Rapid Contracting**

16 **SEC. 121. GOAL.**

17 (a) ESTABLISHMENT.—The Secretary of Defense
18 shall establish a goal of reducing by 50 percent the time
19 necessary for the Department of Defense to acquire an
20 item for the user of that item.

21 (b) ACTION.—The Secretary shall take such action
22 as is necessary to ensure that the Department of Defense
23 achieves the goal established under subsection (a), includ-
24 ing actions necessary to facilitate—

1 (1) the definition of the requirements for an ac-
2 quisition; and

3 (2) the selection of sources from among the
4 offerors.

5 **SEC. 122. AUTHORITY TO LIMIT NUMBER OF OFFERORS.**

6 Section 2305(b) of title 10, United States Code, is
7 amended by adding at the end the following:

8 “(5) Under regulations prescribed by the head of an
9 agency, a contracting officer of the agency receiving more
10 than three competitive proposals for a proposed contract
11 may solicit best and final offers from three of the offerors
12 who submitted offers within the competitive range. Not-
13 withstanding paragraph (4)(A)(i), the contracting officer
14 need not first conduct discussions with all of the respon-
15 sible parties that submit offers within the competitive
16 range.”.

17 **SEC. 123. PREFERENCE FOR CERTIFIED CONTRACTORS.**

18 Chapter 137 of title 10, United States Code is
19 amended by inserting after section 2319 the following new
20 section:

21 **“§ 2319a. Contractor performance certification sys-
22 tem**

23 “(a) CERTIFICATION AUTHORIZED.—The Secretary
24 of Defense may establish a contractor certification system
25 for the procurement of particular property or services that

1 are procured by the Department of Defense on a repetitive
2 basis. Under the system, the Secretary shall use competi-
3 tive procedures to certify contractors as eligible for con-
4 tracts to furnish such property or services. The Secretary
5 shall award certifications on the basis of the relative effi-
6 ciency and effectiveness of the business practices, level of
7 quality, and demonstrated contract performance of the re-
8 sponding contractors with regard to the particular prop-
9 erty or services.

10 “(b) PROCUREMENT FROM CERTIFIED CONTRAC-
11 TORS.—The head of an agency within the Department of
12 Defense may enter into a contract for a procurement of
13 property or services referred to in subsection (a) on the
14 basis of a competition among contractors certified with re-
15 spect to such property or services pursuant to that sub-
16 section.

17 “(c) TERMINATION OF CERTIFICATION.—The Sec-
18 retary—

19 “(1) may provide for the termination of a cer-
20 tification awarded a contractor under this section
21 upon the expiration of a period specified by the Sec-
22 retary; and

23 “(2) may revoke a certification awarded a con-
24 tractor under this section upon a determination that
25 the quality of performance of the contractor does not

1 meet standards applied by the Secretary as of the
2 time of the revocation decision.”.

3 **SEC. 124. CONSIDERATION OF PAST PERFORMANCE AND**
4 **ELIGIBILITY CERTIFICATION.**

5 Section 2305 of title 10, United States Code, is
6 amended—

7 (1) in subsection (a)(2)(A)(i)—

8 (A) by striking out “(including price)” and
9 inserting in lieu thereof “(including price, past
10 contract performance of the offeror, and any
11 certification of the offeror under section 2319a
12 of this title)”; and

13 (B) by striking out “and noncost-related”
14 and inserting in lieu thereof the following: “past
15 contract performance of the offeror, any certifi-
16 cation of the offeror under section 2319a of this
17 title, and other noncost-related”;

18 (2) in subsection (b)—

19 (A) in paragraph (3), by striking out “and
20 the other price-related factors included in the
21 solicitation” in the second sentence and insert-
22 ing in lieu thereof “, the other price-related fac-
23 tors included in the solicitation, the past con-
24 tract performance (if any) of the offerors, and

1 any certification of offerors under section
2 2319a of this title”; and

3 (B) in paragraph (4)(B), by striking out
4 “and the other factors included in the sollicita-
5 tion” in the first sentence and inserting in lieu
6 thereof “, the past contract performance (if
7 any) of the offerors, any certification of offerors
8 under section 2319a of this title, and the other
9 factors included in the solicitation”;

10 (3) in subsection (c)(1), by inserting “past per-
11 formance of the offerors, any certification of offerors
12 under section 2319a of this title,” after “(consider-
13 ing quality, price, delivery,”; and

14 (4) by adding at the end the following new sub-
15 section:

16 “(g) The Secretary of Defense shall maintain a con-
17 tractor performance data base. The Secretary shall include
18 in the data base information on the history of the perform-
19 ance of each contractor under Department of Defense con-
20 tracts and, for each such contract performed by the con-
21 tractor, a technical evaluation of the contractor’s perform-
22 ance prepared by the acquisition program manager re-
23 sponsible for the contract. The Secretary shall make infor-
24 mation in the data base available to acquisition program
25 executive officers and acquisition program managers of

1 the Department of Defense and to the contractor to which
2 the information pertains.”.

3 **SEC. 125. ENCOURAGEMENT OF MULTIYEAR CONTRACTING.**

4 Section 2306b(a) of title 10, United States Code, is
5 amended in the matter preceding paragraph (1) by strik-
6 ing out “may” and inserting in lieu thereof “shall, to the
7 maximum extent possible,”.

8 **SEC. 126. ENCOURAGEMENT OF USE OF LEASING**
9 **AUTHORITY.**

10 (a) IN GENERAL.—Chapter 137 of title 10, United
11 States Code, is amended by inserting after section 2316
12 the following new section:

13 **“§ 2317. Equipment leasing**

14 “The Secretary of Defense shall authorize and en-
15 courage the use of leasing in the acquisition of equipment
16 whenever such leasing is practicable and otherwise author-
17 ized by law.”.

18 (b) REPORT.—Not later than 90 days after the date
19 of the enactment of this Act, the Secretary of Defense
20 shall submit to Congress a report setting forth changes
21 in legislation that would be required in order to facilitate
22 the use of leases by the Department of Defense in the
23 acquisition of equipment, including the use of multiyear
24 leases.

1 **Subtitle D—Performance Based**
2 **Contract Management**

3 **SEC. 131. UNALLOWABLE COSTS.**

4 (a) SPECIFIC COSTS.—Section 2324(e)(1) of title 10,
5 United States Code, is amended by adding at the end the
6 following:

7 “(P) Labor costs in excess of the labor costs
8 provided for in the offer of the contractor.

9 “(Q) Bid protest costs.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect on the date of the enact-
12 ment of this Act and shall apply with respect to solicita-
13 tions for offers issued under chapter 137 of title 10,
14 United States Code, on or after that date.

15 **SEC. 132. ALTERNATIVES APPROACHES TO CONTRACT**
16 **MANAGEMENT.**

17 The Secretary of Defense shall prescribe in regula-
18 tions policies and procedures that encourage contract ad-
19 ministrators of the Department of Defense to submit to
20 program managers, and program managers to consider,
21 alternative approaches to contract management. A con-
22 tract administrator submitting an alternative approach to
23 the program manager shall include an analysis of the costs
24 and benefits of each alternative.

1 **SEC. 133. CONTRACTOR SHARE OF GAINS AND LOSSES**
2 **FROM COST, SCHEDULE, AND PERFORMANCE**
3 **EXPERIENCE.**

4 Chapter 137 of title 10, United States Code, is
5 amended by inserting after section 2306b the following
6 new section:

7 **“§ 2306c. Contractor share of gains and losses from**
8 **cost, schedule, and performance experi-**
9 **ence**

10 “The Secretary of Defense shall prescribe in regula-
11 tions a clause, to be included in each cost-type contract
12 and incentive-type contract, that provides a system for the
13 contractor to be rewarded for contract performance ex-
14 ceeding the contract cost, schedule, or performance pa-
15 rameters to the benefit of the United States and to be
16 penalized for failing to adhere to cost, schedule, or per-
17 formance parameters to the detriment of the United
18 States.”.

19 **Subtitle E—Financial Management**

20 **SEC. 141. PHASE FUNDING OF DEFENSE ACQUISITION PRO-**
21 **GRAMS.**

22 Chapter 131 of title 10, United States Code, as
23 amended by section 112, is further amended by adding
24 at the end the following:

1 **“§ 2222. Funding for results oriented acquisition pro-**
2 **gram cycle**

3 “(a) PROGRAM PHASE DETAILS TO BE SUBMITTED
4 TO CONGRESS.—Before initial funding is made available
5 for a phase of the acquisition program cycle of an acquisi-
6 tion program for which an authorization of appropriations
7 is required by section 114 of this title, the Secretary of
8 Defense shall submit to Congress information about the
9 objectives and plans for the conduct of that phase and the
10 funding requirements for the entire phase. The informa-
11 tion shall identify the intended user of the system to be
12 acquired under the program and shall include objective,
13 quantifiable criteria for assessing the extent to which the
14 objectives and goals determined pursuant to section 2435
15 of this title are achieved.

16 “(b) FULL PHASE FUNDING.—(1) In authorizing ap-
17 propriations for an acquisition program for which an au-
18 thorization of appropriations is required by section 114
19 of this title, Congress shall provide in an Act authorizing
20 appropriations for the Department of Defense an author-
21 ization of appropriations for a phase of the acquisition
22 program in a single amount that is sufficient for carrying
23 out that phase. Each such authorization of appropriations
24 shall be stated in the Act as a specific item.

25 “(2) In each Act making appropriations for the De-
26 partment of Defense Congress shall specify the phase of

1 each such acquisition program of the department for
2 which an appropriation is made and the amount of the
3 appropriation for the phase of that program.”.

4 **SEC. 142. MAXIMIZED BENEFIT FUNDING.**

5 Chapter 131 of title 10, United States Code, as
6 amended by section 141, is further amended by adding
7 at the end the following:

8 **“§ 2223. Maximized benefit funding**

9 “(a) TRANSFERS AUTHORITY.—The Secretary of De-
10 fense may transfer funds from appropriations available for
11 a particular phase of an acquisition program of the De-
12 partment of Defense in order to pay out of the transferred
13 funds the cost of incentives provided program managers
14 who have been certified by the Secretary as having
15 achieved at least 90 percent of the cost, schedule, and per-
16 formance goals established for that phase.

17 “(b) LIMITATIONS.—The Secretary shall prescribe in
18 regulations—

19 “(1) the percent of available funds that may be
20 transferred under the authority of subsection (a) for
21 payment of incentives; and

22 “(2) a limitation that the total amount trans-
23 ferred for a phase of a program may not exceed $\frac{1}{3}$
24 of the total amount of the cost of such phase that
25 is determined under the regulations to have been

1 saved as a result of the achievement of the goals
2 for which the incentives are to be paid.”.

3 **SEC. 143. IMPROVED DEPARTMENT OF DEFENSE CON-**
4 **TRACT PAYMENT PROCEDURES.**

5 (a) REVIEW AND IMPROVEMENT OF PROCEDURES.—
6 The Comptroller General of the United States shall review
7 commercial practices regarding accounts payable and, con-
8 sidering the results of the review, develop standards for
9 the Secretary of Defense to use for improving the contract
10 payment procedures and financial management systems of
11 the Department of Defense.

12 (b) GAO REPORT.—Not later than September 30,
13 1996, the Comptroller General shall submit to Congress
14 a report containing the following matters:

15 (1) The weaknesses in the financial manage-
16 ment processes of the Department of Defense.

17 (2) Deviations of the Department of Defense
18 payment procedures and financial management sys-
19 tems from the standards developed pursuant to sub-
20 section (a), expressed quantitatively.

21 (3) The officials of the Department of Defense
22 who are responsible for resolving the deviations.

23 (c) RESPONSIBILITIES OF THE SECRETARY.—The
24 Secretary of Defense shall take such corrective actions as
25 are necessary to resolve the deviations reported pursuant

1 to subsection (b) to within 90 percent of the applicable
2 standards developed under subsection (a).

3 (d) ENFORCEMENT OF RESPONSIBILITY FOR RE-
4 SOLVING SYSTEM WEAKNESSES.—The Secretary of De-
5 fense may not provide any bonus or incentive pay to an
6 official identified pursuant to subsection (b) as responsible
7 for resolving deviations until the Secretary certifies to
8 Congress that the official has resolved more than 90 per-
9 cent of those deviations to be within the applicable stand-
10 ards developed under subsection (a).

11 **Subtitle F—Defense Acquisition** 12 **Workforce**

13 **SEC. 151. CONSIDERATION OF PAST PERFORMANCE IN AS-** 14 **SIGNMENT TO ACQUISITION POSITIONS.**

15 (a) REQUIREMENT.—Section 1701(a) of title 10,
16 United States Code, is amended by adding at the end the
17 following: “The policies and procedures shall provide that
18 education and training in acquisition matters, and past
19 performance of acquisition responsibilities, are major fac-
20 tors in the selection of personnel for assignment to acqui-
21 sition positions in the Department of Defense.”.

22 (b) PERFORMANCE REQUIREMENTS FOR ASSIGN-
23 MENT.—(1) Section 1723(a) of title 10, United States
24 Code, is amended by inserting “, including requirements
25 relating to demonstrated past performance of acquisition

1 duties,” in the first sentence after “experience require-
2 ments”.

3 (2) Section 1724(a)(2) of such title is amended by
4 inserting before the semicolon at the end the following:
5 “and have demonstrated proficiency in the performance of
6 acquisition duties in the contracting position or positions
7 previously held”.

8 (3) Section 1735 of such title is amended—

9 (A) in subsection (b)—

10 (i) by striking out “and” at the end of
11 paragraph (2);

12 (ii) by striking out the period at the end
13 of paragraph (3) and inserting in lieu thereof
14 “; and”; and

15 (iii) by adding at the end the following:

16 “(4) must have demonstrated proficiency in the
17 performance of acquisition duties.”;

18 (B) in subsection (c)—

19 (i) by striking out “and” at the end of
20 paragraph (2);

21 (ii) by striking out the period at the end
22 of paragraph (3) and inserting in lieu thereof
23 “; and”; and

24 (iii) by adding at the end the following:

1 “(4) must have demonstrated proficiency in the
2 performance of acquisition duties.”;

3 (C) in subsection (d), by inserting before the
4 period at the end the following: “, and have dem-
5 onstrated proficiency in the performance of acquisi-
6 tion duties”; and

7 (D) in subsection (e), by inserting before the
8 period at the end the following: “, and have dem-
9 onstrated proficiency in the performance of acquisi-
10 tion duties”.

11 **SEC. 152. TERMINATION OF DEFENSE ACQUISITION**
12 **SCHOOLS.**

13 (a) CONTRACTING FOR DEFENSE ACQUISITION EDU-
14 CATION AND TRAINING.—Chapter 87 of title 10, United
15 States Code, is amended by adding at the end of sub-
16 chapter IV the following:

17 **“§1747 Professional educational development and**
18 **training programs**

19 “The Secretary of Defense shall provide for the ac-
20 quisition of professional educational development and
21 training services for the acquisition workforce from com-
22 mercial sources and through programs provided by Fed-
23 eral Government sources for all acquisition personnel of
24 all departments and agencies of the Federal Govern-
25 ment.”.

1 (b) TERMINATION OF DEFENSE ACQUISITION UNI-
2 VERSITY STRUCTURE.—Section 1746 of title 10, United
3 States Code, is repealed.

4 (c) EDUCATION AND TRAINING OF PROGRAM MAN-
5 AGERS AND PROGRAM EXECUTIVE OFFICERS.—Section
6 1735 of such title is amended—

7 (1) by striking out paragraph (1) of subsection
8 (b) and inserting in lieu thereof the following:

9 “(1) must have completed a course of program
10 management provided for under section 1747 of this
11 title or determined by the Secretary of Defense as
12 appropriate training for program managers of the
13 Department of Defense;” and

14 (2) by striking out paragraph (1) of subsection
15 (c) and inserting in lieu thereof the following:

16 “(1) must have completed a course of program
17 management provided for under section 1747 of this
18 title or determined by the Secretary of Defense as
19 appropriate training for program executive officers
20 of the Department of Defense;”.

21 (d) ALTERNATIVE PROPOSAL.—The Secretary may
22 submit to Congress a proposed system of professional edu-
23 cational development and training for the Department of
24 Defense acquisition workforce as an alternative to the sys-
25 tem provided for in the amendments made by this section.

1 Any such proposal shall be submitted not later than June
2 30, 1996.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on October 1, 1996.

5 **Subtitle G—Revision of Procure-** 6 **ment Integrity Requirements**

7 **SEC. 161. AMENDMENTS TO OFFICE OF FEDERAL PROCURE-** 8 **MENT POLICY ACT.**

9 (a) RECUSAL.—Subsection (c) of section 27 of the
10 Office of Procurement Policy Act (41 U.S.C. 423) is
11 amended—

12 (1) in paragraph (1)—

13 (A) in the matter above subparagraph (A),
14 by inserting “only” after “subsection (b)(1)”;
15 and

16 (B) in subparagraph (A), by inserting
17 “(including the modification or extension of a
18 contract)” after “any procurement”;

19 (2) by striking out paragraphs (2) and (3) and
20 inserting in lieu thereof:

21 “(2) Whenever the head of a procuring activity ap-
22 proves a recusal under paragraph (1), a copy of the
23 recusal request and the approval of the request shall be
24 retained by such official for a period (not less than five

1 years) specified in regulations prescribed in accordance
2 with subsection (o).

3 “(3)(A) Except as provided in subparagraph (B), all
4 recusal requests and approvals of recusal requests pursu-
5 ant to this subsection shall be made available to the public
6 on request.

7 “(B) Any part of a recusal request or an approval
8 of a recusal request that is exempt from the disclosure
9 requirements of section 552 of title 5, United States Code,
10 under subsection (b)(1) of such section may be withheld
11 from disclosure to the public otherwise required under
12 subparagraph (A).”; and

13 (3) in paragraph (4), by striking out “compet-
14 ing contractor” and inserting in lieu thereof “per-
15 son”.

16 (b) APPLICABILITY OF CERTIFICATION REQUIRE-
17 MENT.—Subsection (e)(7)(A) of such section is amended
18 by adding at the end the following: “However, paragraph
19 (1)(B) does not apply with respect to a contract for less
20 than \$500,000.”.

21 (c) RESTRICTIONS RESULTING FROM PROCUREMENT
22 ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection
23 (f) of such section is amended—

24 (1) by redesignating paragraph (3) as para-
25 graph (4); and

1 (2) by striking out paragraphs (1) and (2) and
2 inserting in lieu thereof the following:

3 “(1) No individual who, in the year prior to separa-
4 tion from service as an officer or employee of the Govern-
5 ment or an officer of the uniformed services in a covered
6 position, participated personally and substantially in ac-
7 quisition functions related to a contract, subcontract, or
8 claim of \$500,000 or more and—

9 “(A) engaged in repeated direct contact with
10 the contractor or subcontractor on matters relating
11 to such contract, subcontract, or claim; or

12 “(B) exercised significant ongoing decisionmak-
13 ing responsibility with respect to the contractor or
14 subcontractor on matters relating to such contract,
15 subcontract, or claim,

16 shall knowingly accept or continue employment with such
17 contractor or subcontractor for a period of one year follow-
18 ing the individual’s separation from service, except that
19 such individual may accept or continue employment with
20 any division or affiliate of such contractor or subcontrac-
21 tor that does not produce the same or similar products
22 as the entity involved in the negotiation or performance
23 of the contract or subcontract or the adjustment of the
24 claim.

1 “(2) No contractor or subcontractor, or any officer,
2 employee, agent, or consultant of such contractor or sub-
3 contractor shall knowingly offer, provide, or continue any
4 employment for another person, if such contractor, sub-
5 contractor, officer, employee, agent, or consultant knows
6 or should know that the acceptance of such employment
7 is or would be in violation of paragraph (1).

8 “(3) The head of each Federal agency shall designate
9 in writing as a ‘covered position’ under this section each
10 of the following positions in that agency:

11 “(A) The position of source selection authority,
12 member of a source selection evaluation board, or
13 chief of a financial or technical evaluation team, or
14 any other position, if the officer or employee in that
15 position is likely personally to exercise substantial
16 responsibility for ongoing discretionary functions in
17 the evaluation of proposals or the selection of a
18 source for a contract in excess of \$500,000.

19 “(B) The position of procuring contracting offi-
20 cer, or any other position, if the officer or employee
21 in that position is likely personally to exercise sub-
22 stantial responsibility for ongoing discretionary func-
23 tions in the negotiation of a contract in excess of
24 \$500,000 or the negotiation or settlement of a claim
25 in excess of \$500,000.

1 “(C) The position of program executive officer,
2 program manager, or deputy program manager, or
3 any other position, if the officer or employee in that
4 position is likely personally to exercise similar sub-
5 stantial responsibility for ongoing discretionary func-
6 tions in the management or administration of a con-
7 tract in excess of \$500,000.

8 “(D) The position of administrative contracting
9 officer, the position of an officer or employee as-
10 signed on a permanent basis to a Government Plant
11 Representative’s Office, the position of auditor, a
12 quality assurance position, or any other position, if
13 the officer or employee in that position is likely per-
14 sonally to exercise substantial responsibility for on-
15 going discretionary functions in the on-site oversight
16 of a contractor’s operations with respect to a con-
17 tract in excess of \$500,000.

18 “(E) A position in which the incumbent is likely
19 personally to exercise substantial responsibility for
20 ongoing discretionary functions in operational or de-
21 velopmental testing activities involving repeated di-
22 rect contact with a contractor regarding a contract
23 in excess of \$500,000.”.

1 (d) DISCLOSURE OF PROPRIETARY OR SOURCE SE-
2 LECTION INFORMATION TO UNAUTHORIZED PERSONS.—

3 Subsection (l) of such section is amended—

4 (1) by inserting “who are likely to be involved
5 in contracts, modifications, or extensions in excess of
6 \$25,000” in the first sentence after “its procure-
7 ment officials”; and

8 (2) by striking out “(e)” each place it appears
9 and inserting in each such place “(f)”.

10 (e) RULES OF CONSTRUCTION.—Subsection (n) of
11 such section is amended to read as follows:

12 “(n) RULES OF CONSTRUCTION.—Nothing in this
13 section shall be construed to—

14 “(1) authorize the withholding of any informa-
15 tion from the Congress, any committee or sub-
16 committee thereof, a Federal agency, any board of
17 contract appeals of a Federal agency, the Comptrol-
18 ler General, or an inspector general of a Federal
19 agency;

20 “(2) restrict the disclosure of information to, or
21 receipt of information by, any person or class of per-
22 sons authorized, in accordance with applicable agen-
23 cy regulations or procedures, to receive that infor-
24 mation;

1 “(3) restrict a contractor from disclosing its
2 own proprietary information or the recipient of in-
3 formation so disclosed by a contractor from receiving
4 such information; or

5 “(4) restrict the disclosure or receipt of infor-
6 mation relating to a Federal agency procurement
7 that has been canceled by the agency and that the
8 contracting officer concerned determines in writing
9 is not likely to be resumed.”.

10 (f) TERM TO BE DEFINED IN REGULATIONS.—Sub-
11 section (o)(2)(A) of such section is amended—

12 (1) by inserting “money, gratuity, or other” be-
13 fore “thing of value”; and

14 (2) by inserting before the semicolon “and such
15 other exceptions as may be adopted on a Govern-
16 mentwide basis under section 7353 of title 5, United
17 States Code”.

18 (g) TERMS DEFINED IN LAW.—Subsection (p) of
19 such section is amended—

20 (1) in paragraph (1) by striking out “clauses
21 (i)–(viii)” and inserting in lieu thereof “clauses (i)
22 through (vii)”;

23 (2) in paragraph (3)—

24 (A) in subparagraph (A)—

25 (i) by striking out clause (i);

1 (ii) by redesignating clauses (ii), (iii),
2 (iv), (v), (vi), (vii), and (viii) as clauses (i),
3 (ii), (iii), (iv), (v), (vi), and (vii), respec-
4 tively; and

5 (iii) in clause (i) (as redesignated by
6 subclause (II) of this clause), by striking
7 out “review and approval of a specifica-
8 tion” and inserting in lieu thereof “ap-
9 proval or issuance of a specification, acqui-
10 sition plan, procurement request, or req-
11 uisition”; and

12 (B) in subparagraph (B), by striking out
13 all after “includes” and inserting in lieu thereof
14 the following: “any individual acting on behalf
15 of, or providing advice to, the agency with re-
16 spect to any phase of the agency procurement
17 concerned, regardless of whether such individ-
18 ual is a consultant, expert, or adviser, or an of-
19 ficer or employee of a contractor or subcontract-
20 or (other than a competing contractor).”; and

21 (3) in paragraph (6)(A), by inserting
22 “nonpublic” before “information”.

1 **SEC. 162. AMENDMENTS TO TITLE 18, UNITED STATES**
2 **CODE.**

3 Section 208(a) of title 18, United States Code, is
4 amended—

5 (1) by inserting “(1)” before “Except as per-
6 mitted”; and

7 (2) by adding at the end the following new
8 paragraph:

9 “(2) Whoever knowingly aids, abets, counsels, com-
10 mands, induces, or procures conduct prohibited by this
11 section shall be subject to the penalties set forth in section
12 216 of this title.”.

13 **SEC. 163. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.**

14 (a) REPEAL.—The following provisions of law are re-
15 pealed:

16 (1) Sections 2207, 2397, 2397a, 2397b, and
17 2397c of title 10, United States Code.

18 (2) Section 281 of title 18, United States Code.

19 (3) Part A of title VI of the Department of En-
20 ergy Organization Act (42 U.S.C. 7211 through
21 7218).

22 (b) REPEAL OF SUPERSEDED LAW.—Section
23 6001(b) of the Federal Acquisition Streamlining Act of
24 1994 (Public Law 103–355; 108 Stat. 3362; (18 U.S.C.
25 281 note) is repealed.

1 **SEC. 164. IMPLEMENTATION.**

2 (a) REGULATIONS.—Not later than 180 days after
3 the date of the enactment of this Act, regulations imple-
4 menting the amendments made by section 161 to section
5 27 of the Office of Federal Procurement Policy Act (41
6 U.S.C. 423), including definitions of the terms used in
7 subsection (f) of such section, shall be issued in accord-
8 ance with sections 6 and 25 of such Act (41 U.S.C. 405
9 and 521) after coordination with the Director of the Office
10 of Government Ethics.

11 (b) SAVINGS PROVISIONS.—(1) No officer, employee,
12 agent, representative, or consultant of a contractor who
13 has signed a certification under section 27(e)(1)(B) of the
14 Office of Federal Procurement Policy Act (41 U.S.C.
15 423(e)(1)(B)) before the effective date of this Act shall
16 be required to sign a new certification as a result of the
17 enactment of this Act.

18 (2) No procurement official of a Federal agency who
19 has signed a certification under section 27(l) of the Office
20 of Federal Procurement Policy Act (41 U.S.C. 423(l)) be-
21 fore the date of enactment of this Act shall be required
22 to sign a new certification as a result of the enactment
23 of this Act.

24 (c) INSPECTOR GENERAL REPORTS.—Not later than
25 May 31 of each of the years 1996 through 1999, the In-
26 spector General of each Federal agency (or, in the case

1 of a Federal agency that does not have an Inspector Gen-
2 eral, the head of such agency) shall submit to Congress
3 a report on the compliance by the agency during the pre-
4 ceding year with the requirement for the head of the agen-
5 cy to designate covered procurement positions under sec-
6 tion 27(f)(3) of the Office of Federal Procurement Policy
7 Act (as added by section 161(c)).

8 **Subtitle H—Clerical Amendments**

9 **SEC. 171. CLERICAL AMENDMENTS TO TITLE 10.**

10 (a) CHAPTER 87.—The table of sections at the begin-
11 ning of subchapter IV of chapter 87 of title 10, United
12 States Code, is amended—

13 (1) by striking out the item relating to section
14 1746; and

15 (2) by adding at the end the following new
16 item:

“1747. Professional educational development and training programs.”.

17 (b) CHAPTER 131.—The table of sections at the be-
18 ginning of chapter 131 of title 10, United States Code,
19 is amended—

20 (1) by striking out the item relating to section
21 2207; and

22 (2) by adding at the end the following new
23 items:

“2221. Results oriented acquisition program cycle.

“2222. Funding for results oriented acquisition program cycle.

“2223. Maximized benefit funding.”.

1 (c) CHAPTER 137.—The table of sections at the be-
2 ginning of chapter 137 of title 10, United States Code,
3 is amended—

4 (1) by inserting after the item relating to sec-
5 tion 2306b the following new item:

“2306c. Contractor share of gains and losses from cost, schedule, and perform-
ance experience.”;

6 (2) by inserting after the item relating to sec-
7 tion 2316 the following new item:

“2317. Equipment leasing.”;

8 and

9 (3) by inserting after the item relating to sec-
10 tion 2319 the following new item:

“2319a. Contractor performance certification system.”.

11 (d) CHAPTER 141.—The table of sections at the be-
12 ginning of chapter 141 of title 10, United States Code,
13 is amended—

14 (1) by striking out the items relating to sections
15 2397, 2397a, 2397b, and 2397c; and

16 (2) by striking out the item relating to section
17 2399 and inserting in lieu thereof the following new
18 item:

“2399. Operational test and evaluation of major systems under defense acquisi-
tion programs.”.

1 **SEC. 172. OTHER LAWS.**

2 (a) TITLE 18.—The table of sections for chapter 15
3 of title 18, United States Code, is amended by striking
4 out the item relating to section 281.

5 (b) DEPARTMENT OF ENERGY ORGANIZATION
6 ACT.—The table of contents in the first section of the De-
7 partment of Energy Organization Act (42 U.S.C. 7101 et
8 seq.) is amended by striking out the item relating to part
9 A of title VI and the sections therein.

10 **TITLE II—REORGANIZATION**
11 **AND REFORM OF THE DE-**
12 **FENSE ACQUISITION SYSTEM**
13 **Subtitle A—Streamlining and Im-**
14 **provement of Acquisition Man-**
15 **agement**

16 **SEC. 201. REORGANIZATION OF ACQUISITION AUTHORITY.**

17 (a) UNDER SECRETARY OF DEFENSE FOR ACQUI-
18 TION AND TECHNOLOGY.—Section 133(b) of title 10,
19 United States Code, is amended—

20 (1) by redesignating paragraphs (3) and (4) as
21 paragraphs (4) and (5), respectively; and

22 (2) by striking out paragraphs (1) and (2) and
23 inserting in lieu thereof the following:

24 “(1) prescribing policies for research, develop-
25 ment, and acquisition activities of the Department of
26 Defense;

1 “(2) planning, programming, and overseeing
2 the research, development, and acquisition activities
3 of the Department of Defense;

4 “(3) assisting in the preparation and integra-
5 tion of budgets for the research, development, and
6 acquisition activities of the Department of Defense,
7 including assisting in the planning, programming,
8 and budgeting system with respect to such activi-
9 ties;”.

10 (b) DEFENSE RESEARCH, DEVELOPMENT, AND AC-
11 QUISITION AGENCY.—(1) Part I of subtitle A of title 10,
12 United States Code, is amended by inserting after chapter
13 9 the following new chapter:

14 **“CHAPTER 10—DEFENSE RESEARCH,**
15 **DEVELOPMENT, AND ACQUISITION**
16 **AGENCY**

“Sec.

“231. Establishment.

“232. Use of agency for all research, development, and acquisition activities.

“233. Duties.

“234. Program executive officers.

“235. Program managers.

“236. Functional analytical capability.

17 **“§ 231. Establishment**

18 “(a) AGENCY.—There is established a Defense Re-
19 search, Development, and Acquisition Agency in the De-
20 partment of Defense.

21 “(b) DIRECTOR.—(1) The head of the agency is the
22 Director of Defense Research, Development, and Acquisi-

1 tion who shall be appointed by the Under Secretary of De-
2 fense for Acquisition and Technology from among persons
3 who are career professional employees in the acquisition
4 workforce of the Department of Defense.

5 “(2) A member of the armed forces, while serving as
6 the Director, holds the grade of general or, in the case
7 of an officer of the Navy, admiral. A civilian, while serving
8 as the Director, holds an equivalent civilian grade.

9 “(c) CHIEF OF ENGINEERING AND ANALYSIS.—(1)
10 In the Defense Research, Development, and Acquisition
11 Agency there is a Chief of Engineering and Analysis who
12 shall be appointed by the Director from among the career
13 professional employees in the acquisition workforce of the
14 Department of Defense.

15 “(2) The Director shall evaluate the performance of
16 the Chief of Engineering and Analysis. The Director may
17 not delegate the performance of the evaluation responsibil-
18 ity.

19 “(3) The Chief of Engineering and Analysis shall be
20 the senior technical adviser for the Defense Research, De-
21 velopment, and Acquisition Agency.

22 **“§ 232. Use of agency for all research, development,**
23 **and acquisition activities**

24 “Subject to sections 3013(h), 5013(h), 8013(h) of
25 this title, the Director shall conduct the research, develop-

1 ment, and acquisition activities of the Department of De-
2 fense, including the activities of the research, development,
3 and engineering centers of the Department of Defense.

4 **“§ 233. Duties**

5 “The responsibilities of the Under Secretary of De-
6 fense for Acquisition and Technology that are to be per-
7 formed by the Defense Research, Development, and Acqui-
8 sition Agency include the following:

9 “(1) Planning, programming, and carrying out
10 the research, development, and acquisition activities
11 of the Department of Defense.

12 “(2) Advising the Secretary of Defense and the
13 Secretaries of the military departments regarding
14 the preparation and integration of the budgets for
15 the research, development, and acquisition activities
16 of the Department of Defense.

17 “(3) Identifying and informing operational com-
18 manders regarding alternative technology solutions
19 to fulfill emerging requirements.

20 “(4) Ensuring that the acquisition plan for
21 each acquisition program realistically reflects the
22 budget and related decisions made for that program.

23 “(5) Conducting research on management tech-
24 niques as well as on individual systems.

1 **“§ 234. Program executive officers**

2 “(a) SELECTION AND EVALUATION.—The program
3 executive officers of the Defense Research, Development,
4 and Acquisition Agency shall be selected and evaluated by
5 the Director.

6 “(b) DUTIES.—The duties of a program executive of-
7 ficer are as follows:

8 “(1) To manage acquisition programs assigned
9 to the program executive officer.

10 “(2) To manage related technical support re-
11 sources.

12 “(3) To establish and conduct integrated deci-
13 sion team meetings.

14 “(4) To provide technological advice (including
15 advice regarding costs, schedule, and performance
16 data relating to alternative technological approaches
17 for fulfilling emerging requirements) to users of pro-
18 gram products and to the officials within the De-
19 partment of Defense who plan, program, and budget
20 for the acquisition programs assigned to the pro-
21 gram executive officer.

22 “(c) ORGANIZATION OF PERSONNEL.—The program
23 executive officers shall be organized on the basis of unique
24 mission areas or, in the case of programs for systems spe-
25 cifically relating to certain classes of targets, on the basis
26 of target classes. No program executive officer may be or-

1 ganized with other program executive officers on both
2 bases. The Secretary of Defense shall identify the mission
3 areas or target classes on the basis of which program execu-
4 tive officers may be organized.

5 “(d) ACQUISITION LIFE-CYCLE MANAGEMENT.—The
6 responsibilities of a program executive officer for a weapon
7 acquisition program shall cover the entire life cycle of the
8 program.

9 “(e) USER AND OPERATOR INTERACTION.—(1) The
10 Chairman of the Joint Chiefs of Staff, in consultation with
11 the Under Secretary of Defense for Acquisition and Tech-
12 nology, shall prescribe policies and procedures for the
13 interaction of the commanders of the unified and specified
14 combatant commands with program executive officers re-
15 garding the initiation and conduct of weapon acquisition
16 programs. The policies and procedures shall include provi-
17 sions for enabling such commands to perform operational
18 and acceptance testing of weapons acquired pursuant to
19 such programs.

20 “(2) The Under Secretary of Defense (Comptroller),
21 in consultation with the Under Secretary of Defense for
22 Acquisition and Technology and the Secretaries of the
23 military departments, shall prescribe policies and proce-
24 dures for the interaction between the commanders of the
25 unified and specified combatant commands and the pro-

1 gram executive officers regarding funding for weapon ac-
2 quisition programs.

3 “(3) The policies and procedures prescribed pursuant
4 to this subsection shall include a system for the command-
5 ers of the unified and specified combatant command to
6 choose among alternatives developed by program executive
7 officers for meeting acquisition requirements presented by
8 the commanders.

9 **“§ 235. Program managers**

10 “(a) SELECTION AND EVALUATION.—Each program
11 manager of the Defense Research, Development, and Ac-
12 quisition Agency shall be selected and evaluated by the
13 Director and a program executive officer and shall report
14 directly to the program executive officer having primary
15 responsibility for the system being acquired under the pro-
16 gram.

17 “(b) DUTIES.—A program manager is responsible for
18 the routine management of a research, development, and
19 acquisition program, including the obtaining of necessary
20 logistical support and support services for that program.

21 “(c) NONDUPLICATION OF FUNCTIONS.—The man-
22 agement functions of a program manager should not du-
23 plicate the management functions of a program executive
24 officer.

1 **“§ 236. Functional analytical capability**

2 “(a) RESPONSIBILITY OF CHIEF OF ENGINEERING
3 AND ANALYSIS.—The Chief of Engineering and Analysis
4 shall be responsible for ensuring that each of the func-
5 tional analytical capabilities provided to the Director, ac-
6 quisition program executive officers, and acquisition pro-
7 gram managers in connection with acquisition programs
8 of the Department of Defense is the most advanced capa-
9 bility of its type.

10 “(b) FUNCTIONAL ANALYTICAL CAPABILITIES.—The
11 functional analytical capabilities referred to in subsection
12 (a) are as follows:

13 “(1) Cost and affordability analysis.

14 “(2) Logistics and support analysis.

15 “(3) Reliability and maintainability analysis.

16 “(4) Producibility analysis.

17 “(5) Environmental analysis.

18 “(6) Configuration management.

19 “(7) Warfighting and battlefield performance
20 and utility analysis.

21 “(8) System engineering.

22 “(9) Any other analytical capability that may
23 be necessary for ensuring the timeliness, perform-
24 ance, and affordability of acquisition programs.”.

25 (2) The tables of chapters at the beginning of subtitle
26 A of title 10, United States Code, and at the beginning

1 of part I of such subtitle, are amended by inserting after
2 the item relating to chapter 9 the following new item:

“10. Defense Research, Development, and Acquisition Agency 231”.

3 (c) LIMITATION OF PROCUREMENT AUTHORITY OF
4 MILITARY DEPARTMENTS.—(1) Section 3013 of title 10,
5 United States Code, is amended—

6 (A) in subsection (b)—

7 (i) by striking out “and subject to the pro-
8 visions of chapter 6 of this title,” and inserting
9 in lieu thereof “, subject to the provisions of
10 chapter 6 of this title, and subject to subsection
11 (h),”; and

12 (ii) in paragraph (4), by striking out “(in-
13 cluding research and development)”; and

14 (B) by adding at the end the following new sub-
15 section:

16 “(h)(1) The Secretary of the Army shall be respon-
17 sible for procurements of property and services, and may
18 exercise authority to conduct such procurements, only to
19 the extent that the Secretary of Defense determines nec-
20 essary for the sustainment of operations of the Army. The
21 Secretary of Defense shall prescribe in regulations the ex-
22 tent of the responsibility and authority of the Secretary
23 of the Army for procurements of property and services.

24 “(2) In conducting a procurement in accordance with
25 paragraph (1), the Secretary of the Army shall be subject

1 to the same laws as are applicable to acquisitions con-
2 ducted by the Secretary of Defense.”.

3 (2) Section 5013 of title 10, United States Code, is
4 amended—

5 (A) in subsection (b)—

6 (i) by striking out “and subject to the pro-
7 visions of chapter 6 of this title,” and inserting
8 in lieu thereof “, subject to the provisions of
9 chapter 6 of this title, and subject to subsection
10 (h),”; and

11 (ii) in paragraph (4), by striking out “(in-
12 cluding research and development)”; and

13 (B) by adding at the end the following new sub-
14 section:

15 “(h)(1) The Secretary of the Navy shall be respon-
16 sible for procurements of property and services, and may
17 exercise authority to conduct such procurements, only to
18 the extent that the Secretary of Defense determines nec-
19 essary for the sustainment of operations of the Navy. The
20 Secretary of Defense shall prescribe in regulations the ex-
21 tent of the responsibility and authority of the Secretary
22 of the Navy for procurements of property and services.

23 “(2) In conducting a procurement in accordance with
24 paragraph (1), the Secretary of the Navy shall be subject

1 to the same laws as are applicable to acquisitions con-
2 ducted by the Secretary of Defense.”.

3 (3) Section 8013 of title 10, United States Code, is
4 amended—

5 (A) in subsection (b)—

6 (i) by striking out “and subject to the pro-
7 visions of chapter 6 of this title,” and inserting
8 in lieu thereof “, subject to the provisions of
9 chapter 6 of this title, and subject to subsection
10 (h),”; and

11 (ii) in paragraph (4), by striking out “(in-
12 cluding research and development)”; and

13 (B) by adding at the end the following new sub-
14 section:

15 “(h)(1) The Secretary of the Air Force shall be re-
16 sponsible for procurements of property and services, and
17 may exercise authority to conduct such procurements, only
18 to the extent that the Secretary of Defense determines
19 necessary for the sustainment of operations of the Air
20 Force. The Secretary of Defense shall prescribe in regula-
21 tions the extent of the responsibility and authority of the
22 Secretary of the Air Force for procurements of property
23 and services.

24 “(2) In conducting a procurement in accordance with
25 paragraph (1), the Secretary of the Air Force shall be sub-

1 ject to the same laws as are applicable to acquisitions con-
2 ducted by the Secretary of Defense.”.

3 (4) Section 2302(1) of title 10, United States Code,
4 is amended by striking out “the Secretary of the Army,
5 the Secretary of the Navy, the Secretary of the Air
6 Force,”.

7 (5) Section 2302c of such title is amended—

8 (A) in subsection (a)(1), by striking out the sec-
9 ond sentence; and

10 (B) in subsection (b), by striking out “para-
11 graph (5) or (6)” and inserting in lieu thereof
12 “paragraph (2) or (3)”.

13 (6) Section 2303(a) of such title is amended—

14 (A) by striking out paragraphs (2), (3), and
15 (4); and

16 (B) by redesignating paragraphs (5) and (6) as
17 paragraphs (2) and (3), respectively.

18 **SEC. 202. JOINT FOREIGN PRODUCTS DEVELOPMENT.**

19 Section 153 of title 10, United States Code, is
20 amended by adding at the end the following new sub-
21 section:

22 “(c) RECOMMENDATIONS FOR JOINT DEVELOPMENT
23 OF FOREIGN PRODUCTS.—The Chairman of the Joint
24 Chiefs of Staff, in consultation with the commanders of
25 the unified and specified combatant commands, shall make

1 recommendations to the Under Secretary of Defense for
2 Acquisition and Technology regarding the desirability of
3 joint development by the United States and one or more
4 foreign countries of systems proposed to be developed, or
5 under development, by such foreign country or foreign
6 countries.”.

7 **Subtitle B—Transfer of Functions**

8 **SEC. 211. TRANSFERS.**

9 (a) MILITARY DEPARTMENTS.—Except as provided
10 in subsection (c), all research, development, and acqui-
11 sition functions of the Secretaries of the military depart-
12 ments are transferred to the Secretary of Defense.

13 (b) PROCUREMENT AGENCIES, COMMANDS, AND OF-
14 FICES.—Except as provided in subsection (c), there is
15 transferred to the Defense Research, Development, and
16 Acquisition Agency referred to in section 231(a) of title
17 10, United States Code (as added by section 201), all
18 functions of the following organizations:

19 (1) The Defense Logistics Agency.

20 (2) The Advanced Research Projects Agency.

21 (3) The following procurement commands of
22 the Army:

23 (A) The Army Materiel Command.

24 (B) The Army Information Systems Com-
25 mand.

1 (C) The Army Space and Strategic De-
2 fense Command.

3 (4) The following procurement commands of
4 the Navy and Marine Corps:

5 (A) The Navy weapon systems commands.

6 (B) The Navy Strategic Systems Program
7 Office.

8 (C) The Marine Corps Research, Develop-
9 ment and Acquisition Command.

10 (5) The Air Force Materiel Command.

11 (6) Any successor organization to any agency,
12 command, or office named in paragraphs (1)
13 through (5).

14 (7) Each agency or command within the De-
15 partment of Defense not referred to in paragraphs
16 (1) through (6) that, on the day before the effective
17 date of this title, has as a primary mission or func-
18 tion the performance of a research, development, or
19 acquisition function of the Department of Defense.

20 (c) FUNCTIONS NOT TRANSFERRED.—(1) The fol-
21 lowing functions of the Secretaries of the military depart-
22 ments are not transferred to the Secretary of Defense:

23 (A) Functions that relate to planning, program-
24 ming, and budgeting.

1 (B) Functions to be performed by the Secretary
2 of a military department pursuant to section
3 3013(h), 5013(h), or 8013(h) of title 10, United
4 States Code, as added by section 201(c).

5 (2) To the extent prescribed by the Secretary of De-
6 fense, functions referred to in paragraph (1)(B) that are
7 performed by an organization referred to in subsection (b)
8 need not be transferred in accordance with that sub-
9 section.

10 (d) TERMINATION OF ORGANIZATION.—The Sec-
11 retary of Defense shall terminate each organization from
12 which all of its functions are transferred under subsection
13 (b).

14 **SEC. 212. SAVINGS PROVISIONS.**

15 (a) REGULATIONS, INSTRUMENTS, RIGHTS, AND
16 PRIVILEGES.—All rules, regulations, contracts, orders, de-
17 terminations, permits, certificates, licenses, grants, and
18 privileges—

19 (1) which have been issued, made, granted, or
20 allowed to become effective by the Secretary or other
21 officer or employee of a military department, the
22 head of a Defense Agency of the Department of De-
23 fense, or by a court of competent jurisdiction, in
24 connection with any research, development, or acqui-

1 sition activity of a military department or Defense
2 Agency, and

3 (2) which are in effect on the effective date of
4 this title,

5 shall continue in effect according to their terms until
6 modified, terminated, superseded, set aside, or revoked in
7 accordance with law by the Secretary of Defense, the
8 Under Secretary of Defense for Acquisition and Tech-
9 nology, or another authorized official, by a court of com-
10 petent jurisdiction, or by operation of law.

11 (b) PROCEEDINGS AND APPLICATIONS.—(1)(A) The
12 provisions of this subtitle shall not affect any proceeding,
13 including any proceeding involving a claim or application,
14 in connection with any acquisition activity of a military
15 department or a Defense Agency of the Department of De-
16 fense that is pending before that military department or
17 Defense Agency on the effective date of this title.

18 (B) Orders may be issued in any such proceeding,
19 appeals may be taken therefrom, and payments may be
20 made pursuant to such orders, as if this Act had not been
21 enacted. An order issued in any such proceeding shall con-
22 tinue in effect until modified, terminated, superseded, or
23 revoked by the Secretary of Defense or the Under Sec-
24 retary of Defense for Acquisition and Technology, by a
25 court of competent jurisdiction, or by operation of law.

1 (C) Nothing in this paragraph prohibits the dis-
2 continuance or modification of any such proceeding under
3 the same terms and conditions and to the same extent that
4 such proceeding could have been discontinued or modified
5 if this Act had not been enacted.

6 (2) The Secretary of Defense may prescribe regula-
7 tions providing for the orderly transfer of proceedings con-
8 tinued under paragraph (1) to the Secretary of Defense
9 or to the Under Secretary of Defense for Acquisition and
10 Technology.

11 **Subtitle C—Conforming** 12 **Amendments**

13 **SEC. 221. MODIFICATION OF THE RESPONSIBILITY OF THE** 14 **UNDER SECRETARY OF DEFENSE (COMP-** 15 **TROLLER) FOR DEFENSE ACQUISITION BUDG-** 16 **ETS.**

17 Section 135(c) of title 10, United States Code, is
18 amended in each of paragraphs (2), (3), and (4), by insert-
19 ing after the paragraph designation the following: “subject
20 to section 133(b) of this title,”.

21 **SEC. 222. THE DEFENSE ACQUISITION WORK FORCE.**

22 (a) GENERAL AUTHORITIES AND RESPONSIBIL-
23 ITIES.—(1)(A) Sections 1704, 1705, and 1707 of title 10,
24 United States Code, are repealed.

1 (B) The table of sections at the beginning of sub-
2 chapter I of chapter 87 of such title is amended by strik-
3 ing out the items relating to sections 1704 through 1707
4 and inserting in lieu thereof the following:

“1704. Acquisition career program boards.”.

5 (2) Section 1706 of title 10, United States Code, is
6 amended—

7 (A) in subsection (a), by striking out “an Ac-
8 quisition Corps” in the first sentence and inserting
9 in lieu thereof “the Acquisition Corps”;

10 (B) in the section heading by striking out
11 “**§ 1706**” and inserting in lieu thereof “**§ 1704**”;

12 (C) by striking out subsection (a) and inserting
13 in lieu thereof the following:

14 “(a) ESTABLISHMENT.—The Under Secretary of De-
15 fense for Acquisition and Technology shall establish an ac-
16 quisition career program board to advise the Under Sec-
17 retary in managing the accession, training, education, and
18 career development of military and civilian personnel in
19 the acquisition workforce and in selecting individuals for
20 the Acquisition Corps under section 1731 of this title.”;

21 (D) in subsection (b)—

22 (i) in the first sentence, by striking out
23 “Each” and inserting in lieu thereof “The”;

24 and

1 (ii) in the second sentence, by striking out
2 “service acquisition executive” and inserting in
3 lieu thereof “Under Secretary”; and

4 (E) in subsection (c)—

5 (i) by striking out “Secretary of a military
6 department” and inserting in lieu thereof
7 “Under Secretary”; and

8 (ii) by striking out “in the department”.

9 (b) DEFENSE ACQUISITION POSITIONS.—(1) Section
10 1722 of title 10, United States Code, is amended—

11 (A) in subsection (g), by striking out “Sec-
12 retary of each military department, acting through
13 the service acquisition executive for that depart-
14 ment,” and inserting in lieu thereof “Secretary of
15 Defense”; and

16 (B) in subsection (h), by striking out “or the
17 Secretary of a military department (as applicable)”.

18 (2) Section 1724(d) of such title is amended in the
19 first sentence—

20 (A) by striking out “a military department”
21 and inserting in lieu thereof “the Department of De-
22 fense”; and

23 (B) by striking out “of that military depart-
24 ment”.

1 (c) ACQUISITION CORPS.—(1) Section 1731 of title
2 10, United States Code, is amended—

3 (A) by striking out subsection (a) and inserting
4 in lieu thereof the following:

5 “(a) ACQUISITION CORPS.—The Secretary of Defense
6 shall establish a Department of Defense Acquisition
7 Corps.”; and

8 (B) in subsection (b), by striking out “an Ac-
9 quisition Corps” and inserting in lieu thereof “the
10 Acquisition Corps”.

11 (2) Section 1732 of such title is amended—

12 (A) in subsection (a), by striking out “an Ac-
13 quisition Corps” in the first sentence and inserting
14 in lieu thereof “the Acquisition Corps”;

15 (B) in subsection (b)—

16 (i) in paragraph (2)(A)(ii), by striking out
17 “of the employing military department”; and

18 (ii) in paragraph (4), by striking out “or
19 the Secretary of the military department con-
20 cerned”; and

21 (C) in subsection (d)—

22 (i) by striking out “of a military depart-
23 ment” in the first sentence of paragraph (1)
24 and in paragraph (2); and

1 (ii) by striking out “of that military de-
2 partment” in the first sentence of paragraph
3 (1).

4 (3) Section 1733(a) of such title is amended by strik-
5 ing out “an Acquisition Corps” and inserting in lieu there-
6 of “the Acquisition Corps”.

7 (4) Section 1734 of such title is amended—

8 (A) in subsection (a)(1), by striking out “Sec-
9 retary of each military department, acting through
10 the service acquisition executive for that depart-
11 ment,” in the first sentence and inserting in lieu
12 thereof “Secretary of Defense, acting through the
13 Under Secretary of Defense for Acquisition and
14 Technology,”;

15 (B) in subsection (b)(1), by striking out “major
16 milestone” and inserting in lieu thereof “phase of
17 the program cycle”;

18 (C) by striking out subsection (c);

19 (D) in subsection (d), by striking out para-
20 graphs (2) and (3) and inserting in lieu thereof the
21 following:

22 “(2) The authority to grant waivers may be delegated
23 by the Under Secretary only to the Director of Acquisi-
24 tion, Education, Training, and Career Development.

1 “(3) With respect to each waiver granted under this
2 subsection, the Under Secretary shall set forth in a writ-
3 ten document the rationale for the decision to grant the
4 waiver. The Director of Acquisition, Education, Training,
5 and Career Development shall maintain all such docu-
6 ments.”;

7 (E) in subsection (e)—

8 (i) in the first sentence of paragraph (1)—

9 (I) by striking out “an Acquisition
10 Corps” in the first sentence and inserting
11 in lieu thereof “the Acquisition Corps”;
12 and

13 (II) by striking out “major program
14 milestone” and inserting in lieu thereof
15 “phase of the program cycle”; and

16 (ii) in paragraph (2), by striking out “of
17 the department concerned” in the first sen-
18 tence;

19 (F) by striking out subsections (g) and (h) and
20 inserting in lieu thereof the following:

21 “(g) ASSIGNMENTS.—Subject to the authority, direc-
22 tion, and control of the Secretary, the Under Secretary
23 shall make the assignments of civilian and military mem-
24 bers of the Acquisition Corps to critical acquisition posi-
25 tions.”;

1 (G) by striking out “concerned” in—

2 (i) the second sentence of subsection

3 (a)(1);

4 (ii) the second sentence of subsection

5 (a)(2);

6 (iii) the sentence following subparagraph

7 (B) in subsection (b)(1);

8 (iv) the second sentence of subsection

9 (b)(2); and

10 (v) subsection (d)(1); and

11 (H) by redesignating subsections (d), (e), (f),

12 (g), and (h) as subsections (c), (d), (e), (f), and (g),

13 respectively.

14 (5) Section 1737 of title 10, United States Code, is

15 amended—

16 (A) in subsection (a)—

17 (i) in paragraph (1), by striking out “an

18 Acquisition Corps” and inserting in lieu thereof

19 “the Acquisition Corps”; and

20 (ii) in paragraph (5), by striking out “, or

21 a principal deputy to a director of contracting”

22 and all that follows through “Department of

23 Defense” and inserting in lieu thereof “or a

24 principal deputy to a director of contracting”;

25 and

1 (B) by striking out subsection (c) and inserting
2 in lieu thereof the following:

3 “(c) WAIVER.—(1) The Secretary of Defense may
4 waive, on a case-by-case basis, the requirements estab-
5 lished under this subchapter with respect to the assign-
6 ment of an individual to a particular critical acquisition
7 position. Such a waiver may be granted only if unusual
8 circumstances justify the waiver or if the Secretary deter-
9 mines that the individual’s qualifications obviate the need
10 for meeting the education, training, and experience re-
11 quirements established under this subchapter.

12 “(2) The Secretary shall act through the Under Sec-
13 retary of Defense for Acquisition and Technology in exer-
14 cising the authority provided in paragraph (1). The au-
15 thority to grant waivers under this subsection may be dele-
16 gated by the Under Secretary only to the Director of Ac-
17 quisition Education, Training, and Career Development.”.

18 (d) EDUCATION AND TRAINING.—(1) Section
19 1741(c) of title 10, United States Code, is amended to
20 read as follows:

21 “(c) PROGRAMS.—The Under Secretary shall estab-
22 lish and implement the education and training programs
23 authorized by this subchapter.”.

24 (2) Section 1742 of such title is amended by striking
25 out “require that each military department”.

1 (3) Section 1743 of such title is amended in the first
2 sentence by striking out “require that the Secretary of
3 each military department”.

4 (e) GENERAL MANAGEMENT.—(1) Section 1761(a)
5 of title 10, United States Code, is amended by striking
6 out “prescribe regulations to ensure that the military de-
7 partments and Defense Agencies”.

8 (2) Section 1762(c) of such title is amended—

9 (A) by striking out the parenthetical material in
10 the matter above paragraph (1);

11 (B) in paragraph (4), by striking out “an ac-
12 quisition corps” in subparagraphs (A) and (B) and
13 inserting in lieu thereof “the Acquisition Corps”;
14 and

15 (C) in paragraph (14), by striking out “and the
16 performance of each military department”.

17 (3) Section 1763 of such title is amended by striking
18 out the second sentence.

19 **SEC. 223. PROCUREMENT PROCEDURES GENERALLY.**

20 Chapter 137 of title 10, United States Code, is
21 amended as follows:

22 (1) Section 2305(d) is amended—

23 (A) in the first sentence of paragraph
24 (1)(A), by striking out “shall ensure that,” and
25 all that follows through “the head of an agen-

1 cy” and inserting in lieu thereof “, in preparing
2 a solicitation for the award of a development
3 contract for a major system, shall”;

4 (B) in the first sentence of paragraph
5 (2)(A), by striking out “shall ensure that,” and
6 all that follows through “the head of an agen-
7 cy” and inserting in lieu thereof “, in preparing
8 a solicitation for the award of a production con-
9 tract for a major system, shall”;

10 (C) by striking out “the head of the agen-
11 cy” each place it appears and inserting in lieu
12 thereof “the Secretary”; and

13 (D) by striking out “the head of an agen-
14 cy” each place it appears and inserting in lieu
15 thereof “the Secretary of Defense”.

16 (2) Section 2306b is amended—

17 (A) in subsection (b)(1), by striking out
18 “for the agency or agencies under the jurisdic-
19 tion of such official”; and

20 (B) in subsection (j), by striking out “in-
21 struct the Secretary of the military department
22 concerned to”.

23 (3) Section 2307 is amended—

24 (A) in subsection (g), by striking out “Sec-
25 retary of the Navy” each place it appears and

1 inserting in lieu thereof “Secretary of Defense”;
2 and

3 (B) in subsection (h)(7), by striking out
4 the second sentence.

5 (4) Section 2311 is amended in subsection
6 (a)—

7 (A) by inserting “(1)” after “IN GEN-
8 ERAL.—”; and

9 (B) by adding at the end the following new
10 paragraph:

11 “(2) The Secretary of Defense may delegate any au-
12 thority of the Secretary under this chapter only to—

13 “(A) the Deputy Secretary of Defense, who may
14 successively delegate such authority only to the
15 Under Secretary of Defense for Acquisition and
16 Technology;

17 “(B) the Under Secretary of Defense for Acqui-
18 sition and Technology; or

19 “(C) any acquisition program executive officer
20 or acquisition program manager of the Defense Re-
21 search, Development, and Acquisition Agency.”.

22 (5) Section 2318(a) is amended by striking out
23 “Defense Logistics Agency” each place it appears
24 and inserting in lieu thereof “Defense Research, De-
25 velopment, and Acquisition Agency”.

1 (6) Section 2320(b) is amended—

2 (A) in the matter above paragraph (1), by
3 striking out “an agency named in section 2303
4 of this title” and inserting in lieu thereof “the
5 Department of Defense”; and

6 (B) in paragraph (9), by striking out “the
7 head of the agency to withhold” and inserting
8 in lieu thereof “the withholding of”.

9 (7) Section 2323(e)(1)(A)(iii) is amended by
10 striking out “military departments, Defense Agen-
11 cies,” and inserting in lieu thereof “Department of
12 Defense”.

13 (8) Section 2324 is amended—

14 (A) in subsection (e)(3)(A), by striking out
15 the matter above clause (i) and inserting in lieu
16 thereof the following:

17 “(A) Pursuant to regulations prescribed by the Sec-
18 retary of Defense and subject to the availability of appro-
19 priations, the Secretary may waive the application of the
20 provisions of subparagraphs (M) and (N) of paragraph (1)
21 to a covered contract (other than a contract to which para-
22 graph (2) applies) if the Secretary determines that—”;

23 (B) in subsection (h)(2), by striking out
24 “or the Secretary of the military department
25 concerned”;

1 (C) in subsection (k)(4)—

2 (i) by striking out “or Secretary of
3 the military department concerned”;

4 (ii) by striking out “or Secretary de-
5 termines” and inserting in lieu thereof
6 “determines”; and

7 (iii) by striking out “or military de-
8 partment”; and

9 (D) by striking out subsection (l) and in-
10 serting in lieu thereof the following:

11 “(l) COVERED CONTRACT DEFINED.—(1) In this sec-
12 tion, the term ‘covered contract’ means a contract for an
13 amount in excess of \$500,000 that is entered into by the
14 head of an agency, except that such term does not include
15 a fixed-price contract without cost incentives or any firm
16 fixed-price contract for the purchase of commercial items.

17 “(2) Effective on October 1 of each year that is divis-
18 ible by five, the amount set forth in paragraph (1) shall
19 be adjusted to the equivalent amount in constant fiscal
20 year 1994 dollars. An amount, as so adjusted, that is not
21 evenly divisible by \$50,000 shall be rounded to the nearest
22 multiple of \$50,000. In the case of an amount that is even-
23 ly divisible by \$25,000 but is not evenly divisible by
24 \$50,000, the amount shall be rounded to the next higher
25 multiple of \$50,000.”.

1 (9) Section 2326 is amended—

2 (A) by striking out “head of an agency”
3 each place it appears and inserting in lieu
4 thereof “Secretary of Defense”;

5 (B) by striking out “head of the agency”
6 each place it appears and inserting in lieu
7 thereof “Secretary of Defense”;

8 (C) in subsection (a), by striking out “mili-
9 tary department concerned” and inserting in
10 lieu thereof “Department of Defense”; and

11 (D) in subsection (b)(4), by striking out
12 “of that agency if such” and inserting in lieu
13 thereof “of the Department of Defense if the”.

14 (10) Section 2327 is amended—

15 (A) in subsection (a), by striking out “The
16 head of an agency” and inserting in lieu thereof
17 “The Secretary of Defense”;

18 (B) in subsection (b), by striking out “the
19 head of an agency” and inserting in lieu thereof
20 “the Secretary of Defense”;

21 (C) in subsection (c)(1)—

22 (i) by striking out “the head of an
23 agency” each place it appears and insert-
24 ing in lieu thereof “the Secretary”; and

1 (ii) by striking out “such head of an
2 agency” each place it appears and insert-
3 ing in lieu thereof “the Secretary”;

4 (D) in subsection (c)(2), by striking out
5 “Upon the request of the head of an agency,
6 the” and inserting in lieu thereof “The”; and

7 (E) in subsection (d)—

8 (i) by striking out “(1)”; and

9 (ii) by striking out paragraph (2).

10 **SEC. 224. RESEARCH AND DEVELOPMENT.**

11 Chapter 139 of title 10, United States Code, is
12 amended as follows:

13 (1) Section 2352(a) is amended in the matter
14 above paragraph (1)—

15 (A) by striking out “The Secretary of a
16 military department” and inserting in lieu
17 thereof “The Secretary of Defense”; and

18 (B) by striking out “that military depart-
19 ment” and inserting in lieu thereof “the De-
20 partment of Defense”.

21 (2) Section 2353 is amended—

22 (A) in the first sentence of subsection
23 (a)—

24 (i) by striking out “contract of a mili-
25 tary department” and inserting in lieu

1 thereof “Department of Defense contract”;
2 and

3 (ii) by striking out “the Secretary of
4 the military department concerned” and
5 inserting in lieu thereof “the Secretary of
6 Defense”; and

7 (B) in subsection (b)(3), by striking out
8 “the Secretary concerned” and inserting in lieu
9 thereof “the Secretary of Defense”.

10 (3) Section 2354 is amended—

11 (A) in subsection (a), by striking out “the
12 Secretary of the military department concerned,
13 any contract of a military department” and in-
14 serting in lieu thereof “the Secretary of De-
15 fense, any contract of the Department of De-
16 fense”;

17 (B) in subsection (c)—

18 (i) by striking out “the Secretary of
19 the department concerned” and inserting
20 in lieu thereof “the Secretary of Defense”;
21 and

22 (ii) by striking out “of his depart-
23 ment”; and

1 (C) in subsection (d), by striking out “the
2 Secretary concerned” and inserting in lieu
3 thereof “the Secretary of Defense”.

4 (4) Section 2356(a) is amended to read as
5 follows:

6 “(a)(1) Except as provided in paragraph (2), the Sec-
7 retary of Defense may delegate any authority under sec-
8 tion 1584, 2353, 2354, or 2358 of this title to—

9 “(A) the Deputy Secretary of Defense, who may
10 successively delegate such authority only to the
11 Under Secretary of Defense for Acquisition and
12 Technology;

13 “(B) the Under Secretary of Defense for Acqui-
14 sition and Technology; or

15 “(C) any employee of the Defense Research,
16 Development, and Acquisition Agency.

17 “(2) The authority of the Secretary under section
18 2353(b)(3) of this title may not be delegated to a person
19 described in paragraph (1)(C).”.

20 (5) Section 2358 is amended—

21 (A) by striking out “or the Secretary of a
22 military department” in subsections (a) and
23 (b);

1 (B) in subsection (a)(1), by striking out
2 “such Secretary’s department” and inserting in
3 lieu thereof “the Department of Defense”; and

4 (C) in subsection (c)—

5 (i) by striking out “or the Secretary
6 of that military department, respectively,”;
7 and

8 (ii) by striking out “or to such mili-
9 tary department, respectively”.

10 (6) Section 2367(c) is amended to read as fol-
11 lows:

12 “(c) Funds appropriated to the Department of De-
13 fense may not be obligated or expended for purposes of
14 operating a federally funded research center that was not
15 in existence before June 2, 1986, until—

16 “(1) the Secretary of Defense submits to Con-
17 gress a report with respect to such center that de-
18 scribes the purpose, mission, and general scope of ef-
19 fort of the center; and

20 “(2) 60 days elapse after the date on which
21 such report is received by Congress.”.

22 (7) Section 2371 is amended—

23 (A) in subsection (a), by striking out “and
24 the Secretary of each military department;”;
25 and

1 (B) by striking out subsection (b);

2 (C) in subsection (f), by striking out
3 “There is hereby established on the books of
4 the Treasury separate accounts for each of the
5 military departments and the Advanced Re-
6 search Projects Agency” and inserting in lieu
7 thereof the following: “The Secretary of the
8 Treasury, after consultation with the Secretary
9 of Defense, shall establish on the books of the
10 Treasury one or more separate accounts for the
11 Department of Defense”; and

12 (D) in subsection (i), by striking out “in
13 carrying out advanced research projects
14 through the Advanced Research Projects Agen-
15 cy, and the Secretary of each military depart-
16 ment,”.

17 (8) Section 2373(a) is amended—

18 (A) by striking out “and the Secretaries of
19 the military departments may each” and insert-
20 ing in lieu thereof “may”; and

21 (B) by striking out “or the Secretary con-
22 cerned”.

23 **SEC. 225. MISCELLANEOUS PROCUREMENT PROVISIONS.**

24 (a) CHAPTER 141.—Chapter 141 of title 10, United
25 States Code, is amended as follows:

1 (1) Section 2381(b) is amended—

2 (A) in the matter above paragraph (1), by
3 striking out “the Secretary concerned” and in-
4 sserting in lieu thereof “the Secretary of De-
5 fense”; and

6 (B) in paragraph (2), by striking out
7 “military department concerned” and inserting
8 in lieu thereof “Department of Defense”.

9 (2) Section 2385 is amended by striking out “a
10 military department” and inserting in lieu thereof
11 “the Department of Defense”.

12 (3) Section 2386 is amended by striking out “a
13 military department” and inserting in lieu thereof
14 “the Department of Defense”.

15 (4) Section 2388(a) is amended by striking out
16 “and the Secretary of a military department may
17 each” and inserting in lieu thereof “may”.

18 (5) Section 2393 is amended—

19 (A) in subsection (a)—

20 (i) by striking out “the Secretary of a
21 military department” in paragraph (1) and
22 inserting in lieu thereof “the Secretary of
23 Defense”; and

24 (ii) by striking out “the Secretary
25 concerned” in paragraph (2) and inserting

1 in lieu thereof “the Secretary of Defense”;
2 and

3 (B) in subsection (b), by striking out “the
4 Secretary concerned” and inserting in lieu
5 thereof “the Secretary of Defense”.

6 (6) Section 2394 is amended—

7 (A) in subsection (a), by striking out “the
8 Secretary of a military department” and insert-
9 ing in lieu thereof “the Secretary of Defense”;

10 (B) by striking out subsection (b); and

11 (C) by redesignating subsection (c) as sub-
12 section (b).

13 (7) Section 2394a is amended—

14 (A) in subsection (a)—

15 (i) by striking out “Secretary of a
16 military department” and inserting in lieu
17 thereof “Secretary of Defense”; and

18 (ii) by striking out “military depart-
19 ment under his jurisdiction” and inserting
20 in lieu thereof “Department of Defense”;
21 and

22 (B) in subsection (b), by striking out the
23 second sentence.

24 (8) Section 2401(a) is amended by striking out
25 “The Secretary of a military department” both

1 places it appears and inserting in lieu thereof “The
2 Secretary of Defense”.

3 (9) Section 2104a is amended by striking out
4 “or the Secretary of a military department”.

5 (10) Section 2403 is amended—

6 (A) in subsection (a), by striking out para-
7 graph (8);

8 (B) in subsection (b), by striking out “the
9 head of an agency” in the matter above para-
10 graph (1) and inserting in lieu thereof “the
11 Secretary of Defense”;

12 (C) in subsections (c), (f), and (g), by
13 striking out “head of the agency concerned”
14 each place it appears and inserting in lieu
15 thereof “Secretary of Defense”;

16 (D) in subsection (d)—

17 (i) by inserting “(1)” after the sub-
18 section designation;

19 (ii) by redesignating paragraphs (1)
20 and (2) as subparagraphs (A) and (B),
21 respectively;

22 (iii) by striking out the second sen-
23 tence; and

24 (iv) by adding at the end the following
25 new paragraph:

1 “(2) The Secretary may delegate authority under this
2 subsection only to the Under Secretary of Defense for Ac-
3 quisition and Technology.”; and

4 (E) in subsection (h), by striking out para-
5 graph (3).

6 (11) Section 2405(a) is amended by striking
7 out “The Secretary of a military department” and
8 inserting in lieu thereof “The Secretary of Defense.”

9 (12) Section 2410c(a) of title 10, United States
10 Code, is amended by striking out “Secretary of a
11 military department or the head of a Defense Agen-
12 cy, as the case may be,” and inserting in lieu thereof
13 “Secretary of Defense”.

14 (13) Section 2410d(a) is amended by striking
15 out “a military department or a Defense Agency”
16 and inserting in lieu thereof “the Department of De-
17 fense”.

18 (14) Section 2410g(b) is amended by striking
19 out “notification—” and all that follows through
20 “any other Department of Defense contract, to” and
21 insert in lieu thereof “notification to”.

22 (b) CHAPTER 142.—Chapter 142 of title 10, United
23 States Code, is amended as follows:

24 (1) Section 2411(3) is amended by striking out
25 “Director of the Defense Logistics Agency” and in-

1 serting in lieu thereof “Under Secretary of Defense
2 for Acquisition and Technology”.

3 (2) Section 2417 is amended by striking out
4 “Director of the Defense Logistics Agency” and in-
5 serting in lieu thereof “Under Secretary of Defense
6 for Acquisition and Technology”.

7 **SEC. 226. MAJOR DEFENSE ACQUISITION PROGRAMS.**

8 Chapter 144 of title 10, United States Code, is
9 amended as follows:

10 (1) Section 2432(c)(3)(A) is amended by strik-
11 ing out “The Secretary of Defense” and all that fol-
12 lows.

13 (2) Section 2433 is amended—

14 (A) by striking out “service acquisition ex-
15 ecutive designated by the Secretary concerned”
16 each place it appears and inserting in lieu
17 thereof “Under Secretary of Defense for Acqui-
18 sition and Technology”;

19 (B) in subsection (c), by striking out “such
20 service acquisition executive” in the matter fol-
21 lowing paragraph (3) and inserting in lieu
22 thereof “the Under Secretary of Defense for
23 Acquisition and Technology”;

24 (C) in subsection (d)—

1 (i) by striking out “the service acqui-
2 sition executive” in paragraphs (1) and (2)
3 and inserting in lieu thereof “the Under
4 Secretary”; and

5 (ii) in paragraph (3), by striking out
6 “If, based upon the service acquisition ex-
7 ecutive’s determination, the Secretary con-
8 cerned” and inserting in lieu thereof “If
9 the Under Secretary of Defense for Acqui-
10 sition and Technology”; and

11 (D) in subsection (e)—

12 (i) in paragraph (1)(A), by striking
13 out “Secretary concerned” and inserting in
14 lieu thereof “Under Secretary of Defense
15 for Acquisition and Technology”;

16 (ii) in paragraph (1)(B), by striking
17 out “Secretary” both places it appears and
18 inserting in lieu thereof “Under Sec-
19 retary”;

20 (iii) in paragraph (2), by striking out
21 “(as determined by the Secretary” in the
22 matter above subparagraph (A) and insert-
23 ing in lieu thereof “(as determined by the
24 Under Secretary”; and

1 (iv) in paragraph (3), by striking out
2 “by the Secretary” both places it appears
3 in the first sentence and inserting in lieu
4 thereof “by the Under Secretary”.

5 (3) Section 2434(b)(1)(A) is amended by strik-
6 ing out “under the supervision,” and all that follows
7 and inserting in lieu thereof “in the Department of
8 Defense.”.

9 (4) Section 2435 is amended—

10 (A) in subsection (a)(1), by striking out
11 “Secretary of a military department” and in-
12 serting in lieu thereof “Under Secretary of De-
13 fense for Acquisition and Technology”; and

14 (B) in subsection (d)(2), by striking out
15 “the Secretary of the military department con-
16 cerned and”.

17 **SEC. 227. SERVICE SPECIFIC ACQUISITION AUTHORITY.**

18 (a) ARMY.—Part IV of subtitle B of title 10, United
19 States Code, is amended by striking out “Secretary of the
20 Army” in sections 4540(a) and 4542 (each place it ap-
21 pears) and inserting in lieu thereof “Secretary of De-
22 fense”.

23 (b) NAVY.—Part IV of subtitle C of such title is
24 amended as follows:

1 (1) The following sections are amended by
2 striking out “Secretary of the Navy” and inserting
3 in lieu thereof “Secretary of Defense”: sections
4 7212(a), 7229, 7299a (each place it appears),
5 7309(c), 7310(b) (both places it appears), 7311(a)
6 (in the matter before paragraph (1)), 7311(b) (in
7 the matter before paragraph (1)), 7314, and 7361
8 (each place it appears) .

9 (2) Section 7314(1)(B) is amended by striking
10 out “Navy supply system” each place it appears and
11 inserting in lieu thereof “Department of Defense
12 supply system”.

13 (3) Section 7522 is amended by striking out
14 “Secretary of the Navy” and all that follows through
15 “chiefs of bureaus” and inserting in lieu thereof
16 “Secretary of Defense”.

17 (c) AIR FORCE.—Part IV of subtitle D of such title
18 is amended as follows:

19 (1) Sections 9511(10) and 9540(a) are amend-
20 ed by striking out “Secretary of the Air Force” and
21 inserting in lieu thereof “Secretary of Defense”.

22 (2) Section 9513(a) is amended—

23 (A) in paragraph (1), by striking out “Sec-
24 retary of the Air Force—” and all that follows
25 and inserting in lieu thereof the following: “Sec-

1 retary, in consultation with the Secretary of the
2 military department concerned, may, by con-
3 tract entered into with a contractor, authorize
4 such contractor to use one or more Department
5 of Defense installations designated by the Sec-
6 retary of Defense.”; and

7 (B) in paragraph (2), by striking out “of
8 the Air Force”.

9 **SEC. 228. OTHER LAWS.**

10 In any other provision of law providing authority for
11 the Secretary of a military department or the head of a
12 Defense Agency of the Department of Defense to perform
13 a research, development, or acquisition function of the De-
14 partment of Defense, the reference to that official shall
15 be deemed to refer to the Secretary of Defense. That func-
16 tion shall be performed as provided in section 133(b) of
17 title 10, United States Code (as amended by section
18 201(a)), and section 232 of such title (as added by section
19 201(b)).

20 **Subtitle D—Effective Date**

21 **SEC. 231. EFFECTIVE DATE.**

22 This title and the amendments made by this title
23 shall take effect on the date that is one year after the
24 date of the enactment of this Act.

1 **TITLE III—DEPOT-LEVEL**
2 **MAINTENANCE**

3 **SEC. 301. ELIMINATION OF 60/40 RULE FOR PUBLIC/PRI-**
4 **VATE DIVISION OF DEPOT-LEVEL MAINTENANCE WORKLOAD.**

6 (a) **ELIMINATION OF RULE.**—Section 2466 of title
7 10, United States Code, is amended—

- 8 (1) by striking out subsections (a), (c), (d), and
9 (e); and
10 (2) by striking out “(b) **PROHIBITION ON MAN-**
11 **AGEMENT BY END STRENGTH.—**”.

12 (b) **CONFORMING AMENDMENTS.**—(1) The heading
13 of such section is amended to read as follows:

14 **“§2466. Civilian employees involved in depot-level**
15 **maintenance and repair of materiel: pro-**
16 **hibition on management by end**
17 **strength”.**

18 (2) The item relating to such section in the table of
19 sections at the beginning of chapter 146 of such title is
20 amended to read as follows:

“2466. Civilian employees involved in depot-level maintenance and repair of ma-
teriel: prohibition on management by end strength.”.

1 **SEC. 302. PRESERVATION OF CORE MAINTENANCE AND RE-**
2 **PAIR CAPABILITY.**

3 (a) IN GENERAL.—(1) Chapter 146 of title 10, Unit-
4 ed States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 2472. Core maintenance and repair capability:**
7 **preservation**

8 “(a) NECESSITY FOR CORE MAINTENANCE AND RE-
9 PAIR CAPABILITIES.—It is essential for the national de-
10 fense that the Department of Defense preserve an organic
11 maintenance and repair capability (including personnel,
12 equipment, and facilities) to meet readiness and sustain-
13 ability requirements established by the Chairman of the
14 Joint Chiefs of Staff for the systems and equipment re-
15 quired for contingency plans approved by the Chairman
16 of the Joint Chiefs of Staff under section 153(a)(3) of
17 this title.

18 “(b) IDENTIFICATION OF CORE MAINTENANCE AND
19 REPAIR CAPABILITIES.—The Secretary of Defense shall
20 identify those maintenance and repair activities of the De-
21 partment of Defense that are necessary to preserve the
22 maintenance and repair capability described in subsection
23 (a). The Secretary may identify for such purpose only
24 those activities of the Department of Defense that are nec-
25 essary to ensure a ready and controlled source of technical
26 competence for that purpose. The Secretary may not iden-

1 tify for such purpose any intermediate-level or depot-level
2 maintenance or repair activity.

3 “(c) LIMITATION ON CONTRACTING.—The Secretary
4 may not contract for the performance by non-Government
5 personnel of a maintenance activity identified by the Sec-
6 retary under subsection (b) under the procedures and re-
7 quirements of Office of Management and Budget Circular
8 A-76 or any successor administrative regulation or policy
9 unless the Secretary of Defense determines (under regula-
10 tions prescribed by the Secretary) that Government per-
11 formance of the activity is no longer required for national
12 defense reasons.

13 “(d) CONTRACTING FOR PERFORMANCE OF NON-
14 CORE FUNCTIONS.—In the case of any maintenance or
15 repair activity (including the making of major modifica-
16 tions and upgrades) that is not identified by the Secretary
17 under subsection (b), the Secretary concerned shall pro-
18 vide for the performance of that activity by an entity in
19 the private sector, selected through the use of competitive
20 procedures, unless the Secretary determines that the per-
21 formance of that activity by a Government entity is nec-
22 essary to maintain the defense industrial base.”.

23 (2) The table of sections at the beginning of such
24 chapter is amended by adding at the end the following
25 new item:

“2472. Core maintenance and repair capability: preservation.”.

1 (b) REVISION OF REGULATIONS.—The Secretary of
2 Defense shall revise the existing Department of Defense
3 regulations relating to depot level maintenance and repair
4 activities in order to ensure the consistency of those regu-
5 lations with the policy provided in section 2472(d) of title
6 10, United States Code, as added by subsection (a).

7 **SEC. 303. PERFORMANCE OF DEPOT-LEVEL MAINTENANCE**
8 **WORKLOAD BY PRIVATE SECTOR WHENEVER**
9 **POSSIBLE.**

10 (a) REQUIREMENT.—Section 2469 of title 10, United
11 States Code, is amended to read as follows:

12 **“§ 2469. Depot-level maintenance and repair activi-**
13 **ties: use of private sector**

14 “(a) IN GENERAL.—The Secretary of Defense shall
15 (except as provided in subsection (b)) provide for the per-
16 formance by private sector entities of all depot-level main-
17 tenance and all depot-level repair work of the Department
18 of Defense.

19 “(b) EXCEPTION.—The Secretary may provide for
20 the performance of a particular depot-level maintenance
21 workload, or a particular depot-level repair workload, by
22 an entity of the Department of Defense if—

23 “(1) no responsive bids for performance of that
24 workload are received from responsible offerors; or

1 “(2) the Secretary makes a determination that
 2 subsection (a) must be waived for that particular
 3 workload for reasons of national security.”.

4 (b) CLERICAL AMENDMENT.—The item relating to
 5 section 2469 in the table of sections at the beginning of
 6 chapter 146 of such title is amended to read as follows:

“2469. Depot-level maintenance and repair activities: use of private sector.”.



S 646 IS—2

S 646 IS—3

S 646 IS—4

S 646 IS—5

S 646 IS—6

S 646 IS—7

S 646 IS—8