

SEC. 207. ORGANIZATIONAL CONFLICTS OF INTEREST IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Revised Regulations Required- Not later than 270 days after the date of program; and

‘(3) the course the Department plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program.’.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2433 the following new item:

‘2433a. Critical cost growth in major defense acquisition programs.’.

(3) CONFORMING AMENDMENT- Paragraph (2) of section 2433(e) of such title 10 is amended to read as follows:

‘(2) If the program acquisition unit cost or procurement unit cost of a major defense acquisition program or designated major subprogram (as determined by the Secretary under subsection (d)) increases by a percentage equal to or greater than the critical cost growth threshold for the program or subprogram, the Secretary of Defense shall take actions consistent with the requirements of section 2433a of this title.’.

(b) Treatment as MDAP- Section 2430 of such title is amended--

(1) in subsection (a)(2), by inserting ‘, including all planned increments or spirals,’ after ‘an eventual total expenditure for procurement’; and

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

‘(c) For purposes of subsection (a)(2), the Secretary shall consider, as applicable, the following:

‘(1) The estimated level of resources required to fulfill the relevant joint military requirement, as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

‘(2) The cost estimate referred to in section 2366a(a)(4) of this title.

‘(3) The cost estimate referred to in section 2366b(a)(1)(C) of this title.

‘(4) The cost estimate within a baseline description as required by section 2435 of this title.’.

the enactment of this Act, the Secretary of Defense shall revise the Defense Supplement to the Federal Acquisition Regulation to provide uniform guidance and tighten existing requirements for organizational conflicts of interest by contractors in major defense acquisition programs.

(b) Elements- The revised regulations required by subsection (a) shall, at a minimum--

(1) address organizational conflicts of interest that could arise as a result of--

(A) lead system integrator contracts on major defense acquisition programs and contracts that follow lead system integrator contracts on such programs, particularly contracts for production;

(B) the ownership of business units performing systems engineering and technical assistance functions, professional services, or management support services in relation to major defense acquisition programs by contractors who simultaneously own business units competing to perform as either the prime contractor or the supplier of a major subsystem or component for such programs;

(C) the award of major subsystem contracts by a prime contractor for a major defense acquisition program to business units or other affiliates of the same parent corporate entity, and particularly the award of subcontracts for software integration or the development of a proprietary software system architecture; or

(D) the performance by, or assistance of, contractors in technical evaluations on major defense acquisition programs;

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

(3) require that a contract for the performance of systems engineering and technical assistance functions for a major defense acquisition program contains a provision prohibiting the contractor or any affiliate of the contractor from participating as a prime contractor or a major subcontractor in the development or construction of a weapon system under the program; and

(4) establish such limited exceptions to the requirement in paragraphs (2) and (3) as may be necessary to ensure that the Department of

Defense has continued access to advice on systems architecture and systems engineering matters from highly-qualified contractors with domain experience and expertise, while ensuring that such advice comes from sources that are objective and unbiased.

(c) Consultation in Revision of Regulations-

(1) RECOMMENDATIONS OF PANEL ON CONTRACTING INTEGRITY- Not later than 90 days after the date of the enactment of this Act, the Panel on Contracting Integrity established pursuant to section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2320) shall present recommendations to the Secretary of Defense on measures to eliminate or mitigate organizational conflicts of interest in major defense acquisition programs.

(2) CONSIDERATION OF RECOMMENDATIONS- In developing the revised regulations required by subsection (a), the Secretary shall consider the following:

(A) The recommendations presented by the Panel on Contracting Integrity pursuant to paragraph (1).

(B) Any findings and recommendations of the Administrator for Federal Procurement Policy and the Director of the Office of Government Ethics pursuant to section 841(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4539).

(d) Extension of Panel on Contracting Integrity- Subsection (e) of section 813 of the John Warner National Defense Authorization Act for Fiscal Year 2007 is amended to read as follows:

(e) Termination-

(1) IN GENERAL- Subject to paragraph (2), the panel shall continue to serve until the date that is 18 months after the date on which the Secretary of Defense notifies the congressional defense committees of an intention to terminate the panel based on a determination that the activities of the panel no longer justify its continuation and that concerns about contracting integrity have been mitigated.

(2) MINIMUM CONTINUING SERVICE- The panel shall continue to serve at least until December 31, 2011.