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S. 454

To improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2009

Mr. LEVIN (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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A BILL

To improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Weapon Systems Acquisition Reform Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Congressional defense committees.

TITLE I—ACQUISITION ORGANIZATION

Sec. 101. Reports on systems engineering capabilities of the Department of Defense.
Sec. 102. Director of Developmental Test and Evaluation.
Sec. 103. Assessment of technological maturity of critical technologies of major defense acquisition programs by the Director of Defense Research and Engineering.
Sec. 104. Director of Independent Cost Assessment.
Sec. 105. Role of the commanders of the combatant commands in identifying joint military requirements.

TITLE II—ACQUISITION POLICY

Sec. 201. Consideration of trade-offs among cost, schedule, and performance in the acquisition of major weapon systems.
Sec. 202. Preliminary design review for major defense acquisition programs.
Sec. 203. Maximization of competition throughout the life cycle of major defense acquisition programs.
Sec. 204. Critical cost growth in major defense acquisition programs.
Sec. 205. Organizational conflicts of interest in the acquisition of major weapon systems.
Sec. 206. Awards for Department of Defense personnel for excellence in the acquisition of products and services.

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES.

In this Act, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

TITLE I—ACQUISITION ORGANIZATION

SEC. 101. REPORTS ON SYSTEMS ENGINEERING CAPABILITIES OF THE DEPARTMENT OF DEFENSE.

(a) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report setting forth the following:

(1) A description of the extent to which such military department has in place development planning organizations and processes staffed by adequate numbers of personnel with appropriate training and expertise to ensure that—

(A) key requirements, acquisition, and budget decisions made for each major weapon system prior to Milestones A and B are supported by a rigorous systems analysis and systems engineering process;

(B) the systems engineering strategy for each major weapon system includes a robust program for improving reliability, availability, and maintainability as an integral part of design and development; and

(C) systems engineering requirements, including reliability, availability, and maintainability requirements, are identified during the Joint Capabilities Integration Development System process and incorporated into contract requirements for each major weapon system.

(2) A description of the actions that such military department has taken, or plans to take, to—

(A) establish needed development planning and systems engineering organizations and processes; and

(B) attract, develop, retain, and reward systems engineers with appropriate levels of hands-on experience and technical expertise to meet the needs of such military department.

(b) REPORT BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the system engineering capabilities of the Department of Defense. The report shall include, at a minimum, the following:

(1) An assessment by the Under Secretary of the reports submitted by the service acquisition executives pursuant to subsection (a) and of the adequacy of the actions that each military department has taken, or plans to take, to meet the systems engineering and development planning needs of such military department.

(2) An assessment of each of the recommendations of the report on Pre-Milestone A and Early-Phase Systems Engineering of the Air Force Studies Board of the National Research Council, including the recommended checklist of systems engineering issues to be addressed prior to Milestones A and B, and the extent to which such recommendations should be implemented throughout the Department of Defense.

SEC. 102. DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, is amended by inserting after section 139b the following new section:

"§ 139c. Director of Developmental Test and Evaluation

''(a) There is a Director of Developmental Test and Evaluation, who shall be appointed by the Secretary of Defense from among individuals with an expertise in acquisition and testing.

''(b)(1) The Director of Developmental Test and Evaluation shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acqui-

sition, Technology, and Logistics on developmental test and evaluation in the Department of Defense.

"(2) The Director shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

"(c) The Director of Developmental Test and Evaluation shall—

"(1) develop policies and guidance for the developmental test and evaluation activities of the Department of Defense;

"(2) monitor and review the developmental test and evaluation activities of the Department of Defense;

"(3) review and approve the test and evaluation master plan for each major defense acquisition program of the Department of Defense;

"(4) supervise the activities of the Director of the Department of Defense Test Resource Management Center under section 196 of this title;

"(5) review the organizations and capabilities of the military departments with respect to developmental test and evaluation and identify needed changes or improvements to such organizations and capabilities; and

"(6) perform such other activities relating to the developmental test and evaluation activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

"(d) The Director of Developmental Test and Evaluation shall have access to all records and data of the Department of Defense (including the records and data of each military department) that the Director considers necessary in order to carry out the Director's duties under this section.

"(e) The Director of Developmental Test and Evaluation shall submit to Congress each year a report on the developmental test and evaluation activities of the Department of Defense during the preceding year.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title is amended by inserting after the item relating to section 139b the following new item:

"139c. Director of Developmental Test and Evaluation.".

(3) CONFORMING AMENDMENT.—Section 196(f) of such title is amended by striking "the Under Secretary of Defense for Acquisition, Technology, and Logistics" and all that follows and inserting "the Under Secretary of Defense for Acquisition, Tech-

nology, and Logistics and the Director of Developmental Test and Evaluation.''.

(b) REPORTS ON DEVELOPMENTAL TESTING ORGANIZATIONS AND PERSONNEL.—

(1) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department shall submit to the Director of Developmental Test and Evaluation a report on the extent to which the test organizations of such military department have in place, or have effective plans to develop, adequate numbers of personnel with appropriate expertise for each purpose as follows:

(A) To ensure that testing requirements are appropriately addressed in the translation of operational requirements into contract specifications, in the source selection process, and in the preparation of requests for proposals on all major defense acquisition programs.

(B) To participate in the planning of developmental test and evaluation activities, including the preparation and approval of a test and evaluation master plan for each major defense acquisition program.

(C) To participate in and oversee the conduct of developmental testing, the analysis of data, and the preparation of evaluations and reports based on such testing.

(2) FIRST ANNUAL REPORT BY DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.—The first annual report submitted to Congress by the Director of Developmental Test and Evaluation under section 139c(e) of title 10, United States Code (as added by subsection (a)), shall be submitted not later than one year after the date of the enactment of this Act, and shall include an assessment by the Director of the reports submitted by the service acquisition executives to the Director under paragraph (1).

SEC. 103. ASSESSMENT OF TECHNOLOGICAL MATURITY OF CRITICAL TECHNOLOGIES OF MAJOR DEFENSE ACQUISITION PROGRAMS BY THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

(a) ASSESSMENT BY DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—

(1) IN GENERAL.—Section 139a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Director of Defense Research and Engineering shall periodically review and assess the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense and report on the findings of such reviews and assessments to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(2) The Director shall submit to the Secretary of Defense and to Congress each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense.".

(2) FIRST ANNUAL REPORT.—The first annual report under subsection (c)(2) of section 139a of title 10, United States Code (as added by paragraph (1)), shall be submitted to Congress not later than March 1, 2011, and shall address the results of reviews and assessments conducted by the Director of Defense Research and Engineering pursuant to subsection (c)(1) of such section (as so added) during the preceding calendar year.

(b) REPORT ON RESOURCES FOR IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the congressional defense

committees a report describing any additional resources that may be required by the Director, and by other science and technology elements of the Department of Defense, to carry out the following:

(1) The requirements under the amendment made by subsection (a).

(2) The technological maturity assessments required by section 2366b(a) of title 10, United States Code, as amended by section 202 of this Act.

(3) The requirements of Department of Defense Instruction 5000, as revised.

SEC. 104. DIRECTOR OF INDEPENDENT COST ASSESSMENT.

(a) DIRECTOR OF INDEPENDENT COST ASSESSMENT.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, as amended by section 102 of this Act, is further amended by inserting after section 139c the following new section:

"§ 139d. Director of Independent Cost Assessment

''(a) There is a Director of Independent Cost Assessment in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the Director.

"(b) The Director is the principal advisor to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Under Secretary of Defense (Comptroller) on cost estimation and cost analyses for the acquisition programs of the Department of Defense and the principal cost estimation official within the senior management of the Department of Defense. The Director shall—

"(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of cost estimation and cost analysis for the acquisition programs of the Department of Defense;

"(2) provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Secretaries of the military departments with respect to cost estimation in the Department of Defense in general and with respect to specific cost estimates and cost analyses to be conducted in connection with a major defense acquisition program under chapter 144 of this title or a major automated information system program under chapter 144A of this title;

"(3) establish guidance on confidence levels for cost estimates on major defense acquisition pro-

grams and require the disclosure of all such confidence levels;

"(4) monitor and review all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major automated information system programs; and

"(5) conduct independent cost estimates and cost analyses for major defense acquisition programs and major automated information system programs—

"(A) in advance of—

"(i) any certification under section 2366a or 2366b of this title;

"(ii) any certification under section 2433(e)(2) of this title; and

"(iii) any report under section 2445c(f) of this title; and

"(B) whenever necessary to ensure that an estimate or analysis under paragraph (4) is unbiased, fair, and reliable.

"(c)(1) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

"(2) The Director shall consult closely with, but the Director and the Director's staff shall be independent of, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and all other officers and entities of the Department of Defense responsible for acquisition and budgeting.

"(d)(1) The Secretary of a military department shall report promptly to the Director the results of all cost estimates and cost analyses conducted by the military department and all studies conducted by the military department in connection with cost estimates and cost analyses for major defense acquisition programs of the military department.

"(2) The Director may make comments on cost estimates and cost analyses conducted by a military department for a major defense acquisition program, request changes in such cost estimates and cost analyses to ensure that they are fair and reliable, and develop or require the development of independent cost estimates or cost analyses for such program, as the Director determines to be appropriate.

"(3) The Director shall have access to any records and data in the Department of Defense (including the records and data of each military department) that the

Director considers necessary to review in order to carry out the Director's duties under this section.

"(e)(1) The Director shall prepare an annual report summarizing the cost estimation and cost analysis activities of the Department of Defense during the previous year and assessing the progress of the Department in improving the accuracy of its costs estimates and analyses.

"(2) Each report under this subsection shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31. The Director shall ensure that a report submitted under this subsection does not include any information, such as proprietary or source selection sensitive information, that could undermine the integrity of the acquisition process.

"(3) The Secretary may comment on any report of the Director to Congress under this subsection.

"(f) The President shall include in the budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the Director of Independent Cost Assessment in

carrying out the duties and responsibilities of the Director under this section.

"(g) The Secretary of Defense shall ensure that the Director has sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director under this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title, as so amended, is further amended by inserting after the item relating to section 139c the following new item:

"139d. Director of Independent Cost Assessment.".

(b) REPORT ON MONITORING OF OPERATING AND SUPPORT COSTS FOR MDAPS.—

(1) REPORT TO SECRETARY OF DEFENSE.—Not later than one year after the date of the enactment of this Act, the Director of Independent Cost Assessment under section 139d of title 10 United States Code (as added by subsection (a)), shall review existing systems and methods of the Department of Defense for tracking and assessing operating and support costs on major defense acquisition programs and submit to the Secretary of Defense a report on the finding and recommendations of the Director as a result of the review.

(2) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report required by paragraph (1), the Secretary shall transmit the report to the congressional defense committees, together with any comments on the report the Secretary considers appropriate.

(c) TRANSFER OF PERSONNEL AND FUNCTIONS OF COST ANALYSIS IMPROVEMENT GROUP.—The personnel and functions of the Cost Analysis Improvement Group of the Department of Defense are hereby transferred to the Director of Independent Cost Assessment under section 139d of title 10, United States Code (as so added), and shall report directly to the Director.

(d) CONFORMING AMENDMENTS.—

(1) Section 2306b(i)(1)(B) of title 10, United States Code, is amended by striking ''Cost Analysis Improvement Group of the Department of Defense'' and inserting ''Director of Independent Cost Assessment''.

(2) Section 2366a(a)(4) of such title is amended by striking ''has been submitted'' and inserting ''has been approved by the Director of Independent Cost Assessment''.

(3) Section 2366b(a)(1)(C) of such title is amended by striking ''have been developed to exe-

cute'' and inserting ''have been approved by the Director of Independent Cost Assessment to provide for the execution of''.

(4) Section 2433(e)(2)(B)(iii) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(5) Subparagraph (A) of section 2434(b)(1) of such title is amended to read as follows:

''(A) be prepared or approved by the Director of Independent Cost Assessment; and''.

(6) Section 2445c(f)(3) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

SEC. 105. ROLE OF THE COMMANDERS OF THE COMBATANT COMMANDS IN IDENTIFYING JOINT MILITARY REQUIREMENTS.

Section 181(d) of title 10, United States Code, is amended—

(1) by inserting ''(1)'' before ''The Under Secretary''; and

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

"(2) The Council shall seek and consider input from the commanders of the combatant commands in carrying out its mission under paragraphs (1) and (2) of subsection (b) and in conducting periodic reviews in accordance with the requirements of subsection (e).".

TITLE II—ACQUISITION POLICY

SEC. 201. CONSIDERATION OF TRADE-OFFS AMONG COST, SCHEDULE, AND PERFORMANCE IN THE ACQUISITION OF MAJOR WEAPON SYSTEMS.

(a) CONSIDERATION OF TRADE-OFFS.—

(1) IN GENERAL.—The Secretary of Defense shall develop and implement mechanisms to ensure that trade-offs between cost, schedule, and performance are considered as part of the process for developing requirements for major weapon systems.

(2) ELEMENTS.—The mechanisms required under this subsection shall ensure, at a minimum, that—

(A) Department of Defense officials responsible acquisition, budget, and cost estimating functions are provided an appropriate opportunity to develop estimates and raise cost and schedule matters before performance requirements are established for major weapon systems; and

(B) consideration is given to fielding major weapon systems through incremental or spiral acquisition, while deferring technologies that are not yet mature, and capabilities that are likely to significantly increase costs or delay production, until later increments or spirals.

(3) MAJOR WEAPONS SYSTEM DEFINED.—In this subsection, the term ''major weapon system'' has the meaning given that term in section 2379(d) of title 10, United States Code.

(b) DUTIES OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.—Section 181(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) in ensuring the consideration of trade-offs among cost, schedule and performance for joint military requirements;''.

SEC. 202. PRELIMINARY DESIGN REVIEW FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 2366b(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

''(2) has received a preliminary design review (PDR) and conducted a formal post-preliminary design review assessment, and certifies on the basis of such assessment that the program demonstrates a high likelihood of accomplishing its intended mission; and''; and

(4) in paragraph (3), as redesignated by paragraph (2) of this section—

(A) in subparagraph (D), by striking the semicolon and inserting '', as determined by the Milestone Decision Authority on the basis of an independent review and assessment by the Director of Defense Research and Engineering; and'';

(B) by striking subparagraph (E); and

(C) by redesignating subparagraph (F) as subparagraph (E).

SEC. 203. MAXIMIZATION OF COMPETITION THROUGHOUT THE LIFE CYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) MAXIMIZATION OF COMPETITION.—The Secretary of Defense shall ensure that the acquisition plan for each major defense acquisition program includes measures to maximize competition at both the prime contract level and the subcontract level of such program throughout the life cycle of such program.

(b) MEASURES TO MAXIMIZE COMPETITION.—The measures to maximize competition utilized for purposes of subsection (a) may include, but are not limited to, measures to achieve the following, where cost-effective:

(1) Competitive prototyping.

(2) Dual-sourcing.

(3) Funding of a second source for interchangeable, next-generation prototype systems or subsystems.

(4) Utilization of modular, open architectures to enable competition for upgrades.

(5) Periodic competitions for subsystem upgrades.

(6) Licensing of additional suppliers.

(7) Requirements for Government oversight or approval of make or buy decisions to ensure competition at the subsystem level.

(8) Periodic system or program reviews to address long-term competitive effects of program decisions.

(9) Consideration of competition at the subcontract level and in make or buy decisions as a factor in proposal evaluations.

(c) COMPETITIVE PROTOTYPING.—The Secretary of Defense shall modify the acquisition regulations of the Department of Defense to ensure with respect to competitive prototyping for major defense acquisition programs the following:

(1) That the acquisition strategy for each major defense acquisition program provides for two or more competing teams to produce prototypes before Milestone B approval (or Key Decision Point B approval in the case of a space program) unless the milestone decision authority for such program waives the requirement on the basis of a determination that, but for such waiver, the Department would be unable to meet critical national security objectives.

(2) That if the milestone decision authority waives the requirement for prototypes produced by

two or more teams for a major defense acquisition program under paragraph (1), the acquisition strategy for the program provides for the production of at least one prototype before Milestone B approval (or Key Decision Point B approval in the case of a space program) unless the milestone decision authority waives such requirement on the basis of a determination that, but for such waiver, the Department would be unable to meet critical national security objectives.

(3) That whenever a milestone decision authority authorizes a waiver under paragraph (1) or (2), the waiver, the determination upon which the waiver is based, and the reasons for the determination are submitted in writing to the congressional defense committees not later than 30 days after the waiver is authorized.

(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term ''major defense acquisition program'' has the meaning given that term in section 2430 of title 10, United States Code.

(e) APPLICABILITY.—This section shall apply to any acquisition plan for a major defense acquisition program that is developed or revised on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 204. CRITICAL COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORIZED ACTIONS IN EVENT OF CRITICAL COST GROWTH.—Section 2433(e)(2) of title 10, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking subparagraph (B); and

(3) by inserting after subparagraph (A) the following new subparagraphs (B) and (C):

"(B) terminate such acquisition program, unless the Secretary determines that the continuation of such program is essential to the national security of the United States and submits a written certification in accordance with subparagraph (C)(i) accompanied by a report setting forth the assessment carried out pursuant to subparagraph (A) and the basis for each determination made in accordance with clauses (I) through (IV) of subparagraph (C)(i), together with supporting documentation;

"(C) if the program is not terminated—

"(i) submit to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required

to be submitted under section 2432(f) of this title, a written certification stating that—

"(I) such acquisition program is essential to national security;

"(II) there are no alternatives to such acquisition program which will provide equal or greater capability to meet a joint military requirement (as that term is defined in section 181(g)(1) of this title) at less cost;

"(III) the new estimates of the program acquisition unit cost or procurement unit cost were arrived at in accordance with the requirements of section 139d of this title and are reasonable; and

"(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost;

"(ii) rescind the most recent Milestone approval (or Key Decision Point approval in the case of a space program) for such program and withdraw any associated certification under section 2366a or 2366b of this title; and

"(iii) require a new Milestone approval (or Key Decision Point approval in the case of a space program) for such program before entering into a new contract, exercising an option under an existing contract, or otherwise extending the scope of an existing contract under such program; and".

(b) TOTAL EXPENDITURE FOR PROCUREMENT RESULTING IN TREATMENT AS MDAP.—Section 2430(a)(2) of such title is amended by inserting ", including all planned increments or spirals," after "an eventual total expenditure for procurement".

SEC. 205. ORGANIZATIONAL CONFLICTS OF INTEREST IN THE ACQUISITION OF MAJOR WEAPON SYSTEMS.

(a) REVISED REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall revise the Defense Supplement to the Federal Acquisition Regulation to address organizational conflicts of interest by contractors in the acquisition of major weapon systems.

(b) ELEMENTS.—The revised regulations required by subsection (a) shall, at a minimum—

(1) ensure that the Department of Defense receives advice on systems architecture and systems engineering matters with respect to major weapon systems from federally funded research and development centers or other sources independent of the prime contractor;

(2) require that a contract for the performance of systems engineering and technical assistance (SETA) functions with regard to a major weapon system contains a provision prohibiting the contractor or any affiliate of the contractor from having a direct financial interest in the development or construction of the weapon system or any component thereof; and

(3) provide for fair and objective ''make-buy'' decisions by the prime contractor on a major weapon system by—

(A) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of the weapon system;

(B) providing for government oversight of the process by which prime contractors consider such sources and determine whether to conduct

such development or construction in-house or through a subcontract;

(C) where appropriate, requiring that program managers, rather than prime contractors, make the determination whether such development or construction should be conducted in-house or through a subcontract; and

(D) providing for the consideration of prime contractors ''make-buy'' decisions in past performance evaluations.

(c) ORGANIZATIONAL CONFLICT OF INTEREST REVIEW BOARD.—

(1) ESTABLISHMENT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish within the Department of Defense a board to be known as the ''Organizational Conflict of Interest Review Board''.

(2) DUTIES.—The Board shall have the following duties:

(A) To advise the Under Secretary of Defense for Acquisition, Technology, and Logistics on policies relating to organizational conflicts of interest in the acquisition of major weapon systems.

(B) To advise program managers on steps to comply with the requirements of the revised regulations required by this section and to address organizational conflicts of interest in the acquisition of major weapon systems.

(C) To advise appropriate officials of the Department on organizational conflicts of interest arising in proposed mergers of defense contractors.

(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term ''major weapon system'' has the meaning given that term in section 2379(d) of title 10, United States Code.

SEC. 206. AWARDS FOR DEPARTMENT OF DEFENSE PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF PRODUCTS AND SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall commence carrying out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense in the acquisition of products and services for the Department of Defense.

(b) ELEMENTS.—The program required by subsection (a) shall include the following:

(1) Procedures for the nomination by the personnel of the military departments and the Defense Agencies of individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense for eligibility for recognition under the program.

(2) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the government, academia, and the private sector who have such expertise, and are appointed in such manner, as the Secretary shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Secretary may award to any individual recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law.

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