

Defense after the Under Secretary of Defense for Personnel and Readiness.

(Added Pub. L. 107-314, div. A, title IX, § 901(a)(2), Dec. 2, 2002, 116 Stat. 2619.)

PRIOR PROVISIONS

A prior section 137 was renumbered section 139a of this title.

Another prior section 137 was renumbered section 135 of this title.

Another prior section 137 was renumbered section 140 of this title.

RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947

Pub. L. 107-314, div. A, title IX, § 901(d), Dec. 2, 2002, 116 Stat. 2620, provided that: “Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 401 et seq.).”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.]

§ 138. Assistant Secretaries of Defense

(a) There are ten Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.

(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.

(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to the Assistant Secretary in writing; and

(2) the order is issued through the Secretary of the military department concerned.

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, and the Director of Defense Research and Engineering. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 87-651, title II, § 202, Sept. 7, 1962, 76 Stat. 518, § 136; amended Pub. L. 90-168, § 2(1), (2), Dec. 1, 1967, 81 Stat. 521; Pub. L. 91-121, title IV, § 404(a), Nov. 19, 1969, 83 Stat. 207; Pub. L. 92-215, § 1, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92-596, § 4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, § 3(a), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 96-107, title VIII, § 820(a), Nov. 9, 1979, 93 Stat. 819; Pub. L. 98-94, title XII, § 1212(a), Sept. 24, 1983, 97 Stat. 686; Pub. L. 99-433, title I, §§ 106, 110(d)(9), Oct. 1, 1986, 100 Stat. 997, 1003; Pub. L. 99-500, § 101(c) [title IX, § 9115(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-122, and Pub. L. 99-591, § 101(c) [title IX, § 9115(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-122; Pub. L. 99-661, div. A, title XIII, § 1311(a), Nov. 14, 1986, 100 Stat. 3983; Pub. L. 100-180, div. A, title XII, § 1211(a)(1), Dec. 4, 1987, 101 Stat. 1154; Pub. L. 100-453, title VII, § 702, Sept. 29, 1988, 102 Stat. 1912; Pub. L. 100-456, div. A, title VII, § 701, Sept. 29, 1988, 102 Stat. 1992; renumbered § 138 and amended Pub. L. 103-160, div. A, title IX, §§ 901(a)(1), (c), 903(c)(1), 905, Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103-337, div. A, title IX, §§ 901(a), 903(b)(2), Oct. 5, 1994, 108 Stat. 2822, 2823; Pub. L. 104-106, div. A, title IX, §§ 902(a), 903(b), (e)(2), Feb. 10, 1996, 110 Stat. 401, 402; Pub. L. 104-201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 105-261, div. A, title IX, §§ 901(a), 902, Oct. 17, 1998, 112 Stat. 2091; Pub. L. 106-398, § 1 [div. A], title IX, § 901, Oct. 30, 2000, 114 Stat. 1654, 1654A-223; Pub. L. 107-107, div. A, title IX, § 901(c)(1), Dec. 28, 2001, 115 Stat. 1194; Pub. L. 107-314, div. A, title IX, § 902(a), (c), (d), Dec. 2, 2002, 116 Stat. 2620, 2621; Pub. L. 109-364, div. A, title IX, § 901(a), Oct. 17, 2006, 120 Stat. 2350.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
136(a)	5:171c(c) (1st sentence).	July 26, 1947, ch. 343, § 202(c)(7) (less 1st 2 sentences); added Aug. 6, 1958, Pub. L. 85-599, § 3(a) (8th par., less 1st 2 sentences), 72 Stat. 516.
136(b)	5:171c(c) (1st 18 words of 2d sentence). 5:171c-2 (less 1st sentence). 5:171n(a) (as applicable to 5:172).	July 26, 1947, ch. 343, § 203(c); added Aug. 10, 1949, ch. 412, § 6(a), (2d par.), 63 Stat. 581; redesignated Aug. 6, 1958, Pub. L. 85-599, § 9(a) (1st par., as applicable to § 203(c)), 10(a), 72 Stat. 520, 521.
136(c)	5:171a(c)(7) (3rd sentence).	
136(d)	5:171a(c)(7) (less 1st 3 sentences).	
136(e)	5:171c(c) (less 1st sentence and less 1st 18 words of 2d sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
		July 26, 1947, ch. 343, § 302 (less 1st sentence); restated Aug. 10, 1949, ch. 412, § 10(b) (less 1st sentence) restated Aug. 10, 1956, ch. 1041, § 21 (less 1st sentence), 70A Stat. 629.
		July 26, 1947, ch. 343, § 308(a) (as applicable to § 401), 61 Stat. 509.
		July 26, 1947, ch. 343, § 401; added Aug. 10, 1949, ch. 412, § 11 (1st 2 pars.), 63 Stat. 585.

In subsection (b)(1), 5 U.S.C. 172(b) (last 13 words of 1st sentence) is omitted as surplusage, since they are only a general description of the powers of the Secretary of Defense under this title. 5 U.S.C. 171c-2 (less 1st sentence) is omitted as covered by 5 U.S.C. 171c(c) (1st 18 words of 2d sentence).

In subsection (d), the following substitutions are made: “In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (last two sentences), 8010, and 8012(b) last two sentences of this title,” for “In implementation of this paragraph”; and “members of the armed forces under the jurisdiction of his department” for “the military personnel in such department”. The words “in a continuous effort” are omitted as surplusage.

CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

PRIOR PROVISIONS

A prior section 138 was renumbered section 139 of this title.

Another prior section 138 was renumbered by Pub. L. 99-433 as follows:

Section 138(a) was renumbered section 114(a) of this title.

Section 138(b) was renumbered successively as section 114(b) and section 115(a) of this title.

Section 138(c) was renumbered successively as section 114(c) and section 115(b) of this title.

Section 138(d) was renumbered successively as section 114(d) and section 115(c) of this title.

Section 138(e) was renumbered successively as section 114(e) and section 116(a) of this title.

Section 138(f)(1) was renumbered successively as section 114(f)(1) and section 114(b) of this title.

Section 138(f)(2) was renumbered successively as section 114(f)(2) and section 116(b) of this title.

Section 138(g) was renumbered successively as section 114(g) and section 114(c) of this title.

Section 138(h) was renumbered successively as section 114(h) and section 113(i) of this title.

Section 138(i) was renumbered successively as section 114(i) and section 114(d) of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-364 substituted “ten” for “nine”.

2002—Subsec. (a). Pub. L. 107-314, § 902(d), which directed the repeal of Pub. L. 107-107, § 901(c), was executed by substituting “nine” for “eight” to reflect the probable intent of Congress. See 2001 Amendment note below.

Subsec. (b)(3). Pub. L. 107-314, § 902(a), added par. (3). Subsec. (b)(6). Pub. L. 107-314, § 902(c), struck out par. (6) which read as follows:

“(6)(A) One of the Assistant Secretaries, as designated by the Secretary of Defense from among those Assistant Secretaries with responsibilities that include responsibilities related to combating terrorism, shall have, among that Assistant Secretary’s duties, the duty to provide overall direction and supervision for policy, program planning and execution, and allocation

and use of resources for the activities of the Department of Defense for combating terrorism, including antiterrorism activities, counterterrorism activities, terrorism consequences management activities, and terrorism-related intelligence support activities.

“(B) The Assistant Secretary designated under subparagraph (A) shall be the principal civilian adviser to the Secretary of Defense on combating terrorism and (after the Secretary and Deputy Secretary) shall be the principal official within the senior management of the Department of Defense responsible for combating terrorism.

“(C) If the Secretary of Defense designates under subparagraph (A) an Assistant Secretary other than the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, then the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict related to combating terrorism shall be exercised subject to subparagraph (B).”

2001—Subsec. (a). Pub. L. 107-107, which substituted “eight Assistant Secretaries of Defense” for “nine Assistant Secretaries of Defense”, was repealed by Pub. L. 107-314, § 902(d). See 2002 Amendment note above.

2000—Subsec. (b)(6). Pub. L. 106-398 added par. (6).

1998—Subsec. (a). Pub. L. 105-261, § 901(a), substituted “nine” for “ten”.

Subsec. (b)(3). Pub. L. 105-261, § 902, struck out par. (3) which read as follows:

“(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

“(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

“(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.”

1996—Subsec. (a). Pub. L. 104-106, § 902(a), substituted “ten” for “eleven”.

Subsec. (b). Pub. L. 104-106, § 903(a), (b), which directed the general amendment of subsec. (b), eff. Jan. 31, 1997, designating par. (1) as entire subsec. and striking out pars. (2) to (5), was repealed by Pub. L. 104-201.

Subsec. (d). Pub. L. 104-106, § 903(a), (e)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting “and the Under Secretaries of Defense” for “the Under Secretaries of Defense, and the Director of Defense Research and Engineering”, was repealed by Pub. L. 104-201.

1994—Subsec. (a). Pub. L. 103-337, § 901(a), substituted “eleven” for “ten”.

Subsec. (d). Pub. L. 103-337, § 903(b)(2), struck out “and Comptroller” after “Under Secretaries of Defense”.

1993—Pub. L. 103-160, § 901(a)(1), renumbered section 136 of this title as this section.

Subsec. (a). Pub. L. 103-160, § 903(c)(1), substituted “ten” for “eleven”.

Subsec. (b)(5). Pub. L. 103-160, § 905, added par. (5).

Subsec. (d). Pub. L. 103-160, § 901(c), inserted “and Comptroller” after “Under Secretaries of Defense”.

1988—Subsec. (b)(3). Pub. L. 100-453 and Pub. L. 100-456 generally amended par. (3) identically. Prior to amendment, par. (3) read as follows: “One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.”

1987—Subsec. (b)(4). Pub. L. 100-180 inserted at end “The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.”

1986—Pub. L. 99-433, §110(d)(9), struck out “; appointment; powers and duties; precedence” at end of section catchline.

Subsec. (b)(2), (3). Pub. L. 99-433, §106(a)(1), (2), redesignated pars. (4) and (5) as pars. (2) and (3), respectively, and struck out former par. (2) relating to the Assistant Secretary of Defense for Health Affairs and former par. (3) relating to the Assistant Secretary of Defense for Manpower and Logistics.

Subsec. (b)(4). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended subsec. (b) identically, adding par. (4).

Pub. L. 99-433, §106(a)(2), redesignated par. (4) as (2).

Subsec. (b)(5). Pub. L. 99-433, §106(a)(2), redesignated par. (5) as (3).

Subsec. (b)(6). Pub. L. 99-433, §106(a)(3), struck out par. (6) relating to Comptroller of Department of Defense. See section 135 of this title.

Subsec. (c)(1). Pub. L. 99-433, §106(c)(1)(A), substituted “the Assistant Secretary” for “him”.

Subsec. (c)(2). Pub. L. 99-433, §106(c)(1)(B), struck out “, or his designee” after “concerned”.

Subsecs. (d), (e). Pub. L. 99-433, §106(b), (c)(2), (3), redesignated subsec. (e) as (d), substituted “the Under Secretaries of Defense, and the Director of Defense Research and Engineering” for “and the Under Secretaries of Defense”, inserted sentence directing that the Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense, and struck out former subsec. (d) which directed the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department to cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

1983—Subsec. (a). Pub. L. 98-94, §1212(a)(1), substituted “eleven” for “seven”.

Subsec. (b)(1). Pub. L. 98-94, §1212(a)(2)(A), designated existing first sentence as par. (1).

Subsec. (b)(2). Pub. L. 98-94, §1212(a)(2)(B), designated existing second and third sentences as par. (2).

Subsec. (b)(3). Pub. L. 98-94, §1212(a)(2)(C), (D), designated existing fourth and fifth sentences as par. (3) and substituted “Logistics” for “Reserve Affairs” and “logistics” for “reserve component”.

Subsec. (b)(4), (5). Pub. L. 98-94, §1212(a)(2)(E), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 98-94, §1212(a)(2)(F), designated existing sixth sentence as par. (6), substituted “One of the Assistant Secretaries” for “In addition, one of the Assistant Secretaries”, redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, redesignated former subpars. (A) to (D) as cls. (1) to (4), respectively, and in subpar. (E) substituted “clauses (A) through (D)” for “clauses (1)–(4)”.

Subsec. (f). Pub. L. 98-94, §1212(a)(3), struck out subsec. (f) which provided for appointment of a Deputy Assistant Secretary of Defense for Reserve Affairs within the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs. See subsec. (b)(4) of this section.

1979—Subsec. (a). Pub. L. 96-107 substituted “seven” for “nine”.

1977—Subsec. (e). Pub. L. 95-140 inserted “of Defense” after “Secretary” and substituted “Secretary of Defense” for “Secretaries of Defense” and “, and the Under Secretaries of Defense” for “, and the Director of Defense Research and Engineering”.

1972—Subsec. (e). Pub. L. 92-596 substituted “Deputy Secretaries” for “Deputy Secretary”.

1971—Subsec. (a). Pub. L. 92-215 substituted “nine” for “eight”.

1969—Subsec. (a). Pub. L. 91-121, §404(a)(1), substituted “eight” for “seven”.

Subsec. (b). Pub. L. 91-121, §404(a)(2), provided for an Assistant Secretary of Defense for Health Affairs having as his principal duty the overall supervision of health affairs of Department of Defense.

1967—Subsec. (b). Pub. L. 90-168, §2(1), inserted provisions for an Assistant Secretary of Defense for Manpower and Reserve Affairs with principal duty of overall supervision of manpower and reserve component affairs of Department of Defense.

Subsec. (f). Pub. L. 90-168, §2(2), added subsec. (f).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 1212(e) of Pub. L. 98-94 provided that: “The amendments made by this section [amending this section, sections 175, 3013, and 5034 of this title, and section 5315 of Title 5, Government Organization and Employees] shall take effect on October 1, 1983.”

EFFECTIVE DATE OF 1967 AMENDMENT

Section 7 of Pub. L. 90-168 provided that: “The provisions of this Act [see Short Title of 1967 Amendment note below] shall become effective on the first day of the first calendar month following the date of enactment [Dec. 1, 1967].”

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90-168 provided: “That this Act [amending this section, sections 175, 262, 264, 268, 269, 270, 511 [now 12103], 3014, 5034, 8014, and 8850 of this title, section 502 of Title 32, National Guard, and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting sections 3021 [now 10302], 3038, 8021 [now 10305], and 8038 of this title, enacting provisions set out as notes under this section and section 8212 of this title, and amending provisions set out as a note under section 113 of this title] may be cited as the ‘Reserve Forces Bill of Rights and Vitalization Act’.”

CHARTER OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Pub. L. 100-180, div. A, title XII, §1211(a)(2)–(5), Dec. 4, 1987, 101 Stat. 1154, 1155, provided that:

“(2) The Secretary of Defense shall publish a directive setting forth the charter of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987]. The directive shall set forth—

“(A) the duties and responsibilities of the Assistant Secretary;

“(B) the relationships between the Assistant Secretary and other Department of Defense officials;

“(C) any delegation of authority from the Secretary of Defense to the Assistant Secretary; and

“(D) such other matters as the Secretary considers appropriate.

“(3) On the date that such directive is published, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

“(A) a copy of the directive; and

“(B) a report explaining how the charter of the Assistant Secretary fulfills the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), that provide that the Assistant Secretary—

“(i) exercises overall supervision of special operations activities and low intensity conflict activities of the Department of Defense;

“(ii) is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters; and

“(iii) is the principal special operations and low intensity conflict official (after the Secretary and Deputy Secretary) within the senior management of the Department of Defense.

“(4)(A) Until the office of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is filled for the first time by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of the Army shall carry out the duties and responsibilities of that office.

“(B) Throughout the period of time during which the Secretary of the Army is carrying out the duties and responsibilities of that office, he shall submit to the Committees on Armed Services of the Senate and House of Representatives a monthly report on the administrative actions that he has taken and the policy guidance that he has issued to carry out such duties and responsibilities. Each such report shall also describe the actions that he intends to take and the guidance that he intends to issue to fulfill the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), along with a timetable for completion of such actions and issuance of such guidance. The first such report shall be submitted not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987].

“(5) Until the first individual appointed to the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict by the President, by and with the advice and consent of the Senate, leaves that office, that Assistant Secretary (and the Secretary of the Army when carrying out the duties and responsibilities of the Assistant Secretary) shall, with respect to the duties and responsibilities of that office, report directly, without intervening review or approval, to the Secretary of Defense personally or, as designated by the Secretary, to the Deputy Secretary of Defense personally.”

TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Section 1311 of Pub. L. 100-180 provided that until Jan. 20, 1989, the number of Assistant Secretaries of Defense authorized under subsec. (a) of this section and the number of positions at level IV of the Executive Schedule are each increased by one (to a total of 12).

§ 139. Director of Operational Test and Evaluation

(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life 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 office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(2) In this section:

(A) The term “operational test and evaluation” means—

(i) the field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and

(ii) the evaluation of the results of such test.

(B) The term “major defense acquisition program” means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title or that is designated as such a program by the Director for purposes of this section.

(b) The Director is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on operational test and evaluation in the Department of Defense and the principal operational test and evaluation 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 operational test and evaluation in the Department of Defense;

(2) provide guidance to and consult with the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;

(3) provide guidance to and consult with the officials described in paragraph (2) with respect to operational test and evaluation or survivability testing (or both) within the Department of Defense of force protection equipment (including non-lethal weapons), which, in such a case—

(A) shall be guidance and consultation for the purposes of—

(i) expediting suitable operational test and evaluation;

(ii) providing objective subject-matter expertise;

(iii) encouraging data sharing between Department of Defense components; and

(iv) where appropriate, facilitating the use of common test standards; and

(B) does not authorize the Director—

(i) to approve test and evaluation plans for such equipment; or

(ii) to in any manner delay deployment of such equipment;

(4) monitor and review all operational test and evaluation in the Department of Defense;

(5) coordinate operational testing conducted jointly by more than one military department or defense agency;

(6) review and make recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities and equipment, in the Department of Defense; and

(7) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.

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