

Revised Organizational Structure for the Office of the Secretary of Defense

Report to Congress



April 2010

Office of the Secretary of Defense

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DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

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To comply with the requirement of section 906(a)(3) of the National Defense Authorization Act for Fiscal Year 2010 (FY10 NDAA) and to further the effectiveness and efficiency of the Office of the Secretary of Defense (OSD), the Department has prepared the following Report, "Revised Organizational Structure for the Office of the Secretary of Defense."

This Report is an analysis of and recommendation for the realignment of the organizational structure of OSD, including proposed legislative changes. These changes, if approved, will achieve an organizational structure that is logical, consistent, and recognizable, while preserving the Secretary's flexibility to strategically organize and manage the Department. Specifically, this Report provides recommendations for:

- The treatment of the Deputy Under Secretaries of Defense to comply with section 906(a)(2) of the FY10 NDAA, and to resolve variances in the reporting relationships, pay, precedence, and succession of these officials.
- The statutory redesignation of certain existing Presidentially Appointed, Senate-confirmed (PAS) officials as Assistant Secretaries of Defense (ASDs) to uniformly align and reflect their stature and status.
- The addition of an Assistant Secretary of Defense administratively designated for Readiness and Force Management to enhance the Office of the Under Secretary of Defense for Personnel and Readiness with an additional PAS official.
- The standardization of the titles of officials that report to the Secretary/Deputy Secretary of Defense and the Under Secretaries of Defense to promote a convention that is internally coherent and externally consistent.
- The removal of the statutory prescription on the titles of certain non-PAS officials to conform the titles of these officials to the proposed framework and/or remove confusing or conflicting provisions.

OSD has changed significantly since the National Security Act of 1947 authorized the establishment of three Special Assistant positions to advise and assist the Secretary of Defense. History has shown that the Secretary of Defense must be afforded needed flexibility to align the structure and focus of his or her staff to address emerging complexities and dynamics in the national security environment. To this end, the Department is committed to working with Congress to ensure that the Defense organization continues to adapt to meet the security challenges of the 21st Century.



BACKGROUND

The basic purpose of the National Security Act of 1947 was to establish an integrated structure to formulate national security policy at the upper-most levels of the U.S. Government. The military establishment received special and detailed attention in this legislation because of its central role in making and executing national security policy.

Dr. Alfred Goldberg, Former OSD Historian

Although good people can, to a certain extent, overcome a deficient organizational structure, a well-designed structure will support a higher level of sustained effectiveness than a poor structure will.

**Defense Organization: The Need for Change, October 16, 1985
(SASC Staff Report preceding the drafting of Goldwater-Nichols)**

OSD Historical Context

Since its beginning, the Office of the Secretary of Defense (OSD) has been in constant change. When OSD was established in 1947, the supporting staff to the Secretary of Defense consisted of three Special Assistants.¹ However, subsequent organizational assessments recognized that, so far as possible, the Secretary needed to be relieved of the burden of routine administration of the Department. In 1949, Congress created four Presidentially Appointed, Senate-confirmed (PAS) officials: a first assistant Deputy Secretary of Defense (DSD) and three Assistant Secretaries of Defense (ASDs).² Through the 1950s, the supporting staff to the Secretary and Deputy Secretary was comprised of the ASDs, Assistants to the Secretary of Defense (ATSDs), and other supporting staff officials using the designation of Director (or Chairman when heading one of the many boards in existence at the time). In general, the supporting staff officials all reported directly to the Secretary and Deputy Secretary. By the end of the 1950s and through the 1960s, the principal supporting staff officials in the OSD were: the ASDs, the ATSDs, the Director of Defense Research and Engineering (DDR&E), and the General Counsel (GC).³

The 1970s witnessed major changes in the titles and responsibilities of senior OSD officials. In 1972, a second DSD position was created, although it remained unfilled until late 1975. Subsequently, in 1977, the Secretary requested that Congress abolish the DDR&E and second DSD positions and establish two Under Secretaries of Defense (USDs), one for Policy and one for Research and Engineering. This marked the start of a new convention, namely, that the principal broad-portfolio staff assistants

¹ To highlight the initial categorical use of a title, they will be underlined where they first appear in the text.

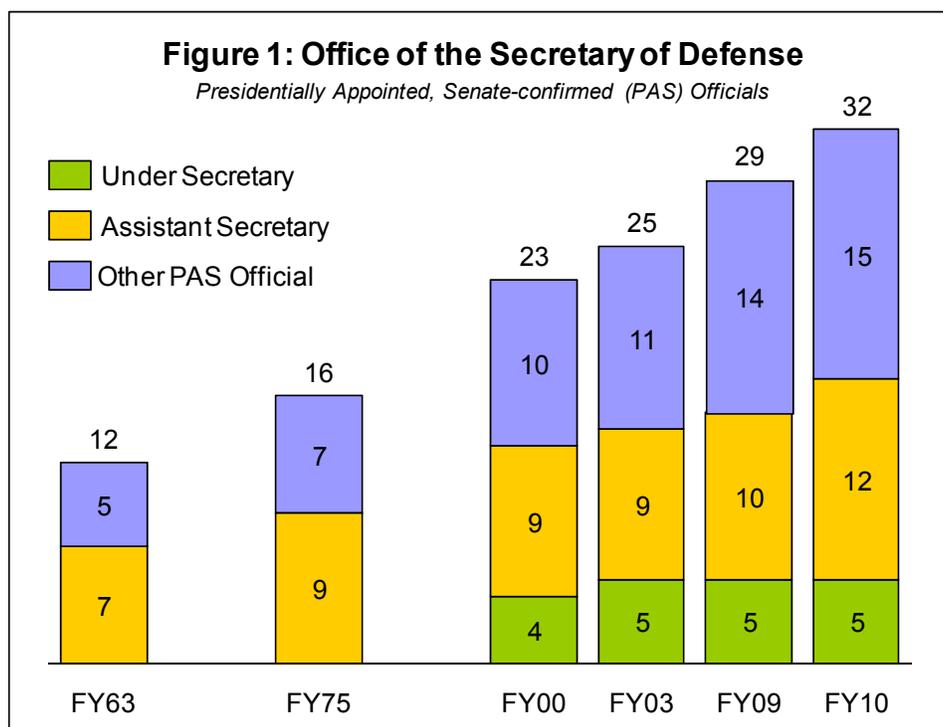
² The enactment creating these positions included prescription that the Comptroller of the Department of Defense (DoD) shall be one of the ASDs.

³ Of note, the Federal Executive Salary Act of 1966 established a new system of compensation for statutory and other senior officials creating the Executive Schedule (EX) system (see **Appendix A** for a description of the **Executive Schedule**). This is the system used today for the PAS officials in OSD.

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to the Secretary and Deputy Secretary would be the USDs. Additionally, by the end of the 1970s, the Department had begun to assign ASDs under these USDs⁴, creating the first instance of a PAS official answering through another PAS official below the level of the Secretary.

From the mid-1980s to the mid-1990s, with the increases in USDs (Acquisition in 1986, Personnel and Readiness(P&R) in 1993, and Comptroller⁵ in 1995), there evolved the concept of the USD “first assistant” or Deputy Under Secretary of Defense (DUSD). These PAS first assistants were commonly assumed to be the “alter ego” of the USD, and were statutorily to “act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.”⁶ The first of these officials was the DUSD for Acquisition (DUSD(A)) established in 1986 when the USD(Research and Engineering) changed to the USD(Acquisition). Later, Congress took note of the non-statutory position of the Principal Deputy Under Secretary of Defense (PDUSD) for Policy in 1989 and statutorily created the DUSD for Policy in 1991 (the second statutory DUSD). At this time, both DUSDs were, within the Department, referred to as PDUSDs



⁴ The ASD(International Security Affairs) under USD(Policy) and the ASD(Command, Control, Communication, and Intelligence) under USD(Research and Engineering).

⁵ The Comptroller was one of the original three ASDs established in 1949. The additional designation of Chief Financial Officer was added in 1990, pursuant to the Chief Financial Officers Act of 1990 (Public Law 101-576, 15 November 1990).

⁶ This provision in U.S. Code would make a DUSD the statutory “first assistant” as it is currently defined relative to the Federal Vacancies Reform Act of 1998, as amended (VRA). However, within the Department, by policy, a first assistant to a PAS official is both the VRA first assistant and the official’s “alter ego” in terms of exercising the USD’s authority, direction, and control (see **First Assistant** in the key terms in **Appendix A**).

(although titled DUSDs in their establishment statutes). The DUSD(A) changed to the DUSD for Acquisition and Technology in 1993, and then in 1999 was split into two DUSDs, one for Acquisition and Technology (A&T) and one for Logistics and Materiel Readiness (L&MR). When split, the statutory provision for the DUSD(A&T) as the first assistant was removed; however, the incumbent DUSD(A&T) would continue to be administratively designated as the first assistant to the newly designated USD for Acquisition, Technology, and Logistics (AT&L). When the PAS first assistant DUSD for P&R was created in 2001, the OSD structure reflected four PAS DUSDs, their status of which varied. Of these four DUSDs, two were statutorily the first assistant to their respective USD (Policy; P&R), a third was administratively designated the first assistant (A&T), and a fourth was split off, previously, from a first assistant (L&MR). Regardless of the status (statutory or non-statutory), the first assistant to each USD was administratively designated as PDUSDs. This was the situation at the time for the USD(Comptroller), who had a non-statutory first assistant designated as a PDUSD.

In the past decade, OSD has experienced a significant increase in the number of PAS officials (see **Figure 1**), from 23 PAS officials in 2000 to 32 PAS officials in 2010 (a 39% increase). By comparison, the number of OSD PAS officials rose by approximately the same percentage between 1975 and 2000 from 16 to 23 (a 43% increase over 25 years). The new PAS positions established since 2000 include: DUSD(P&R), USD(Intelligence), ASD(Homeland Defense), ASD(Asia & Pacific Security Affairs), Deputy Chief Management Officer (DCMO), Director of Operational Energy Plans and Programs, Director of Cost Assessment and Program Evaluation, PDUSD(AT&L), PDUSD(Comptroller), and PDUSD(Intelligence).⁷

DUSDs – 2009 Inquiry and FY10 NDAA⁸

Over the last 10 years, these increases in PAS officials, coupled with various changes in other sub-PAS organizational designations and reorganization initiatives, have driven inconsistencies and confusion with the perceived rank and stature of officials within OSD. This concern was expressed by the Chairman of the Senate Armed Services Committee (SASC) in a letter to the Deputy Secretary on March 11, 2009.⁹ Senator Levin was concerned about the establishment of officials “each at a level that appears to be equivalent in authority and control to the existing Assistant Secretaries of Defense [apparently] without statutory authorization, without limitation, and without Senate confirmation.” He was generally referring to the non-statutory officials (i.e., those created through the discretionary authority of the Secretary) versus the statutory officials. Senator Levin pointed out relationship anomalies that raised

⁷ In addition to establishing the PAS PDUSDs for AT&L, Comptroller, and Intelligence, the PAS DUSDs for Policy and P&R were redesignated as PDUSDs (see following section, “Section 906 of FY10 NDAA”). The PDUSD positions for Comptroller and Intelligence will each become PAS upon confirmation of the official or once the current incumbent vacates the position.

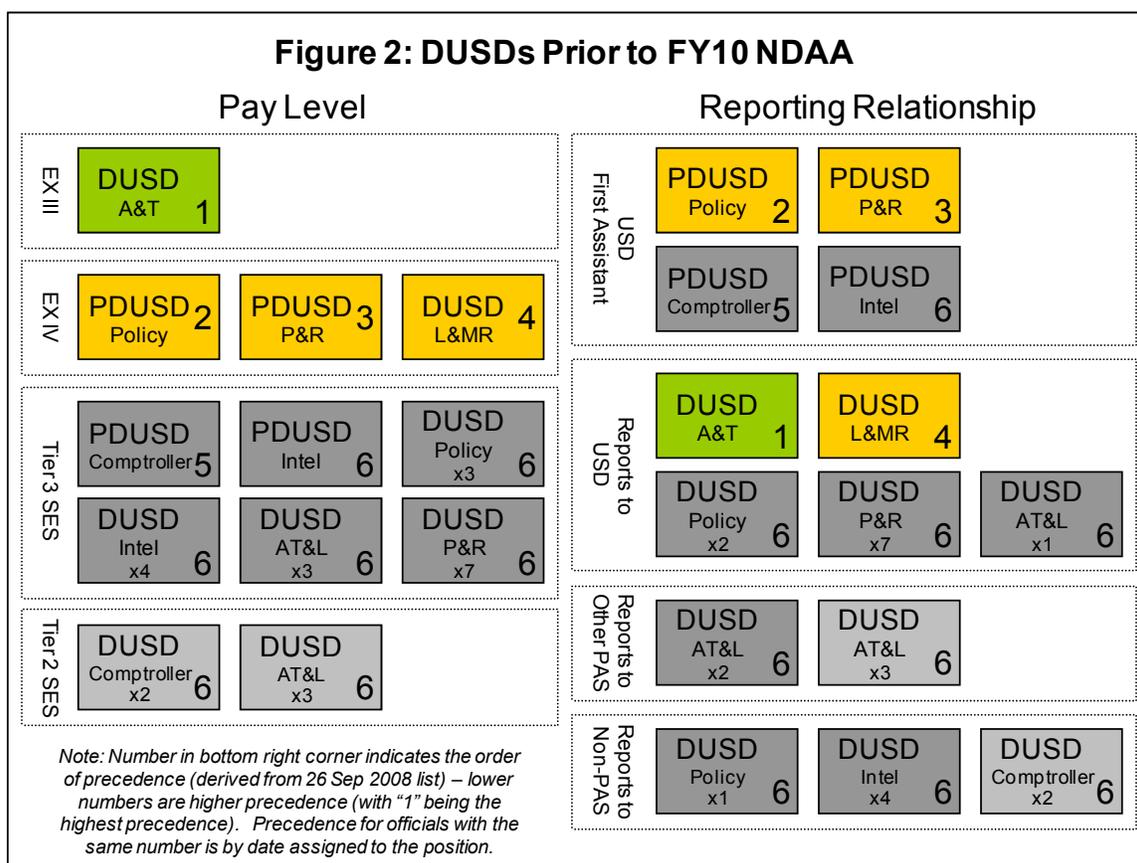
⁸ National Defense Authorization Act for Fiscal Year 2010 (FY10 NDAA), Public Law 111-84.

⁹ The Senator Levin letter included in **Appendix B** along with the Deputy Secretary of Defense response.

Background

“broader questions about the number and status of DUSDs”; specifically, that there were DUSDs reporting to DUSDs and DUSDs reporting to officials other than USDs.

The Deputy Secretary’s response to Senator Levin confirmed that there were 28 DUSDs¹⁰ within the Department (see **Figure 2**) with various and different reporting relationships, pay levels, precedence, and succession roles. In general, the precedence of an official (i.e., his or her stature) matched his or her pay level, vice his or her reporting relationship or succession role (i.e., first assistant role); however, there were inconsistencies in the convention relative to pay level. For instance, while the PAS DUSDs take precedence over the non-PAS DUSDs, the non-PAS DUSDs are placed in order based upon date assigned to the DUSD position rather than the “Tier” of the official (see **Appendix A** for a description of the **Tier Structure for DoD SES**). Thus, Tier 2 officials could be above Tier 3 officials, which is inappropriate. Additionally, until corrected in 2009, the PDUSD for Intelligence (a Tier 3 first assistant) was not specifically identified as being above other non-PAS DUSDs. This meant that the PDUSD(I) could hypothetically have been lower in precedence than a tier 2 DUSD (note order of precedence indicator in **Figure 2**).



¹⁰ The response provided information on 28 DUSDs, but did not include information on the DUSD for Business Transformation. Per the “Implementation Guidance for the Office of the Deputy Chief Management Officer (ODCMO),” 9 October 2008, the Business Transformation functionality would be transferred to the DCMO upon the personnel action to transfer the DUSD incumbent.

In response to these issues, the SASC introduced a provision (section 901) into Senate bill S.1390, the draft bill for the FY10 NDAA, that would: (1) authorize a PAS PDUSD for each USD to serve as the statutory first assistant; (2) immediately eliminate the title DUSD for officials other than the PDUSDs; and (3) authorize six new ASDs (converted from the two PAS DUSDs and four of the non-PAS DUSDs). The President included in his Statement of Administration Policy for S.1390 that the Administration had significant concerns with this provision as written. OSD and SASC staff members discussed these concerns.

As a result of the engagement with Congress, the Conference Committee on the FY10 NDAA included an amended provision (section 906) that would create the PAS PDUSDs and convert the two PAS DUSDs into ASDs (creating two new ASDs), but would delay the effective date for the elimination of the title for the other DUSDs and provide the Secretary with an opportunity to plan for the realignment and replacement of the other DUSD positions. The provision would require the Department to submit a plan for this realignment by 15 March 2010 and would allow the use of the DUSD title until 1 January 2011. The bill with this provision was signed by the President, becoming Public Law 111-84, on 28 October 2009.

Section 906 of FY10 NDAA

I am concerned that the proliferation of DUSDs at multiple levels of the organization could muddy lines of authority and may not be in the best interests of the Department of Defense.

Senator Carl Levin, Chairman, SASC

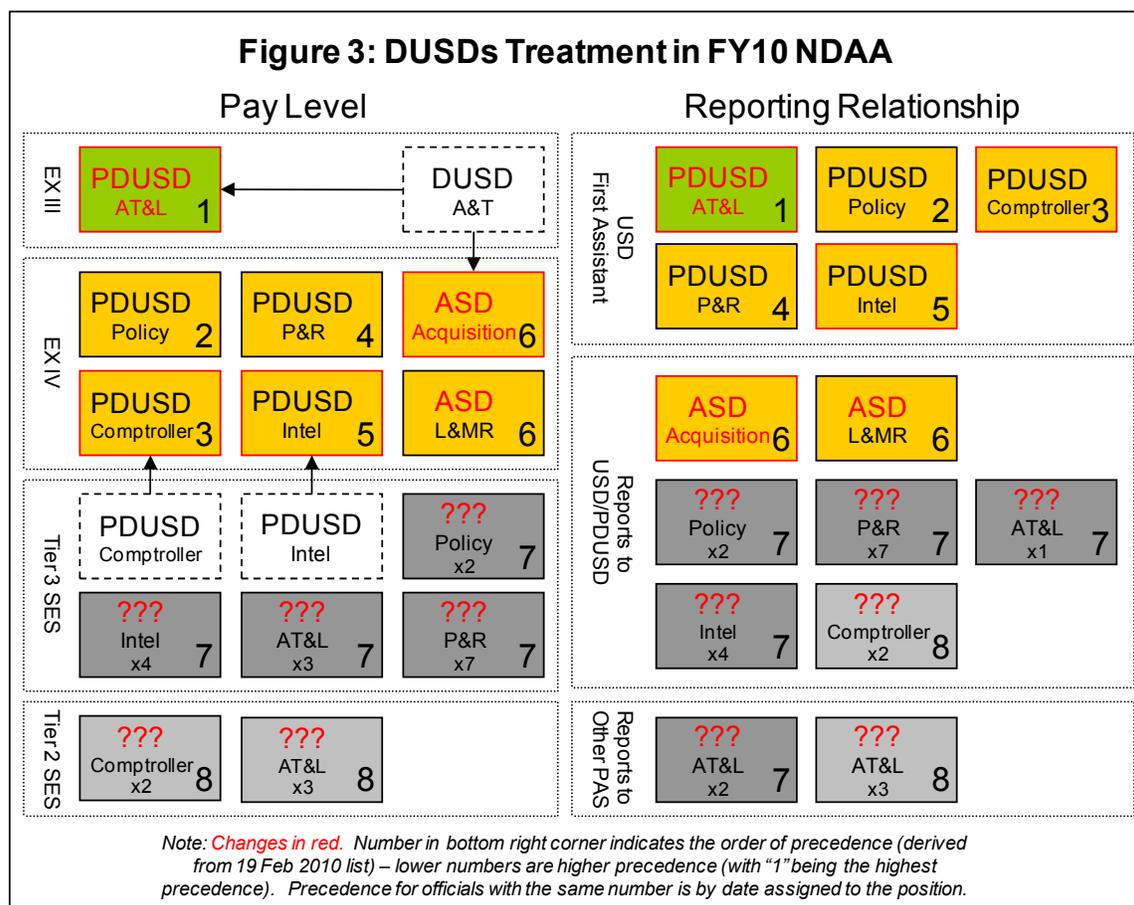
As the caption of section 906, “Deputy Under Secretaries of Defense and Assistant Secretaries of Defense,” suggests, this provision focuses on the treatment of multiple aspects of the DUSDs (as addressed in the Senator Levin letter) and the creation of two ASDs (from the PAS DUSDs). For these purposes, section 906 has five sections¹¹ that:

- a. Created PAS PDUSDs for each USD, eliminated all other DUSDs by 1 January 2011, and directed a plan for the realignment of the organizational structure of OSD;
- b. Redesignated the PAS DUSD(L&MR) to an ASD and split the PAS DUSD(A&T) into the PDUSD(AT&L) and a new ASD(Acquisition);
- c. Provided for conforming amendments;
- d. Established the EX levels for the PDUSDs; and
- e. Allowed the current non-PAS incumbents for the PDUSDs for Comptroller and Intelligence to remain by delaying the change to PAS status of those positions for up to four years.

¹¹ The Text of section 906 of the FY10 NDAA is included in **Appendix C**.

Background

These sections had immediate and visible effect on the existing structure. Specifically, as discussed previously, prior to this enactment, the first assistants for the five USDs consisted of two PAS DUSDs¹² (Policy; P&R), two non-PAS PDUSDs (Comptroller; Intelligence), and an official designated by the USD(AT&L) as the AT&L first assistant.¹³ In contrast, section 906 created a single management arrangement for all of the USD first assistants by creating a PAS first assistant for each USD. In deference to the convention currently being used administratively, these PAS officials were titled PDUSDs (see **Figure 3**) in the new establishment section (§137a(c)) of chapter 4 of title 10, United States Code (USC).¹⁴ The new section 137a was placed between the last USD and before the ASD section, implying the relative status and stature of these officials (i.e., subordinate to the USDs and superior to the ASDs).



¹² Administratively designated as PDUSDs.

¹³ While the PAS DUSD(A&T) was administratively designated as the first assistant for USD(AT&L), there was no statutory requirement for this role to be performed by either a PAS official or one of the two AT&L PAS DUSDs.

¹⁴ Chapter 4 is the collection of statutory sections related to the establishment of OSD and OSD officials.

At the same time, while deferring to the administrative title of PDUSD, the provision did not support the discretionary use of the title of DUSD and directed the elimination of any other DUSDs within OSD. In recognition of the Department's management of personnel and the need to treat incumbents currently using the DUSD title, the Department was given approximately 15 months before the elimination of the DUSD titles became effective (i.e., 1 January 2011). The Department was required by section 906 to provide "a report setting forth a plan for the realignment of the organizational structure of the Office of the Secretary of Defense to comply with the requirement [that the new PDUSDs] shall be the only Deputy Under Secretaries of Defense."

With the creation of the PAS first assistant for the USD(AT&L), section 906 removed the implied reference to a first assistant relationship of the current two PAS DUSDs in AT&L (DUSD(A&T) and DUSD(L&MR)) by changing them into ASDs. Additionally, since the AT&L organization currently consisted of PAS officials representing the three functions of AT&L (i.e., acquisition, technology, and logistics), the "technology" portion of the DUSD(A&T) was removed. This resulted in a single PAS official representing each of these AT&L functions: the new ASD for Acquisition (ASD(A)) for acquisition, the Director of Defense Research and Engineering (DDR&E)¹⁵ for technology, and the new ASD for Logistics and Materiel Readiness (ASD(L&MR)) for logistics.

Section 906 also made several conforming amendments to chapter 4 of title 10 and to the sections of title 5 relating to the EX level of officials in the U.S. Government (USG). However, there remain some technical inconsistencies. These are mostly in the nature of referring to the new positions as DUSDs in the overall section of chapter 4, but then referring to them additionally within the content of the section as PDUSDs.

The redesignation of the DUSD(A&T) into the ASD(A) is complicated by the decoupling of the functions assigned to, and the status and stature of, the single DUSD(A&T) into two new officials: PDUSD(AT&L) and ASD(A). Specifically, the section of U.S. Code (§133a) that was originally used for the DUSD(A&T) was changed to the provision for the PDUSD(AT&L), unlike the section for the DUSD(L&MR) which was retained for the new ASD(L&MR). The EX level III of the former DUSD(A&T) was retained by the PDUSD(AT&L) and the new ASD(A) was given the same EX level IV as the other ASDs. However, the basic responsibilities of the ASD(A) for acquisition were essentially the same as the former DUSD(A&T). This represents the functionality of the DUSD(A&T) accruing to the ASD(A), with the status and stature of the DUSD(A&T) accruing to the PDUSD(AT&L).

One of the complications for section 906 was that the new Administration had already selected officials to serve, or be retained, in the non-PAS positions of first assistant PDUSDs for the USD(Intelligence) and USD(Comptroller). In order to address

¹⁵ The DDR&E title was reestablished in 1986 as a PAS official subordinate to the USD(AT&L). The newly designated DDR&E should not be confused with the former position with the DDR&E title, which was established in 1958 and which ultimately evolved into the USD(AT&L).

Background

the concerns of the Administration, section 906 allowed the current individuals serving as the PDUSD(I) and PDUSD(C) to remain in their position by delaying the change for each of these positions to PAS status until the current incumbent had left their position or four years, whichever came first (referred to as a “grandfather” clause).

In sum, section 906 resolved multiple problems with the status and stature of officials identified in the Senator Levin letter, as follows:

- The inconsistent use of PAS and non-PAS first assistants for the USDs was resolved by making all first assistants to the USDs PAS officials, namely PDUSDs.
- The anomaly of PAS officials who were titled DUSDs but who were not first assistants was resolved by changing the two PAS DUSDs into ASDs, thus aligning a portion of the sub-USD PAS officials in recognition of their role in their respective enterprise.
- The application of the DUSD title to officials of varying pay levels and/or reporting relationships was resolved by removing the DUSD title altogether and requiring the Department to advance a plan that would address the use of the DUSD title below the PDUSDs.

REALIGNMENT OF ORGANIZATIONAL STRUCTURE OF OSD

Senior leaders in any organization are generally predisposed toward reforms that are simple to understand and implement ... Yet, some of the most successful reforms, such as the 1986 Goldwater-Nichols Act, defy leaders' predispositions.

**Invigorating Defense Governance, March 2008
(A Beyond Goldwater-Nichols Phase 4 Report)**

Review Methodology

On November 16, 2009, the Deputy Secretary directed the review of the organization, structure, and titling within OSD to comply with section 906.¹⁶ The Deputy Secretary's direction was that, in addition to the treatment of the DUSDs, "this review will be used to identify, inform, and treat, as appropriate, other relevant OSD organizational and structural issues." The core analysis was conducted by a working team of members from the OSD Office of the Director of Administration and Management, Directorate for Organizational and Management Planning (ODA&M(O&MP))¹⁷ supporting the lead for this effort, the Special Assistant to the Deputy Secretary. Additionally, a senior working group composed of two representatives from each of the principal OSD elements was created to provide a collective sounding board for the overall direction of the realignment effort. Each of these representatives was at the Senior Executive Service (SES)/Defense Intelligence SES (DISES) level. The interaction between the working team and the OSD representatives would ensure an informed analysis and discussion of the organization and issues of each of these offices from an enterprise specific perspective. In turn, these inputs were reviewed and assessed for commonalities and differences so that determinations could be made on the nature and application of a standardized convention across OSD, where indicated.

After discussions with the SASC staff, the working team developed a set of assumptions to use as a point of departure for a framework when forming potential options or solutions. These assumptions were based, in part, upon the interpretation and analysis of recent legislative actions and associated Congressional intent, and, in part, on the communicated position of the SASC staff. The assumptions for this review were:

- *PAS first assistant for each USD.* Each Under Secretary will have a statutory first assistant solely focused on engaging the whole enterprise as the primary

¹⁶ Although preliminary work had been started much earlier.

¹⁷ O&MP carries out deliberate or urgent DoD and OSD organizational and management planning and analysis, including the establishment of new organizations, the installment of management arrangements, and/or the realignment or transfer of responsibilities and functions, in support of the Secretary and Deputy Secretary of Defense and the Director of Administration and Management, as well as the other OSD PSAs and other senior leaders in the Department, when appropriate. O&MP executes these activities and provides associated recommendations and assessments as an organizational "honest broker."

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assistant to the Under Secretary. Note: The SASC staff had expressed a preference for a full time first assistant who would not be directly responsible for a specified portfolio within the Office of the Under Secretary (i.e., a functional responsibility for a particular area). This arrangement would maximize overall support from the PDUSD to the Under Secretary in the management of the expansive equities of these enterprises, while also avoiding an organizational “conflict of interest” regarding a specific function.

- *ASDs are the major officials under USDs (other than the PDUSDs).* While the overall USG structure is not consistent in this regard among the cabinet level agencies, and the Department of Defense has evolved through several structural constructs (the latest being the “USD-centric” construct), the evident and evolving preference is for a model that has the ASD as the primary PAS official reporting to the USDs. Currently, we have two USDs with ASDs as the primary PAS officials (Policy and P&R), one USD with DUSD and/or Directors as the primary PAS officials (AT&L), and two USDs without any subordinate PAS officials (Comptroller and USD(I)).
- *Sunset of DUSD title (except for PDUSDs) by 1 January 2011.* In discussions with the SASC staff, they reiterated their concerns on the proliferation of the discretionary use of the DUSD title. Section 906 of the 2010 NDAA has mandated that there will be no officials with the DUSD title other than the PDUSDs by 1 January 2011.
- *Review must be completed and results presented to Congress expeditiously.* The SASC is interested in expeditiously enacting any required changes into statute as soon as possible. Therefore, it asks that the review and any subsequent enabling legislation be provided in a manner that allows for immediate inclusion in the FY11 NDAA.
- *Enhance the integration of the OSD enterprise.* The proposed recommendations should enhance the management of the OSD enterprise by streamlining the burden of senior officials, reducing span of control, and ensuring integration of management and governance.
- *No unnecessary Major DoD Headquarters Activities (MHA) growth will occur within OSD.* The standardization of structure within OSD will not equate to a sense of entitlement for officials based upon their designation (e.g., entitlement to a certain number or type of professional staff). In all cases, military personnel will only be used when designated as military essential. This review should enable a streamlined and agile organization that provides effective and efficient management through a transparent and consistently applied structure.

Additionally, the following guiding principles have shaped the scope and content of the review:

- All OSD organizations and structures will be evaluated in order to provide a more comprehensive review of the entire OSD staff. However, the highest priority will be given to the organizations that contain DUSD structures.
- Structures and titling should be applied uniformly throughout the whole of OSD. A title should be used consistently and uniquely for a single category of officials, whenever possible.
- Titling should convey information about the relative stature and status of the official. Additionally, if possible, the convention should facilitate sub-tier “interface” points by promoting linkages between the tiers within the Department (e.g., functional alignment of titling conventions).
- While the sub-organization of each OSD official should be flexible, structural conventions must be applied consistently and understandably across OSD, i.e., an official can build an organization as needed based upon the mission requirements and the Secretary’s priorities; however, each organization must use the same structural conventions.
- Structure should not limit the authority and flexibility of the Secretary of Defense to organize and manage the OSD, as deemed appropriate.

Using these assumptions and guiding principles, the working team collected and confirmed information on each of the Principal Staff Assistant (PSA) organizations and conducted a review of the legislative history for each of the PAS positions within OSD. This information was used in the deliberations and decisions on realignment, so that a thorough understanding of the history and context of the formation of each official could be taken into account. This ensured that the characteristics and scope of each official were preserved in line with the intent for the creation of that specific official.

Treatment of the PSAs

One of the most visible obstacles to a cogent and comprehensive treatment of the DUSDs, as directed by 906, was the fact that while DUSDs existed in multiple levels within OSD, OSD itself was not laterally consistent in terms of organization, structure, and titling. For example, within the USD(AT&L) organization, there are multiple sub-officials under the differently titled PAS officials: DUSDs under the DDR&E; Deputy ATSDs under the ATSD(NCB); and Assistant DUSDs under the DUSD(L&MR).¹⁸ Within the USD(Policy) and USD(Intelligence) organizations, there were DASDs under each of the DUSDs in Policy, but a single Assistant DUSD and Directors under the DUSDs in Intelligence. In the analysis of the organizational data collected from each of the offices, it became obvious that any potential structural convention would have to be formed using a top-down rather than bottom-up approach.

¹⁸ See **Appendix D** for both before FY10 NDAA and proposed organizational charts.

Realignment

The top-down approach began with an analysis of the PSAs themselves. The PSAs are the group of officials, both PAS and non-PAS, that report directly to the Secretary and Deputy Secretary.¹⁹ The PSAs could be grouped into roughly three categories: USDs, other PAS officials, and non-PAS officials.²⁰ The other PAS officials had a variety of titles, but could be further grouped into three categories:

1. Assistant Secretaries, i.e., Legislative Affairs (LA), Public Affairs (PA), and Networks and Information Integration (NII);
2. Directors, i.e., Director of Operational Test and Evaluation (DOT&E) and Director of Cost Assessment and Program Evaluation (DCAPE); or
3. Officials with functional titles based upon USG-wide conventions, i.e., General Counsel (GC), Inspector General (IG), and Deputy Chief Management Officer (DCMO).

This review of the titling exposed that there were PAS and non-PAS Directors, and that most titles did not convey their relationship to the Secretary. This illuminated a substantial variability and tension in the titling conventions for the PSAs.

Because the top-down approach could be destabilized by the existing titling convention of the officials under the USDs,²¹ it appeared that removing the Director titles would be the imperative and productive first step to enabling a credible framework consisting of four categories of officials reporting directly to the Secretary (see **Figure 4**):

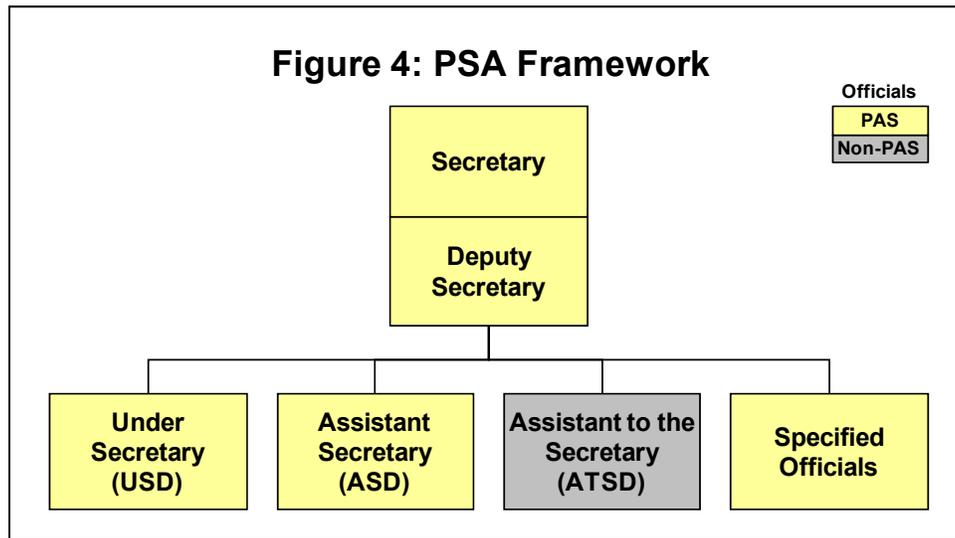
- *Under Secretaries*. Those officials that exercise the Secretary's authority in broad subject areas (e.g., Personnel and Readiness).
- *Assistant Secretaries*. Those officials that exercise the Secretary's authority in a narrower subject area (e.g., Legislative Affairs).

¹⁹ Not to be confused, the PSAs are a different group than the OSD PAS officials. The OSD PAS officials, as a group, include PAS officials subordinate and/or reporting administratively to the USDs and do not include non-PAS officials.

²⁰ The non-PAS officials are the Director of Administration and Management (DA&M), Director of Net Assessment (DNA), and the Assistant to the Secretary of Defense for Intelligence Oversight (ATSD(IO)).

²¹ The working team explored multiple conventions, to include one option where ASDs would be reserved for PSA officials and there would be no ASDs in the USD substructure. This option was considered and rejected because (1) section 906 had furthered the convention of ASDs under USDs by converting the two PAS DUSDs in AT&L into ASDs, and (2) there already existed a prevalence in the USD substructure of ASDs (notwithstanding, the various PAS official titles under the USD(AT&L)). There were additional drawbacks to reserving the ASD title for PSAs which include: the need to statutorily redesignate all the sub-USD PAS officials, the creation of a disconnect between equivalent officials within the interagency environment (specifically with Assistant Secretaries in the State Department), and the complication related to subordinate titling (i.e., DASD under ASDs seemed slightly more streamlined than ADUSD under DUSDs).

- *Assistants to the Secretary.* Those officials that exercise the Secretary’s authority in a specific subject area (e.g., Net Assessment).
- *Specified Officials.* Those officials that exercise the Secretary’s authority and have a title that is based upon the common USG titling convention (e.g., General Counsel).



With the creation of the PSA framework, the working team examined how each official would be treated. While the decision to make the non-PAS officials into ATSDs was fairly straightforward, the treatment of certain other officials required some deeper consideration and deliberation. The following is the basis for the treatment of the indicated officials:

- *Inspector General²² and General Counsel.* No change, as these positions use universally recognized titles based upon the understood USG convention.
- *Deputy Chief Management Officer.* This position’s title is based upon the relationship to the statutorily prescribed DoD CMO, i.e., the Deputy Secretary, and is, therefore, consistent with the generally understood convention.
- *Director of Cost Assessment and Program Evaluation.* The position, and its predecessor position (most recently changed from an ASD in 1993), exercises the Secretary’s authority related to cost assessment and program evaluation. Given that the predecessor position carried the ASD title and the application of

²² Prior to the Inspector General Reform Act of 2008 (IGRA), Public Law 110-409, the Inspector General of the Department of Defense was an EX level IV official per section 5315 of title 5, United States Code. However, the IGRA set the basic rate of pay for the IG to that for other EX level III officials (per section 5314) plus 3 percent. While not technically an EX III official per section 5314, for the purposes of this report, the IG will be portrayed as an EX III official.

Realignment

the new PSA framework, the official is being proposed for redesignation as an ASD.

- *Director of Operational Test and Evaluation.* This position has specific prescription in its statutory establishment provision that creates a link to Congress that is unlike the construct of any other ASD (the equivalent EX level official). Additionally, if the President were to remove the DOT&E²³, the President is required to communicate the reasons for any such removal to both Houses of Congress, which would make it unique among ASDs. For these reasons, and the “Inspector General-like” qualities of independent oversight for operational test and evaluation, the DOT&E is not being proposed for redesignation as an ASD at this time. Instead, DOT&E will be identified as a PSA Specified Official.
- *Assistant Secretary for Networks and Information Integration (NII).* The former ASD(Command, Control, Communications, and Intelligence)(C3I) was split into the ASD(NII) and the USD(I) in 2002. Among the aspects of the former ASD(C3I) that were retained by the ASD(NII) was the role of the DoD Chief Information Officer (CIO). A CIO, who reports directly to the head of the Department, is statutorily required by the Clinger-Cohen Act of 1996, but the CIO requirement does not establish the DoD CIO as a PAS official. Since the ASD(NII) is not a statutorily prescribed ASD, there was some consideration for removing the ASD designation and requesting PAS status for the DoD CIO in recognition of this expansive and important responsibility. Under this concept, a new PAS DoD CIO, as a “stand alone” official, would have the responsibilities inherent in both the ASD(NII) and the DoD CIO and would be identified as one of the PSA Specified Officials. However, due to the importance of this portfolio, the intention to nominate an official, and ongoing deliberations about the characterization and scope of the mission sets of this organization, it was decided that a more comprehensive analysis could be performed after and outside of the 906 review. Therefore, the Department is not requesting the statutory designation of a PAS DoD CIO at this time.
- *Assistant Secretaries for Legislative Affairs and Public Affairs.* No change, as these positions are consistent with the PSA framework.
- *Directors of Administration and Management and of Net Assessment.* Consistent with the framework and reflective of their reporting relationship, these positions would be changed to Assistants to the Secretary of Defense (ATSDs).

²³ All PAS officers are subject to removal only by the President.

Treatment of the USDs

The potentially most turbulent level of organization, due to the interplay and flexibility of the structure, is the USD sub-organization. The major pillars of activity within the USD organizations are based on the preferences of the USDs and the priorities of the Secretary. These structures represent the highest level of the discretionary authority of the Secretary and the intersecting point between those functional areas that represent Congressional priorities (i.e., establishment of a PAS official) and those that represent Administration priorities. In particular, these structures represent the ability of the Secretary to implement agile, responsive, and relevant realignments in order to address emerging concerns or requirements. However, in many cases, multiple changes over time have caused the divergence of standards related to organization, structure, and titling.

Similar to the top-down approach for the PSAs, the structures within the USD organizations were examined. The most obvious concern was related to the variance in the titles of the PAS officials under the USDs; however, the creation of a structural convention for the USD sub-structure for both PAS and non-PAS officials would provide a needed standard for the treatment of each organization. Again, with the standardization of PAS titles, four categories of USD sub-structure officials became evident (see **Figure 5** on next page):

- *Assistant Secretaries*. Similar to the characterization of the PSA ASDs, those PAS officials that exercise the Under Secretary's authority for a major pillar of activity aligned within the USD's enterprise (e.g., Homeland Defense). All PAS officials within the USD structure, other than the PDUUSDs, would be designated as ASDs.
- *Deputy Under Secretaries*.²⁴ Those non-PAS officials that exercise the Under Secretary's authority for a major pillar of activity within the USD's enterprise (e.g., Installations and Environment).
- *Chief of Staff (CoS)*. The CoS is a non-PAS official that exercises the Under Secretary's authority to integrate activity across the USD's enterprise, to include providing general administrative management and communication of information from and to the USD and PDUUSD. The CoS is charged with working closely with the PDUUSD to ensure that all OSD administrative requirements are met and unity of enterprise effort is promoted. While the CoS is an optional official within the USD's organization, a USD who chooses to have a CoS will have only one.²⁵
The review illuminated that there may be instances where the CoS could also be

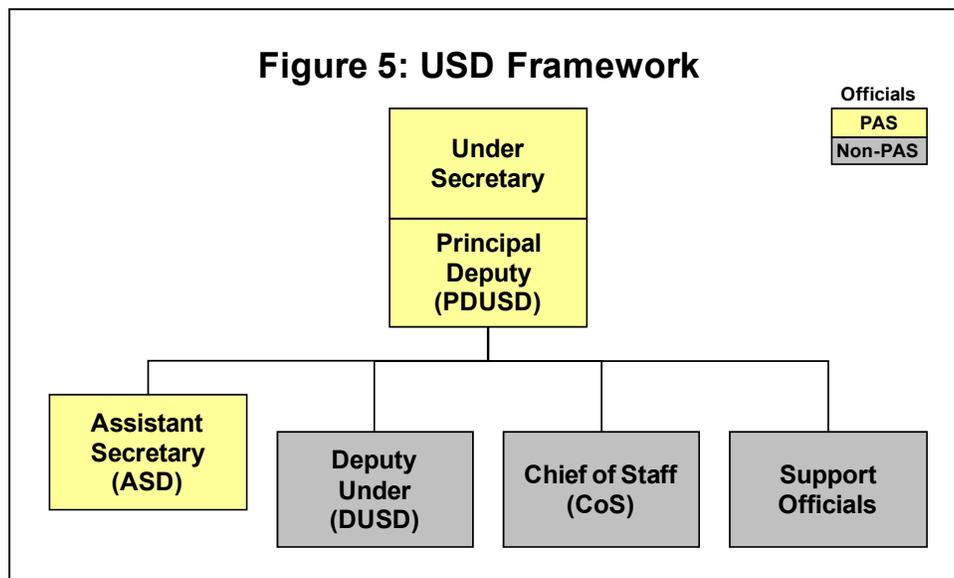
²⁴ Several titles were considered including: Assistant to the Under Secretary of Defense (ATUSD) and Assistant Under Secretary of Defense (AUSD). These titles were rejected since, respectively, they (1) did not optimally characterize the status and stature of the official and the scope of the duties and responsibilities of the assigned portfolio and (2) were very similar to the ASD title. See the next section, "Treatment of the DUSDs," for a more detailed explanation for the continued limited use of this title.

²⁵ There will not be a separate CoS for both the USD and the PDUUSD.

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responsible for managing a specific function similar to a USD Specified Official (see immediately below). In this case, the CoS could be allowed to carry a dual title (e.g., CoS and Director for International Cooperation). However, any specific functions and responsibilities could be added to those of the CoS by the USD without necessitating a change in title.

- *USD Specified Officials.* These are senior non-PAS officials who manage specific functions and responsibilities required by the USD that, while extensive or important to the enterprise, are not characterized as a major pillar of activity for the USD enterprise (e.g., Acquisition Resources and Analysis). The titles used for USD Specified Officials will be based upon their particular roles but will generally be “Director.”



Non-PAS officials are integral parts of the USD organization; however, it is important to emphasize that all PAS officials within the USD structure are higher in status and stature than all non-PAS officials. While officials may have similar reporting relationships (i.e., direct reports to the USD) and broad authority related to activity within the USD organization, the chain of succession from the USD will proceed from the USD to the PDUSD to the ASDs (to be prescribed by the USD, unless otherwise specifically prescribed by the Secretary). This is not intended to, and does not, create any controlling or procedural authority between the subordinate officials other than that expressly given or determined by the USD. But, it is a given that non-PAS officials are at a level below PAS officials regardless of the organizational arrangement.

While, in general, the PDUSDs will be “non-portfolio”²⁶ alter-egos for the USDs, they may, as determined by a USD, have a direct oversight role or larger presence regarding certain issues. This allows the USDs to have the flexibility to assign and direct a distribution of effort and workload based upon pressing priorities, or to carry out the direction of the Secretary, yet ensures that the PDUSD is situationally aware of all the activities of the USD’s enterprise (rather than simply another official within the USD organization). Additionally, the SASC staff communicated its preference that the load on the USDs should be lessened by having the PDUSDs carry some of the burden of the USDs.

An additional consideration, relative to the USD organizational structure, was the designation of a Senior Career Official (SCO). The designation of these officials would address concerns relative to continuity within the USD organizations and minimize the negative effects experienced during Administration transitions. This official, designated by the USD, would handle specific responsibilities directed to them by their USD, as appropriate for the SCO designee. This SES level official would be the representative of the USD when it is appropriate to have the perspective of an experienced career civilian employee.

Treatment of the DUSDs

Once the top-down construct was established, the working team engaged closely with each of the USD organizational representatives to discuss the specific treatment of their organizations (see **Appendix D**). The following is the proposed application of the USD framework for the treatment of the indicated organizations:

- *USD(AT&L)*. There are eight DUSDs in this organization (two PAS and six non-PAS).²⁷ The two PAS DUSDs (A&T and L&MR) were changed to ASDs by section 906. Per the application of the USD framework to the USD(AT&L) organization, three PAS officials would need to be redesignated as ASDs: DDR&E, Director of Operational Energy Plans and Programs (DOEP&P), and Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NCB)). Four of the non-PAS DUSDs are subordinate to the DDR&E. Since the USD supported the change to ASDs for the PAS officials not already treated by section 906 (specifically changing the DDR&E to an ASD), these four DUSDs could become Deputy ASDs (DASDs).²⁸ Additionally, the DUSD(Industrial Policy) as a subordinate official to the ASD(Acquisition) could become a DASD. The remaining DUSD(Installations and Environment) is considered by the USD as a major pillar of activity (see resolution of the title below).

²⁶ “Non-portfolio” is taken to mean that they do not have a specific assigned portfolio or the lead on certain issues solely based upon their position as PDUSD (unless otherwise specifically prescribed by law, Presidential direction, or Secretary or Deputy Secretary directive).

²⁷ Not counted in the eight DUSDs was a PAS PDUSD(AT&L) established by section 906.

²⁸ The DASD is the major sub-ASD official within OSD.

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- *USD(Policy)*. There are four DUSDs in this organization (one PAS and three non-PAS). The PAS DUSD was redesignated as a PAS PDUSD by section 906. The DUSD(Technology Security Policy) was eliminated per section 905 of the FY10 NDAA (separate section from 906). The DUSD(Policy Integration)/CoS could be redesignated with the CoS title alone. The remaining DUSD(Strategy, Plans, and Forces) is considered by the USD as a major pillar of activity (see resolution of the title below).
- *USD(Comptroller)/DoD CFO*. There are three non-PAS DUSDs in this organization. The non-PAS PDUSD was designated as a PAS PDUSD by section 906. The DUSD(Resource Issues) could be redesignated as the Director for Resource Issues. The remaining DUSD(Budget and Appropriation Affairs) is considered by the USD as a major pillar of activity. However, consideration was made for the special treatment of this title since there is another general convention used within this organization, i.e., Deputy Comptroller. This official could, therefore, be redesignated as a Deputy Comptroller in alignment with the similar title already in use.
- *USD(P&R)*. There are eight DUSDs in this organization (one PAS and seven non-PAS). The PAS DUSD was redesignated as a PAS PDUSD by section 906. While a more comprehensive analysis outside of the 906 review is being performed for the P&R portfolio, the historical context of the alignment of this organization was examined. The former ASD for Force Management Policy(FMP) was eliminated in 2002 when the incumbent was appointed into the new PAS DUSD(P&R) position. At that time, the major officials under the ASD(FMP) were DASDs. These DASDs were redesignated as DUSDs creating five more DUSDs (in addition to two non-PAS DUSDs that already existed at that time). Since 2002, one of the DUSD positions was eliminated and, in 2009, a DUSD position for Wounded Warrior Care and Transition Policy was created. Relative to the P&R organization, the SASC had intended (in its section 901) to establish an additional ASD for Readiness²⁹ in this organization. The working team recognizes the importance of Readiness and the need for an additional PAS official in the P&R portfolio and is requesting an additional ASD allotment that will be used for an ASD for Readiness and Force Management (R&FM).³⁰ Five of the current DUSDs could be redesignated as DASDs and aligned under this new ASD. The functionality of the remaining two non-PAS DUSDs could be aligned under a CoS with one DUSD being redesignated as the CoS and the other being absorbed by the CoS.³¹

²⁹ The non-PAS DUSD(Readiness) was one of the existing DUSD in 2002 when the ASD(FMP) position was abolished. The DUSD(Readiness) did not report to the ASD(FMP).

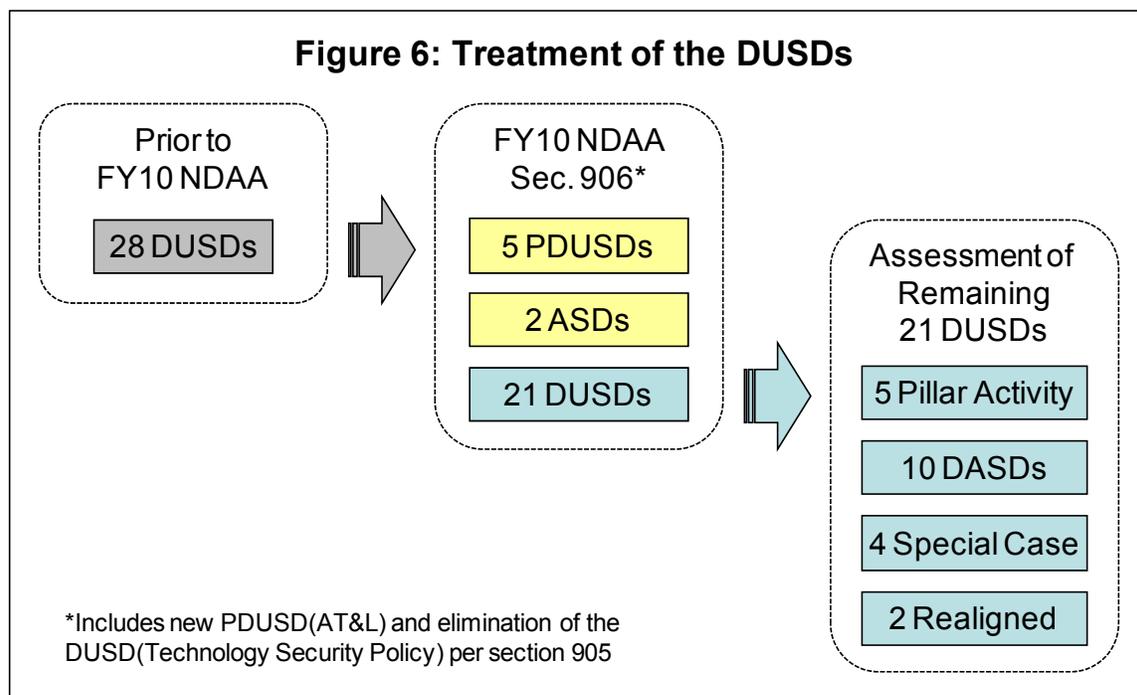
³⁰ Due to possible further refinement of the P&R structure from the ongoing comprehensive analysis, the Department is requesting that this ASD be an undesignated ASD so that the Department can remain flexible in the designation of that official.

³¹ The alignment or redesignation of the remaining two DUSDs is ultimately dependent on the choices of the USD(P&R) as informed by the ongoing comprehensive analysis. However, it will be consistent with the proposed organizational and structural conventions outlined in this report.

- *USD(Intelligence)*. There are five non-PAS DUSDs in this organization. The non-PAS PDUSD was designated as a PAS PDUSD by section 906. The USD, after examination of the portfolio, proposed that the remaining four non-PAS DUSDs could be streamlined into and reorganized as the three major pillars of activity (Warfighter Support and Operations; Intelligence and Security; and Military Intelligence Programs and Planning) (see resolution of the title below).

Therefore, by analyzing the organizational structures and discussing the issues with the USD representatives, the working team was able to successfully identify the DUSD positions that had not already been specifically treated by section 906 and to group them into four categories requiring treatment (see **Figure 6**):

- *Pillar Activity*. Those positions that have been characterized by their USD as a major pillar of activity within the USD’s enterprise.³²
- *DASDs*. Those positions under an ASD, or a proposed ASD, that can appropriately be redesignated as DASDs.
- *Special Cases*. Those positions that can be redesignated with a different but appropriate title (e.g., CoS or Deputy Comptroller).
- *Realigned Positions*. Those positions that can appropriately be realigned and consolidated with other positions.



³² A major pillar of activity is defined as being more than just an important task or function of the Under Secretary, and, in general, will be one of the major functions and responsibilities of the Under Secretary.

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Converting the DUSD titles for positions in the last three categories could be straightforward provided that certain statutory changes are made. However, establishing a title for the major pillar activities within the USD organizations presented a much greater challenge.

As noted previously in this report, several titles were considered for those limited positions representing major pillar activities. However, as discretionary positions within OSD, and with a more fulsome treatment of the proliferation of DUSDs throughout the structure, the working team concluded that an already established title, coupled with the commitment by the Department to restrict its use, would allow for the continued use of the DUSD title for these select pillar activities.

These non-PAS DUSDs would be defined, per the USD framework, as the officials that exercise the Under Secretary's authority for a major pillar of activity within the USD's enterprise. A major pillar of activity is defined, for the purpose of determining whether an official should be a DUSD, as being more than just an important task or function of the USD, and, in general, will be one of the major functions and responsibilities of the USD. These officials will be those that, while important and leading major efforts, do not warrant being elevated to the level of a PAS official (but may be within the realm of being considered for elevation to ASD). The use of the DUSD title will be administratively restricted and limited to the five positions within OSD that were identified during the 906 review and specified by the USDs as major pillar activities of their enterprises: one in the Office of the USD(AT&L), one in the Office of the USD(P), and three in the Office of the USD(I).

In sum, in order to apply the USD framework and ensure the categorical treatment of the DUSDs as required by section 906, it is essential that the following actions be taken:

- The redesignation of the DDR&E, DOEP&P, and ATSD(NCB) as ASDs;
- The addition of an undesignated ASD allotment for the P&R portfolio; and
- The allowance for the continued discretionary use of the DUSD title for a limited and restricted group of positions, as specified above.

Treatment of Additional Statutory Prescription

In addition to an assessment of the organizational structure of OSD, the working team examined the statutory provisions in titles 5 and 10 of U.S. Code and other legislative enactments. This assessment included a review of all of the provisions related to OSD and OSD officials. Several potential technical and conforming amendments were identified. These amendments were incorporated in a legislative proposal for inclusion in the FY11 NDAA (see **Appendix E**). The legislative proposal includes the technical and conforming amendments, the proposed treatment of the PSAs, and the proposed treatment of the USD organizations. These have been outlined in the following Recommendations section.

RECOMMENDATIONS

In order to fully implement the structural convention outline in this report, certain legislative and administrative changes will be required. The following changes provide a logical construct for the organization of the most senior officials within OSD by: (1) removing the wide variance in the status and stature of officials with the same title, and (2) providing the same title to officials of generally equal status and stature.

Realignment Recommendations

- *Redesignate certain PAS officials as ASDs (Legislative Change).* In tandem with the change to the title of ASD of the PAS DUSDs for A&T and L&MR, per section 906, the working team recommends changing all of the PAS officials of generally equal nature, status, and stature to ASDs. This change would redesignate four officials as ASDs: namely, the Director of Defense Research and Engineering (DDR&E), Director of Operational Energy Plans and Programs (DOEP&P), Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NCB)), and Director of Cost Assessment and Program Evaluation (DCAPE). Note: Certain other PAS officials, based upon the standardization of their titles within the overall U.S. Government (i.e., General Counsel and Inspector General) or their specific statutory provisions (i.e., Deputy Chief Management Officer (DCMO) and Director of Operational Test and Evaluation (DOT&E)), would not be redesignated.
- *Add an ASD for Readiness and Force Management (Legislative Change).* The working team recommends one additional undesignated ASD (aside from the four additional ASDs that would come from the redesignation above of current PAS officials). This official would be administratively designated as the ASD for Readiness and Force Management (R&FM), have those portfolios, and serve as a principal advisor to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The working team recommends that this be an undesignated (i.e., unspecified) ASD so that the Secretary can retain the flexibility to modify the principal focus and designation of this official, under the USD(P&R), to meet the highest priorities within the personnel and readiness enterprise.
- *Retain limited use of the DUSD title (Legislative Change).* The working team recommends removal of the prohibition, effective on 1 January 2011, against the use of the DUSD title for officials other than the Presidentially Appointed, Senate-confirmed (PAS) Principal DUSDs (PDUSDs). The working team recommends that the DUSD title be retained for ten officials: the five PDUSDs and five DUSDs. The five DUSDs would be the officials who report directly to an Under Secretary of Defense and are responsible for major pillars of activity in the Under Secretary's enterprise. These DUSDs will be those that, while important and

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leading major efforts, are not being proposed for elevation to the level of a PAS official.

- *Remove the prescription on the titles of organizations and non-PAS officials (Legislative Change).* The working team recommends removal of the impediments to a standardized titling convention of non-PAS officials across OSD. These impediments include several statutory provisions that prescribe the titles of certain officials (and in some cases the titles of organizations) within OSD. In order to fully implement the realignment plan presented in this report, the Department would need relief from the statutory prescription of these specified offices and non-PAS officials. Note: There would be no changes to any of the responsibilities of these officials or offices; the prescription of the titles would simply be removed. The Department needs relief from the statutory prescription of the following:
 - (1) Director of Developmental Test and Evaluation and Director of Systems Engineering (prescription of directors' titles)
 - (2) Defense Prisoner of War/Missing Personnel Office (DPMO)(prescription of office's title; often confused with the DPMO DoD Field Activity, established pursuant to 10 USC §192)
 - (3) Office of Family Policy (prescription of office's title)
 - (4) Office of Corrosion Policy and Oversight (prescription of office's title and director's title)

- *Adopt the structural convention for PSAs and USDs (Administrative Change).* The working team recommends the broad application of the outlined structural convention throughout OSD, including the designation of a SCO in all USD organizations. This includes the redesignation of specific officials in OSD including: (1) changing the non-PAS PSAs to ATSDs, (2) redesignating the sub-ASD officials to DASDs³³, and (3) ensuring, where appropriate, that officials across OSD are conformed to the proposed structural convention.

Technical Legislative Recommendations

- *Modify the provision on the Office of the Secretary of Defense.* The working team recommends that the composition of OSD, in subsection §131(b) of title 10, be changed to reflect the proposed changes from the realignment and to streamline the list of OSD officials. The amended organization of the list would be:
 - (1) Deputy Secretary of Defense
 - (2) Under Secretaries of Defense
 - (3) Deputy Chief Management Officer

³³ There are some exceptions to the DASD convention. In particular, the titles of the Directors and Offices for the Department's Small Business Program have recently been standardized to a single convention. In this case, the working group is recommending retention of the existing titles to promote the "interface" and linkages between the OSD and Military Department programs.

- (4) Principal Deputy Under Secretaries of Defense
 - (5) Assistant Secretaries of Defense
 - (6) Other PAS officials
 - (7) Statutorily required non-PAS officials
 - (8) Other officials as may be established by law or the Secretary of Defense
- *Make technical changes to the ASD provisions.* The working team recommends, in support of the redesignation of certain officials to ASDs, that certain technical changes be implemented. These technical changes would seek to combine and streamline the ASD provisions, where possible. Specifically, for each of the four redesignated PAS officials, their establishment sections would be placed behind the ASD section (§138). The associated individual PAS appointing clauses would be removed, and their appointing clauses would come from the ASD provision. Note: There would be no changes to any of the responsibilities of these officials; they would just be redesignated as ASDs with the necessary technical changes.
 - *Create a separate DCMO provision.* The working team recommends that the DCMO establishment provision be removed from being part of a subsection within the Deputy Secretary of Defense (DSD) section and made a stand-alone section. This gives the DCMO increased visibility within the overall context of the officials within OSD as they are represented in Chapter 4. The section should be inserted immediately after the DSD section in recognition of the relationship of the position to the DSD, who serves as the Chief Management Officer of the Department.
 - *Streamline the organization and content of chapter 4.* The working team recommends that Chapter 4 be changed to contain only sections relating to the PAS officials within OSD (in addition to the OSD establishment section (§131) and the personnel limitation section (§143)). Officials with establishment provisions in chapter 4 that are not PAS should be transferred into other appropriate programmatic chapters within title 10. This will ensure that chapter 4 is a representation of only the most senior OSD officials (i.e., PAS officials). The transferred provisions include: section 139d (“Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance”) and section 144 (“Director of Small Business Programs”).
 - *Make other technical and conforming changes.* Additionally, the working team recommends: (1) codifying the provision related to the designation of an official responsible for performance assessments and root cause analyses (PARCA) from section 103 of the Weapons Systems Acquisition Act of 2009 (10 USC 2430 note); (2) amending other provisions in U.S. Code that reference the titles of redesignated officials and the specific references to DUSDs; (3) making technical changes in title 5, U.S. Code, related to the Executive Schedule (EX) listing of both redesignated and eliminated officials (e.g., new ASDs or other positions

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presently covered by the Senior Executive Service (SES)); and (4) making other changes required so that existing or additional provisions are consistent with each other within the overall context of the organizational structure of OSD.

In sum, these recommendations will allow the Department to execute the broad application of a logical, consistent, and recognizable structural convention across OSD, thereby, ensuring a deliberate and strategic OSD organizational structure. Further, these recommendations will codify several provisions that allow for optimal flexibilities enabling a more effective and efficient OSD organization. Lastly, the totality of these recommendations imposes a realigned OSD structure that is internally coherent, externally consistent, and reinforces the role of the senior OSD officials in support of the Secretary and the Department of Defense, as a whole.

Appendix A: Definitions and Key Terms

DEFINITIONS AND KEY TERMS

For this report, the following definitions and key terms are used:

Assistant Secretary of Defense (ASD): The PAS officials who exercise the authority of either the Secretary or an Under Secretary for a narrow subject area or for a major pillar of activity within a USD's enterprise. The Assistant Secretary construct is one of the oldest senior official constructs in the OSD (the original construct was that of Special Assistant). ASDs can be assigned portfolios in law (i.e., "designated") or at the discretion of the Secretary (i.e., "non-designated"). Currently, OSD is authorized 12 ASD positions, of which 6 are designated (Acquisition, Homeland Defense, Legislative Affairs, Logistics and Materiel Readiness, Reserve Affairs, and Special Operations and Low Intensity Conflict).

Chief of Staff (CoS): The non-PAS official who exercises the Under Secretary's authority to integrate activity across the USD's enterprise, to include providing general administrative management and communication of information from and to the USD and PDUSD. The CoS is charged with working closely with the PDUSD to ensure that all OSD administrative requirements are met and unity of enterprise effort is promoted. There will be only one CoS to the USD/PDUSD, and the administrative functions of the USD (e.g., legislative, OSD manpower) should be consolidated under the CoS. This official may be the USD's representative in the OSD Management Forum and OSD Resource Strategy Board. The Chief of Staff should not be confused with an office director for or special assistant to the USD, or any of the designated Chiefs of Staff within the USD sub-structure.

Deputy Under Secretary of Defense (DUSD): A non-PAS official who exercises the Under Secretary's authority for a major pillar of activity within the USD's enterprise. A major pillar of activity is defined, for the purpose of determining whether an official should be a DUSD, as being more than just an important task or function of the USD, and, in general, will be one of the major functions and responsibilities of the USD. These officials will be those who, while important and leading major efforts, do not warrant being elevated to the level of a PAS official (but within the realm of being considered for elevation to ASD). The use of the DUSD title will be administratively restricted and limited to a small group of positions within OSD. The equivalents to a DUSD within the Office of the Under Secretary of Defense (Comptroller)/DoD Chief Financial Officer (USD(C)/DoD CFO) are the Deputy Comptroller and Deputy CFO.

Direct Report: Those positions, other than administrative and clerical, which report directly to a particular official. For the sake of this review, we examined and are referring to those officials who are PAS, Senior Executive Service (SES), Defense Intelligence SES (DISES), General Officer/Flag Officer (GOFO), DUSD, Deputy Assistant Secretary of Defense (DASD), or equivalent levels.

Executive Schedule (EX): The Executive Schedule is the basic pay schedule for positions that are largely Presidentially Appointed, Senate-confirmed (PAS) and

Appendix A

classified above the Senior Executive Service (SES). It is divided into five pay levels, EX I being the highest and EX V being the lowest. The number for the higher pay level is reversed from that of the Senior Executive Service (where Tier 1 is the lowest). In the Department of Defense, there is only one EX I official: the Secretary of Defense. The Deputy Secretary of Defense, Secretaries of the Military Departments, and Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) are EX II. The other USDs and equivalents are EX III, and the ASDs and ASD equivalents are EX IV. Note: The USD(AT&L) was established at EX II by Congress with the intention that, for issues related to Acquisition, the USD(AT&L) would take precedence over the Secretaries of the Military Departments. There is only one EX V official in OSD: the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NCB)). Since this PAS official is statutorily equal in precedence to the ASDs already, pursuant to the FY09 NDAA, the Department's legislative proposal asks that this official be redesignated as an ASD and elevated to EX IV.

First Assistant: The first assistant, as defined by the Federal Vacancies Reform Act of 1998 (VRA), as amended, is the individual who, subject to the limitations of the VRA, is normally the "Acting" official during the absence or disability of a PAS official, exercising the authority, direction, and control of that official. The designation of first assistant should not be confused with an "alter ego" role of the official while that official is present. In general, the official that exercises the authority, direction, and control of a PAS official's enterprise while the PAS official is present is termed the "principal deputy." In most cases, the principal deputy will also be the first assistant. Additionally, the "first assistant" term should not be confused with the chronologically first established, but as the first in terms of the role of that official as the successor to the principal official.

Order of Precedence (OoP): A sequential list of Department of Defense officials and positions conveying their positional stature relative to each other. The OoP is not necessarily an indication of functional importance. This list is used to determine precedence for official visit activities; assignment of government quarters; seating arrangements and similar requirements at official functions, aboard government aircraft, and other activities requiring precedence decisions; and for other administrative matters as prescribed in DoD issuances. Note: The DoD Order of Precedence should not be confused with Executive Order 13533, "Providing an Order of Succession Within the Department of Defense," which establishes the order of succession to the Secretary of Defense.

Organization: The way in which a group is arranged, formed, or created. Organization is the way a group is ordered or operated, in general, according to some principle or idea (e.g., by major portfolio areas). In general, organization deals with the functional arrangement of the people within a group.

PAS: The officials within the Department that are designated within statute with the following provision; "appointed from civilian life by the President, by and with the advice and consent of the Senate". The acronym is derived from the term "Presidentially Appointed, Senate-confirmed."

Principal Deputy Under Secretary of Defense (PDUSD): The first assistant and “alter ego” to an Under Secretary who assists in the duties³⁴ of the USD’s enterprise and will act for and exercise the powers of the USD when the USD is absent or disabled. All PDUSDs are PAS officials.

Principal Staff Assistant (PSA): The Secretary of Defense exercises authority, direction, and control over the Department of Defense (DoD), in part, through the OSD Principal Staff Assistants (PSAs). The OSD PSAs are the Under Secretaries of Defense; the Deputy Chief Management Officer (DCMO); the DoD General Counsel; the DoD Inspector General; and those ASDs, ATSDs, and OSD Directors, and equivalents, who report directly to the Secretary or Deputy Secretary of Defense.

Senior Career Official (SCO): The career Senior Executive Service (SES) official designated by the USD, within the USD’s office, who has responsibilities determined by the USD but, in this role, will primarily provide continuity during the transition of administrations. This official will be the representative of the USD when it is appropriate to have the perspective of an experienced career civilian employee.

Specified Officials: The category of Direct Report officials who have a title outside of the common structural convention. The Specified Officials will be all the PAS Direct Reports to the Secretary, other than the Deputy Secretary, Under Secretaries, and Assistant Secretaries. The USD Specified Officials will be all the non-PAS Direct Reports to the Under Secretary, other than the DUSDs and CoS.

Structure: The characteristic pattern of relationships among people in an organization. Structure is an organization’s systematic and sometimes intangible notion covering the recognition, observation, nature, and stability of patterns and relationships of the entities. In general, structure relates to the relative equality or inequality of the people in the organization.

Tier Structure for DoD SES: The Senior Executive Service (SES) is the basic pay schedule for positions above the General Schedule (GS) level (SES is somewhat similar to General or Flag Officers in the military). Within DoD, the SES uses a three-level tiering system, Tier 3 being the highest and Tier 1 being the lowest (opposite of the Executive Schedule levels), that groups positions with common characteristics. Tier levels delineate the importance of different positions by emphasizing impact on mission, level of complexity, span of control, inherent authority, scope and breath of responsibility, and influence in joint, national security matters. SES officials are additionally designated as career (competitively selected and appointed through an OPM-approved civil service process) or non-career (appointed based on political considerations).³⁵ Within OSD, Tier 3 SES officials are generally characterized as: (1) direct reports to the Secretary, Deputy Secretary, PSA, PAS, or four-star General/Flag

³⁴ Certain duties of the USD are not included in the “alter ego” role of the PDUSD. For example, DoD issuances that establish DoD policy must be signed by the USD themselves (or the Acting USD) per the direction of the Deputy Secretary.

³⁵ SES officials can also be appointed as Limited Emergency or Limited Term (i.e., “Term SES”).

Appendix A

officer; (2) typically have subordinate SES positions report to them; (3) serve as the most senior level in the PSA office (at the top within each PSA office); and (4) represent top leadership (Secretary, Deputy Secretary, or PSA) at key interagency meetings on issues of departmental interest. In general, Principal Deputy Assistant Secretaries of Defense (PDASDs) are Tier 3, and Deputy Assistant Secretaries of Defense (DASDs) are Tier 2.

Titling: An identifying appellation (“label”) used to signify an association with the relative status and stature of the official. Categorically, titling can be seen in the relative importance and rank of people based upon their title.

Under Secretary of Defense (USD): The PAS officials who exercise the Secretary’s authority across broad subject areas. The USD has been the primary broad subject area official reporting to the Secretary and Deputy Secretary of Defense since 1977. There are currently five USDs: Acquisition, Technology, and Logistics (AT&L); Policy; Comptroller; Personnel and Readiness (P&R); and Intelligence.

Appendix B: Senator Levin Letter and Deputy Secretary Lynn Response

CARL LEVIN, MICHIGAN, CHAIRMAN

EDWARD M. KENNEDY, MASSACHUSETTS	JOHN MCCAIN, ARIZONA
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BILL NELSON, FLORIDA	JOHN THUNE, SOUTH DAKOTA
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EVAN BAYH, INDIANA	ROBERT F. WICKER, MISSISSIPPI
JIM WEBB, VIRGINIA	RICHARD BURR, NORTH CAROLINA
CLAIRE MALCOLM, MISSOURI	DAVID VITTER, LOUISIANA
MARK UDALL, COLORADO	SUSAN M. COLLINS, MAINE
KAY R. HAGAN, NORTH CAROLINA	
MARK BREGICH, ALASKA	
ROLAND W. BURRIS, ILLINOIS	

United States Senate
 COMMITTEE ON ARMED SERVICES
 WASHINGTON, DC 20510-6050

RICHARD Q. DUBOIS, STAFF DIRECTOR
 JOSEPH W. BIGWAB, REPUBLICAN STAFF DIRECTOR

March 11, 2009

The Honorable William J. Lynn III
 Deputy Secretary of Defense
 The Pentagon
 Washington, D.C.

Dear Mr. Lynn:

Earlier this month, the Armed Services Committee was informed of a proposed reorganization of the office of the Under Secretary of Defense for Policy (USD/P). The proposed reorganization would establish two new Deputy Under Secretaries of Defense (DUSDs), each at a level that appears to be equivalent in authority and control to the existing Assistant Secretaries of Defense (ASDs). While ASD positions are authorized by statute, limited in number, and subject to Senate confirmation, the Department can apparently establish the DUSD positions without statutory authorization, without limitation, and without Senate confirmation.

This proposed reorganization raises broader questions about the number and status of DUSDs in the Department. For example, it appears that there are currently at least ten DUSD positions under the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD/AT&L). Of these ten DUSD positions, two were established by statute and the other eight (including the Principal Deputy Under Secretary of Defense position) appear to have been established unilaterally by the Department. Moreover, the office's organization chart shows multiple layers of DUSDs reporting to each other. For example:

- The DUSD for Industrial Policy reports to the DUSD for Acquisition and Technology (a statutory position), who reports to the Principal DUSD.
- The DUSD for Advanced Systems and Concepts, the DUSD for Laboratories & Basic Sciences, the DUSD for International Technology Security, and the DUSD for Science and Technology all report to the Director of Defense Research and Engineering (a statutory position, but not a DUSD), who reports to the Principal DUSD.

OSD 02632-09

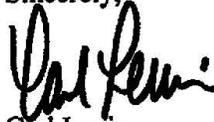


I am concerned that the proliferation of DUSDs at multiple levels of the organization could muddy lines of authority and may not be in the best interests of the Department of Defense. Accordingly, I would appreciate if you would provide me with the following information:

- How many DUSDs are there in the Department of Defense?
- How many DUSDs are statutory positions and how many are not?
- How many DUSDs are Senate-confirmable and how many are not?
- What is the relative rank of a DUSD and an ASD?
- Are all DUSDs of equal rank? If not, how is the rank of a DUSD determined?
- What is the authority for establishing the position of "Principal Deputy Under Secretary of Defense," to whom other DUSDs (and ASDs) report?

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Levin".

Carl Levin
Chairman



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

APR 27 2009

The Honorable Carl Levin, Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510-6050

Dear Mr. Chairman:

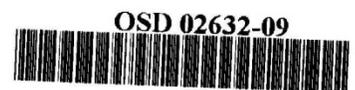
I am writing in response to your letter of March 11, 2009, in which you inquired about the number and ranking of Deputy Under Secretaries of Defense (DUSDs) within the Department of Defense. Specific responses to your questions are enclosed along with three supporting documents that I believe will facilitate understanding on this complicated subject. These include a listing of all DUSD and Assistant Secretary of Defense positions, the DoD Order of Precedence, and the DoD Order of Succession.

I appreciate the opportunity to respond to your inquiry and trust that it has addressed your questions appropriately.

A handwritten signature in black ink, appearing to read "W. L. O'Byrne", is positioned to the right of the main text.

Enclosures:
As stated

cc: The Honorable John McCain
Ranking Member



Responses to Questions on Deputy Under Secretaries of Defense (DUSDs) in the Department of Defense

Question 1: How many DUSDs are there in the Department of Defense?

There are currently 28 DUSDs within the Department, all of which reside within the Office of the Secretary of Defense.

Question 2: How many DUSDs are statutory positions and how many are not?

Five of the 28 DUSDs are provided for in statute. The remaining 23 are non-statutory and are established at the discretion of the Secretary of Defense.

Question 3: How many DUSDs are Senate-confirmable and how many are not?

Four DUSDs are Presidentially Appointed, Senate-confirmed (PAS) officials. One DUSD is established in statute, but is not a PAS official. The remaining 23 are non-statutory and are established at the discretion of the Secretary of Defense.

Question 4: What is the relative rank of a DUSD and an ASD?

The term "rank" is normally associated with military personnel, and the Department does not apply that term to its civilian workforce. However, the Department uses various means to order civilian officials and recognize their relative stature. These include reporting relationships, pay, precedence, and succession.

- Reporting relationships.
 - There are 10 Assistant Secretaries of Defense (ASDs), all of whom are PAS officials. Three report directly to the Secretary, while the remaining seven report to either the Under Secretary of Defense (USD) for Policy or the USD(Personnel and Readiness).
 - The four PAS DUSDs report to the Under Secretaries of their respective organizations. Most non-statutory DUSDs report to either their respective Under Secretary or to another subordinate PAS official. Exceptions to this practice are in the offices of the USD(Intelligence) and the USD(Comptroller) where the only PAS official is the Under Secretary. In these cases, a non-statutory Principal DUSD has been designated to assist in day-to-day operations.
- Pay. All ASDs are Executive Schedule Level IV (ES-IV) positions as provided for in statute. The DUSD(Acquisition and Technology) is an ES-III, while the three

remaining PAS DUSDs are ES-IV. For the non-statutory DUSDs, the Department utilizes the Senior Executive Service (SES) tiering structure to determine pay. The tiering criteria are delineated in Departmental policy and evaluate a position based on impact on mission, level of complexity, span of control, inherent authority, scope and breadth of responsibility, and influence in joint and/or national security matters. Positions are sorted into three tiers with Tier 3 positions having the highest level of complexity, impact on mission outcomes, and/or influence on joint, national security matters. The enclosed lists of DUSD and ASD positions annotate the ES Level or SES tier.

- **Precedence.** Precedence for many OSD statutory officials is provided for in title 10, USC. Because there are additional non-statutory officials (military and civilian), the Department utilizes an expanded Order of Precedence for issues, such as official visit activities, travel, seating arrangements, and other administrative matters as prescribed in DoD Issuances. The Order of Precedence is divided into Codes with the Secretary included in Code 2. All PAS DUSDs and ASDs are listed in Code 3 and the discretionary DUSDs are listed in subordinate Code 4. A copy of the current Order of Precedence is attached.
- **Succession.** Executive Order 13394 establishes the Order of Succession to act as the Secretary of Defense. The DUSD(Acquisition and Technology), DUSD(Policy), and DUSD(Personnel and Readiness) (all PAS officials) are listed above the ASDs for this purpose. A copy of Executive Order 13394 is attached.

Question 5: Are all DUSDs of equal rank? If not, how is the rank of a DUSD determined?

As noted above, civilian officials do not have a general “rank” for all purposes. All DUSDs, however, are not equal in terms of reporting relationships, pay, precedence, or succession. Please refer to the question above as well as the attachments, which depict these different ordering schemas.

Question 6: What is the authority for establishing the position of “Principal Deputy Under Secretary of Defense” to whom other DUSDs (and ASDs) report?

The Secretary utilizes authorities available to the Heads of all Executive Branch departments and agencies, as well as the specific authorities provided to him in Section 113 of Title 10, U.S.C., to manage, organize and structure the Department to execute its mission and to fulfill the Administration’s priorities.

Those statutory and non-statutory DUSDs who are designated as “Principal Deputies” have been established in accordance with these authorities and DoD Directive 3020.04, “Order of Succession Under Executive Order 13394 and the Federal Vacancies Reform

Act of 1998” to identify those DUSDs who serve as “First Assistants” for purposes of the Federal Vacancies Reform Act.

- The statutory duties of two of the PAS DUSDs establish them as First Assistants to their respective USDs. Specifically, DUSD(Policy) and DUSD(Personnel and Readiness) assist their respective Under Secretary “in the performance of his duties” and “act for, and exercise the powers of, that Under Secretary when the Under Secretary is absent or disabled.”
- Other such designations are mindful of existing statutorily-prescribed positions and do not subordinate the legitimate authorities of and between other PAS officials within their respective organizations.

List of Deputy Under Secretaries of Defense¹

		Statutory	ES Level or Tier ²
	OUSD (ACQUISITION, TECHNOLOGY AND LOGISTICS)		
1	DUSD (ACQUISITION AND TECHNOLOGY)	PAS	ES-III
2	DUSD (LOGISTICS AND MATERIEL READINESS)	PAS	ES-III
3	DUSD (INSTALLATIONS AND ENVIRONMENT)	No	SES Tier 3
4	DUSD (INDUSTRIAL POLICY)	No	SES Tier 3
5	DUSD (ADVANCED SYSTEMS AND CONCEPTS)	No	SES Tier 2
6	DUSD (LABORATORIES AND BASIC SCIENCE)	No	SES Tier 2
7	DUSD (INDUSTRIAL TECHNOLOGY SECURITY)	No	SES Tier 2
8	DUSD (SCIENCE AND TECHNOLOGY)	No	SES Tier 3
	OUSD (COMPROLLER)		
9	PRINCIPAL DUSD (COMPROLLER)	No	SES Tier 3
10	DUSD (BUDGET AND APPROPRIATIONS AFFAIRS)	No	SES Tier 2
11	DUSD (FINANCIAL MANAGEMENT)	No	SES Tier 2
	OUSD (INTELLIGENCE)³		
12	PRINCIPAL DUSD FOR INTELLIGENCE	No	DISES Tier 3
13	DUSD (TECHNICAL COLLECTION AND ANALYSIS)	No	DISES Tier 3
14	DUSD (HUMINT, COUNTERINTELLIGENCE AND SECURITY) ⁴	No	DISES Tier 3
15	DUSD (PORTFOLIO, PROGRAMS, AND RESOURCES) ⁴	No	DISES Tier 3
16	DUSD (JOINT AND COALITION WARFIGHTER SUPPORT) ⁵	No	DISES Tier 3
	OUSD (PERSONNEL AND READINESS)		
17	[PRINCIPAL] DUSD (PERSONNEL AND READINESS)	PAS	ES-IV
18	DUSD (PROGRAM INTEGRATION)	No	SES Tier 3
19	DUSD (READINESS)	No	SES Tier 3
20	DUSD (PLANS)	No	SES Tier 3
21	DUSD (CIVILIAN PERSONNEL POLICY)	No	SES Tier 3
22	DUSD (MILITARY COMMUNITY AND FAMILY POLICY)	No	SES Tier 3
23	DUSD (MILITARY PERSONNEL POLICY)	No	SES Tier 3
24	DUSD (TRANSITION POLICY AND CARE COORDINATION)	No	SES Tier 3
	OUSD (POLICY)		
25	[PRINCIPAL] DUSD FOR POLICY	PAS	ES-IV
26	DUSD (STRATEGY, PLANS, AND FORCES)	No	SES Tier 3
27	DUSD (POLICY INTEGRATION)	No	SES Tier 3
28	DUSD (TECHNOLOGY SECURITY AND NATIONAL DISCLOSURE POLICY)	Yes	SES Tier 3

¹ Does not include DUSD (BUSINESS TRANSFORMATION); upon personnel action to transfer incumbent, position will be eliminated.

² The Senior Executive Service uses a three-level tiering system, of ascending numerical order, that groups positions with common characteristics. Tier levels delineate the importance of different positions by emphasizing impact on mission, level of complexity, span of control, inherent authority, scope and breath of responsibility and influence in joint, national security matters.

³ Executive in OUSD(I) fall under the Defense Intelligence Senior Executive Service (DISES), in accordance with Section 1606 of Title 10, USC. DISES utilizes also utilizes a three-level tiering system, comparable to the SES.

⁴ Incumbent is detailed from the CIA.

⁵ Incumbent is military O-9.

List of Assistant Secretaries of Defense

		Statutory	ES Level
	DIRECT REPORTS TO THE SECRETARY OF DEFENSE		
1	ASD (LEGISLATIVE AFFAIRS)	PAS	ES-IV
2	ASD (NETWORKS AND INFORMATION INTEGRATION)	PAS	ES-IV
3	ASD (PUBLIC AFFAIRS)	PAS	ES-IV
	OUUSD (PERSONNEL AND READINESS)		
4	ASD (RESERVE AFFAIRS)	PAS	ES-IV
5	ASD (HEALTH AFFAIRS)	PAS	ES-IV
	OUUSD (POLICY)		
6	ASD (HOMELAND DEFENSE AND AMERICAS' SECURITY AFFAIRS)	PAS	ES-IV
7	ASD (SPECIAL OPERATIONS/LOW INTENSITY CONFLICT & INTERDEPENDENT CAPABILITIES)	PAS	ES-IV
8	ASD (INTERNATIONAL SECURITY AFFAIRS)	PAS	ES-IV
9	ASD (GLOBAL SECURITY AFFAIRS)	PAS	ES-IV
10	ASD (ASIAN & PACIFIC SECURITY AFFAIRS)	PAS	ES-IV

Appendix C: Section 906 of the FY10 NDAA

PUBLIC LAW 111–84—OCT. 28, 2009

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SEC. 905. REPEAL OF REQUIREMENT FOR A DEPUTY UNDER SECRETARY OF DEFENSE FOR TECHNOLOGY SECURITY POLICY WITHIN THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY.

(a) REPEAL OF REQUIREMENT FOR POSITION.—

(1) REPEAL.—Section 134b of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title is amended by striking the item relating to section 134b.

(b) PRIOR NOTIFICATION OF CHANGE IN REPORTING RELATIONSHIP FOR THE DEFENSE TECHNOLOGY SECURITY ADMINISTRATION.—The Secretary of Defense shall ensure that no covered action is taken until the expiration of 30 legislative days after providing notification of such action to the Committees on Armed Services of the Senate and the House of Representatives.

(c) COVERED ACTION DEFINED.—In this section, the term “covered action” means—

(1) the transfer of the Defense Technology Security Administration to an Under Secretary or other office of the Department of Defense other than the Under Secretary of Defense for Policy;

(2) the consolidation of the Defense Technology Security Administration with another office, agency, or field activity of the Department of Defense; or

(3) the addition of management layers between the Director of the Defense Technology Security Administration and the Under Secretary of Defense for Policy.

SEC. 906. DEPUTY UNDER SECRETARIES OF DEFENSE AND ASSISTANT SECRETARIES OF DEFENSE.

(a) DEPUTY UNDER SECRETARIES OF DEFENSE.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, is amended by adding after section 137 the following new section:

“§ 137a. Deputy Under Secretaries of Defense

“(a)(1) There are five Deputy Under Secretaries of Defense.

“(2)(A) The Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph.

“(B) The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c) shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

“(b) Each Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary is absent or disabled.

“(c)(1) One of the Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics appointed pursuant to section 133a of this title.

“(2) One of the Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Policy appointed pursuant to section 134a of this title.

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“(3) One of the Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Personnel and Readiness appointed pursuant to section 136a of this title.

“(4) One of the Deputy Under Secretaries shall be the Principal Deputy Under Secretary of Defense (Comptroller).

“(5) One of the Deputy Under Secretaries shall be the Principal Deputy Under Secretary of Defense for Intelligence.

“(d) The Deputy Under Secretaries of Defense 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 Deputy Chief Management Officer of the Department of Defense.”.

10 USC 137a
note.
Effective date.

(2) DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE.—Effective as of January 1, 2011, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as added by paragraph (1)), shall be the only Deputy Under Secretaries of Defense.

(3) REPORT ON REVISED ORGANIZATIONAL STRUCTURE FOR OSD.—Not later than March 15, 2010, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a plan for the realignment of the organizational structure of the Office of the Secretary of Defense to comply with the requirement in paragraph (2).

(b) ASSISTANT SECRETARIES OF DEFENSE.—

(1) REDESIGNATION OF DEPUTY UNDER SECRETARY FOR LOGISTICS AND MATERIEL READINESS AS ASSISTANT SECRETARY.—Chapter 4 of such title is further amended—

(A) by transferring section 133b to appear after section 138 and redesignating such section, as so transferred, as section 138a; and

(B) in such section, as so transferred and redesignated, by striking “Deputy Under Secretary” each place it appears and inserting “Assistant Secretary”.

(2) ADDITIONAL ASSISTANT SECRETARIES.—Section 138 of such title is amended—

(A) by striking subsection (a) and inserting the following new subsection (a):

“(a)(1) There are 12 Assistant Secretaries of Defense.

“(2)(A) The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection.

“(B) The other Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.”; and

President.

(B) in subsection (b), by adding the following new paragraphs:

“(6) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Acquisition. The Assistant Secretary of Defense for Acquisition is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters relating to acquisition.

“(7) One of the Assistant Secretaries is the Assistant Secretary of Defense for Logistics and Materiel Readiness appointed pursuant to section 138a of this title. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense

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123 STAT. 2427

for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title.”.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS.—

(A) Section 133a of such title is amended—

(i) by striking “Deputy Under Secretary of Defense for Acquisition and Technology” each place it appears and inserting “Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics”; and

(ii) by striking “duties relating to acquisition and technology” and inserting “duties”.

(B) Section 134a of such title is amended by striking “Deputy Under Secretary” each place it appears and inserting “Principal Deputy Under Secretary”.

(C) Section 136a of such title is amended by striking “Deputy Under Secretary” each place it appears and inserting “Principal Deputy Under Secretary”.

(2) SECTION HEADING AMENDMENTS.—

(A) The heading of section 133a of such title is amended to read as follows:

“§ 133a. Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics”.

(B) The heading of section 134a of such title is amended to read as follows:

“§ 134a. Principal Deputy Under Secretary of Defense for Policy”.

(C) The heading of section 136a of such title is amended to read as follows:

“§ 136a. Principal Deputy Under Secretary of Defense for Personnel and Readiness”.

(D) The heading of section 138a of such title, as transferred and redesignated by subsection (b)(1) of this section, is amended to read as follows:

“§ 138a. Assistant Secretary of Defense for Logistics and Materiel Readiness”.

(3) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 4 of such title is amended—

(A) by striking the item relating to section 133a and inserting the following new item:

“133a. Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.”;

(B) by striking the item relating to section 134a and inserting the following new item:

“134a. Principal Deputy Under Secretary of Defense for Policy.”;

(C) by striking the item relating to section 136a and inserting the following new item:

“136a. Principal Deputy Under Secretary of Defense for Personnel and Readiness.”;

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(D) by inserting after the item relating to section 137 the following new item:

“137a. Deputy Under Secretaries of Defense.”; and

(E) by inserting after the item relating to section 138 the following new item:

“138a. Assistant Secretary of Defense for Logistics and Materiel Readiness.”.

(d) EXECUTIVE SCHEDULE MATTERS.—

(1) LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking the item relating to the Deputy Under Secretary of Defense for Acquisition and Technology and inserting the following new item:

“Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.”.

(2) LEVEL IV.—Section 5315 of such title is amended—

(A) by striking the item relating to the Assistant Secretaries of Defense and inserting the following new item: “Assistant Secretaries of Defense (12).”; and

(B) by striking the items relating to the Deputy Under Secretary of Defense for Policy, the Deputy Under Secretary of Defense for Personnel and Readiness, and the Deputy Under Secretary of Defense for Logistics and Materiel Readiness and inserting the following new items:

“Principal Deputy Under Secretary of Defense for Policy.

“Principal Deputy Under Secretary of Defense for Personnel and Readiness.

“Principal Deputy Under Secretary of Defense (Comptroller).

“Principal Deputy Under Secretary of Defense for Intelligence.”.

(e) INAPPLICABILITY OF APPOINTMENT REQUIREMENTS TO CERTAIN INDIVIDUALS SERVING ON DATE OF ENACTMENT.—

(1) IN GENERAL.—Notwithstanding the amendments made by this section, the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

(A) The Principal Deputy Under Secretary of Defense (Comptroller).

(B) The Principal Deputy Under Secretary of Defense for Intelligence.

10 USC 137a
note.

Subtitle B—Space Activities

SEC. 911. SUBMISSION AND REVIEW OF SPACE SCIENCE AND TECHNOLOGY STRATEGY.

(a) STRATEGY.—

(1) DIRECTOR OF NATIONAL INTELLIGENCE.—Paragraph (1) of section 2272(a) of title 10, United States Code, is amended by striking “The Secretary of Defense shall develop” and

Appendix D: Organizational Charts (Before and After)

ORGANIZATIONAL CHARTS (BEFORE AND AFTER)

The following charts show the organization within OSD prior to the FY10 NDAA and the organization resulting from the application of the realignment plan from this report (including the changes from section 906). The charts include before and after snapshots in OSD for the PAS officials, the PSA officials, and the USDs.

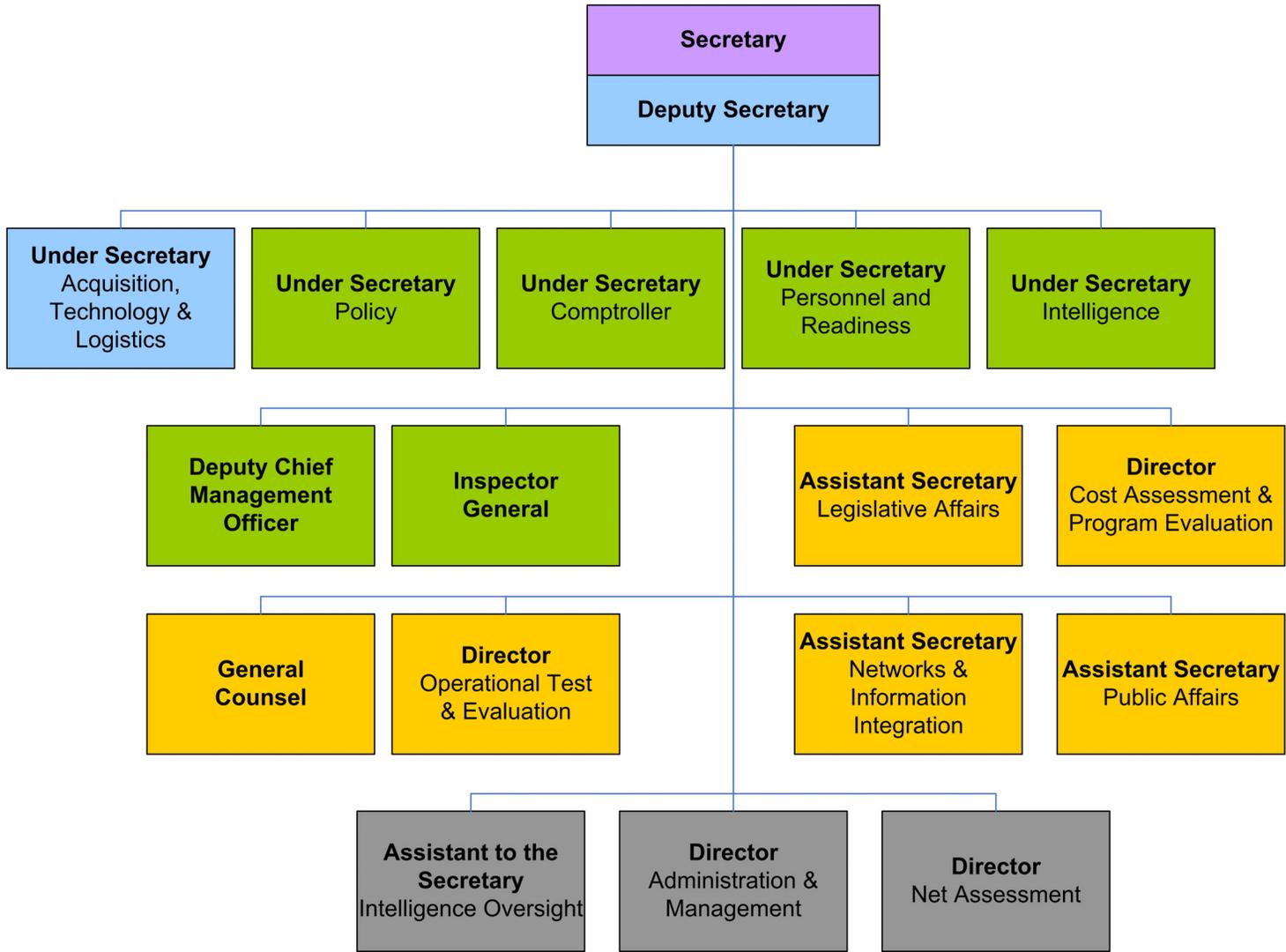
For the following charts, these acronyms were used:

ADUSD	Assistant Deputy Under Secretary of Defense
ASA	Americas' Security Affairs
ASD	Assistant Secretary of Defense
AT&L	Acquisition, Technology & Logistics
ATSD	Assistant to the Secretary of Defense
C/CFO	Comptroller/Chief Financial Officer
CBP&CDP	Chemical and Biological Defense & Chemical Demilitarization Programs
CoS	Chief of Staff
DASD	Deputy Assistant Secretary of Defense
DATSD	Deputy Assistant to the Secretary of Defense
DCFO	Deputy Chief Financial Officer
DUSD	Deputy Under Secretary of Defense
EX	Executive Schedule
HC&S	HUMINT, Counterintelligence & Security
HUMINT	Human Intelligence
I	Intelligence
ISR	Intelligence, Surveillance and Reconnaissance
NCB	Nuclear and Chemical and Biological Defense Programs
NII	Networks & Information Integration
OSD	Office of the Secretary of Defense
OUSD	Office of the Under Secretary of Defense
P	Policy
P&R	Personnel and Readiness
PAS	Presidentially Appointed, Senate Confirmed
PDASD	Principal Deputy Assistant Secretary of Defense
PDATSD	Principal Deputy Assistant to the Secretary of Defense
PDUSD	Principal Deputy Under Secretary of Defense
PSA	Principal Staff Assistant
SO/LIC & IC	Special Operations/Low-Intensity Conflict & Interdependent Capabilities
TC&A	Technical Collection & Analysis
USD	Under Secretary of Defense

OSD PSAs

Prior to FY10 NDAA

Executive Level and Tier



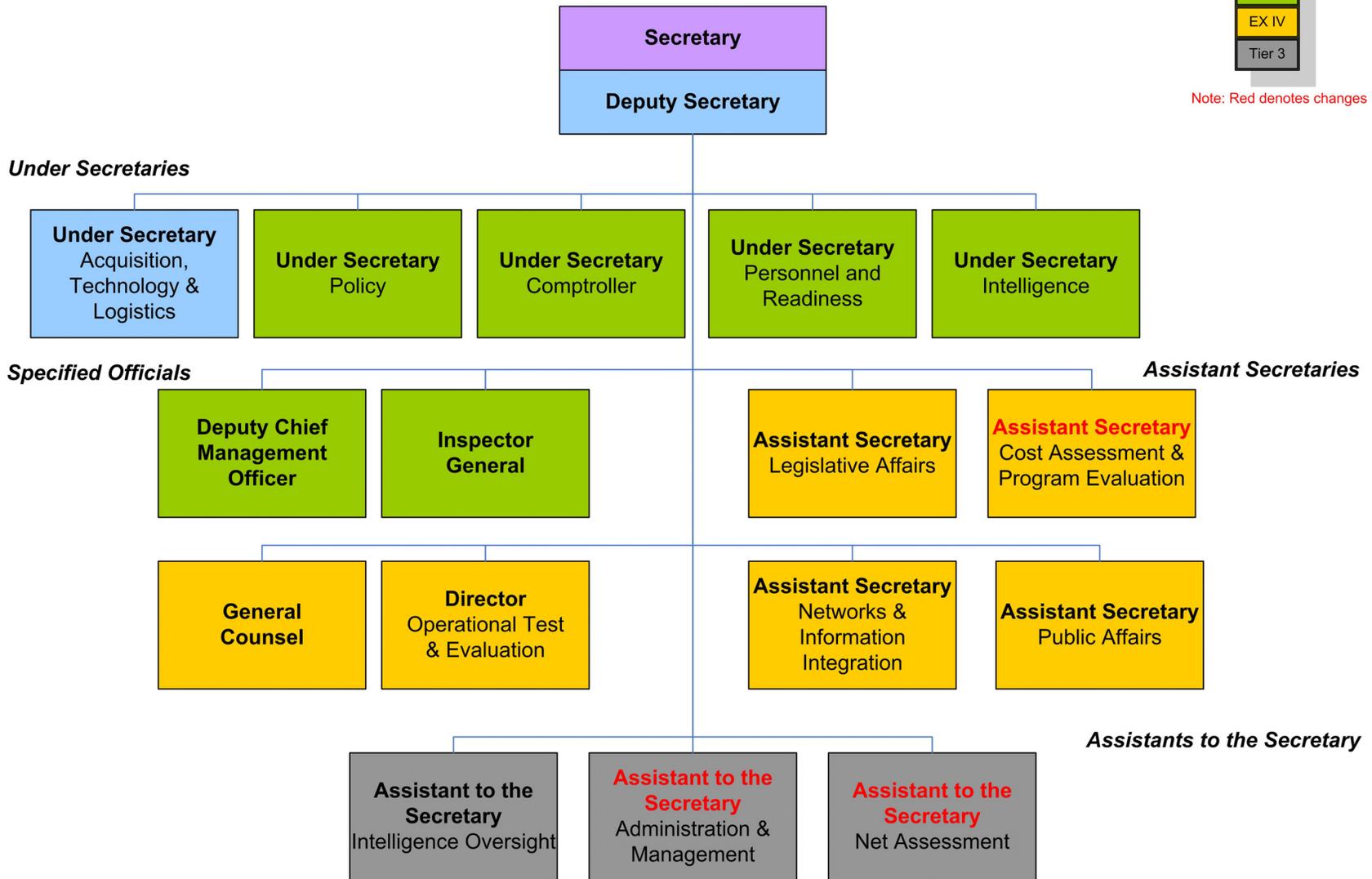
OSD PSAs

Proposed Realignment

Executive Level and Tier



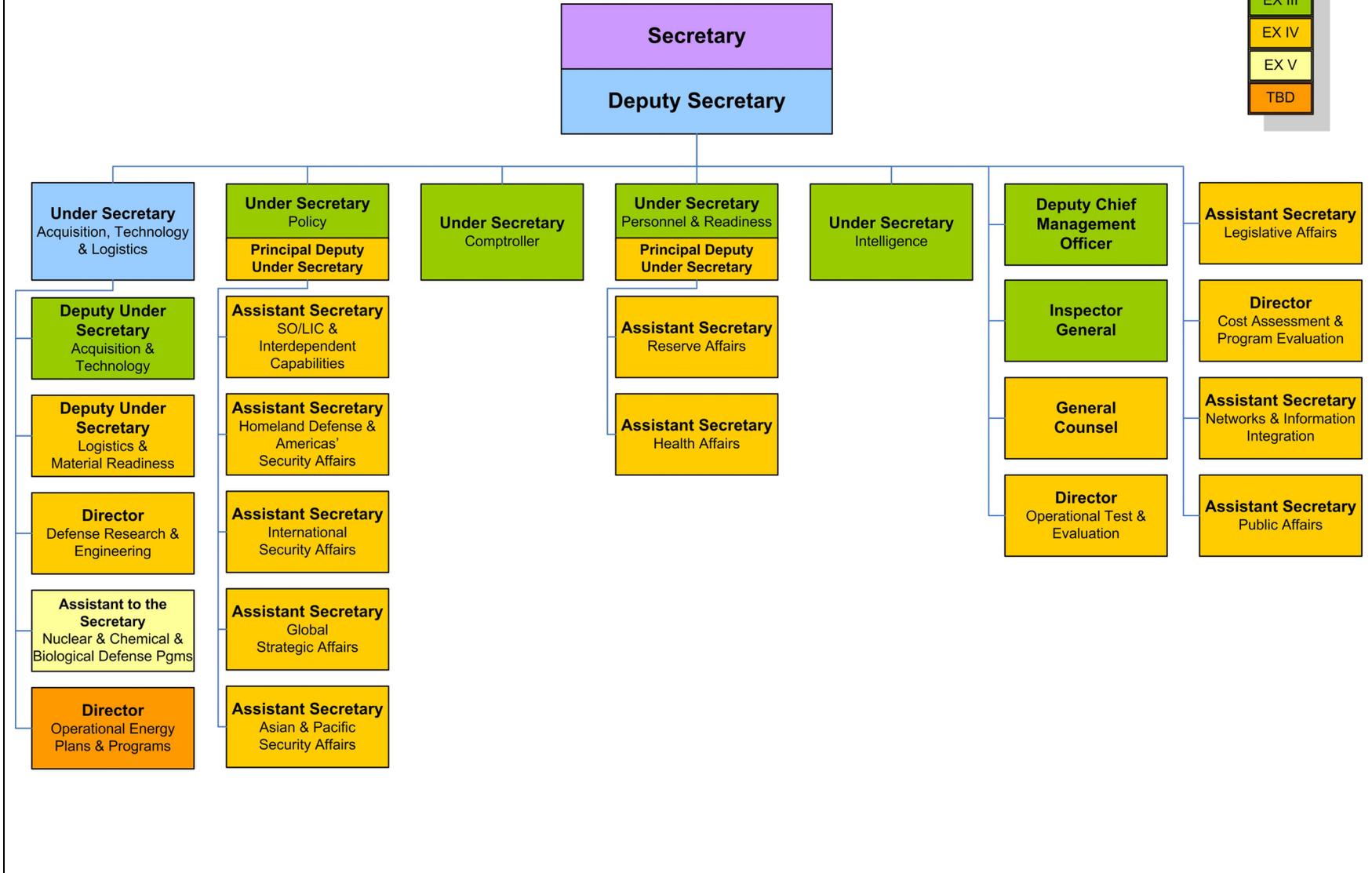
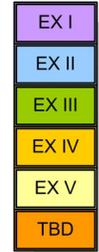
Note: Red denotes changes



OSD PAS Positions

Prior to FY10 NDAA

Executive Level



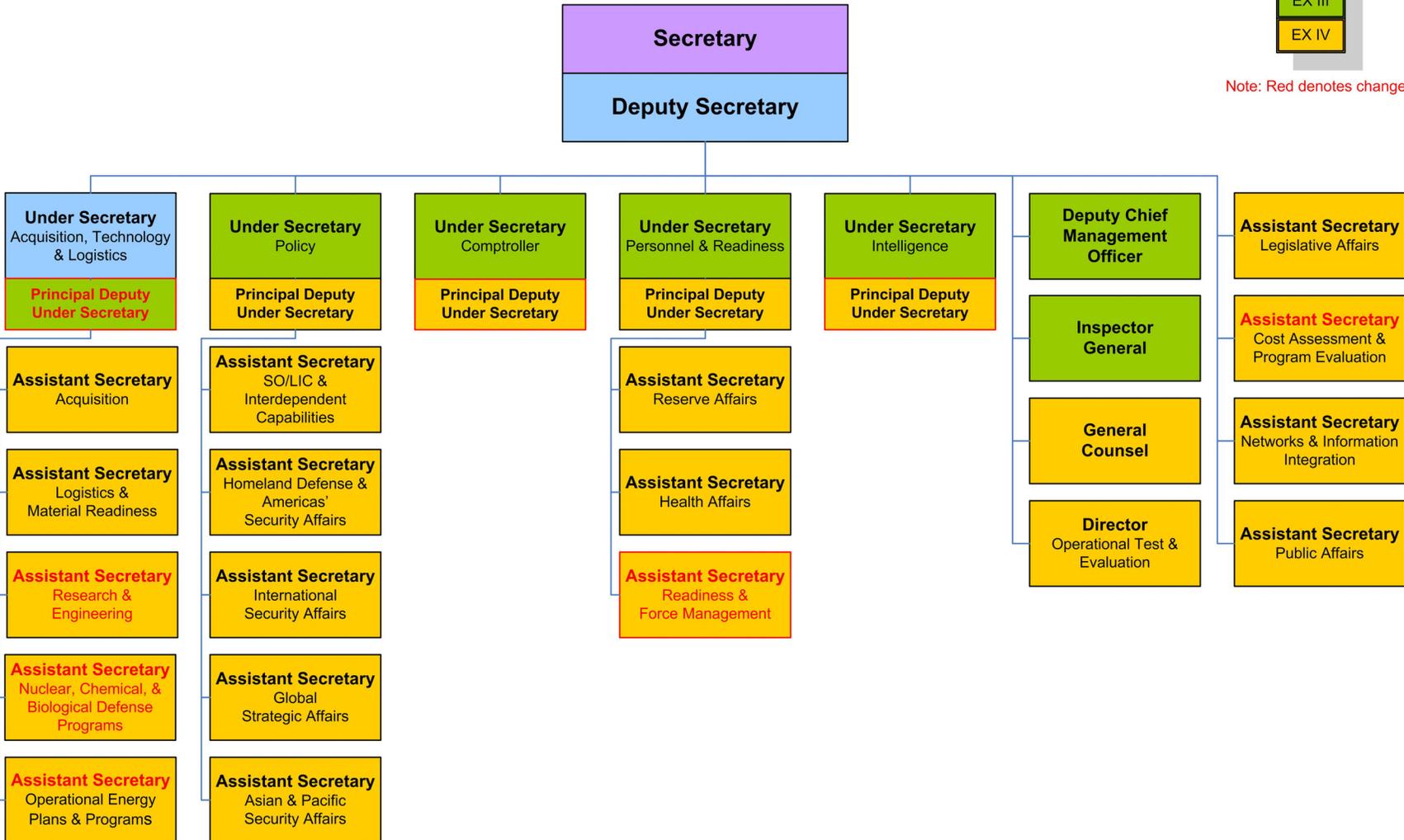
OSD PAS Positions

Proposed Realignment

Executive Level

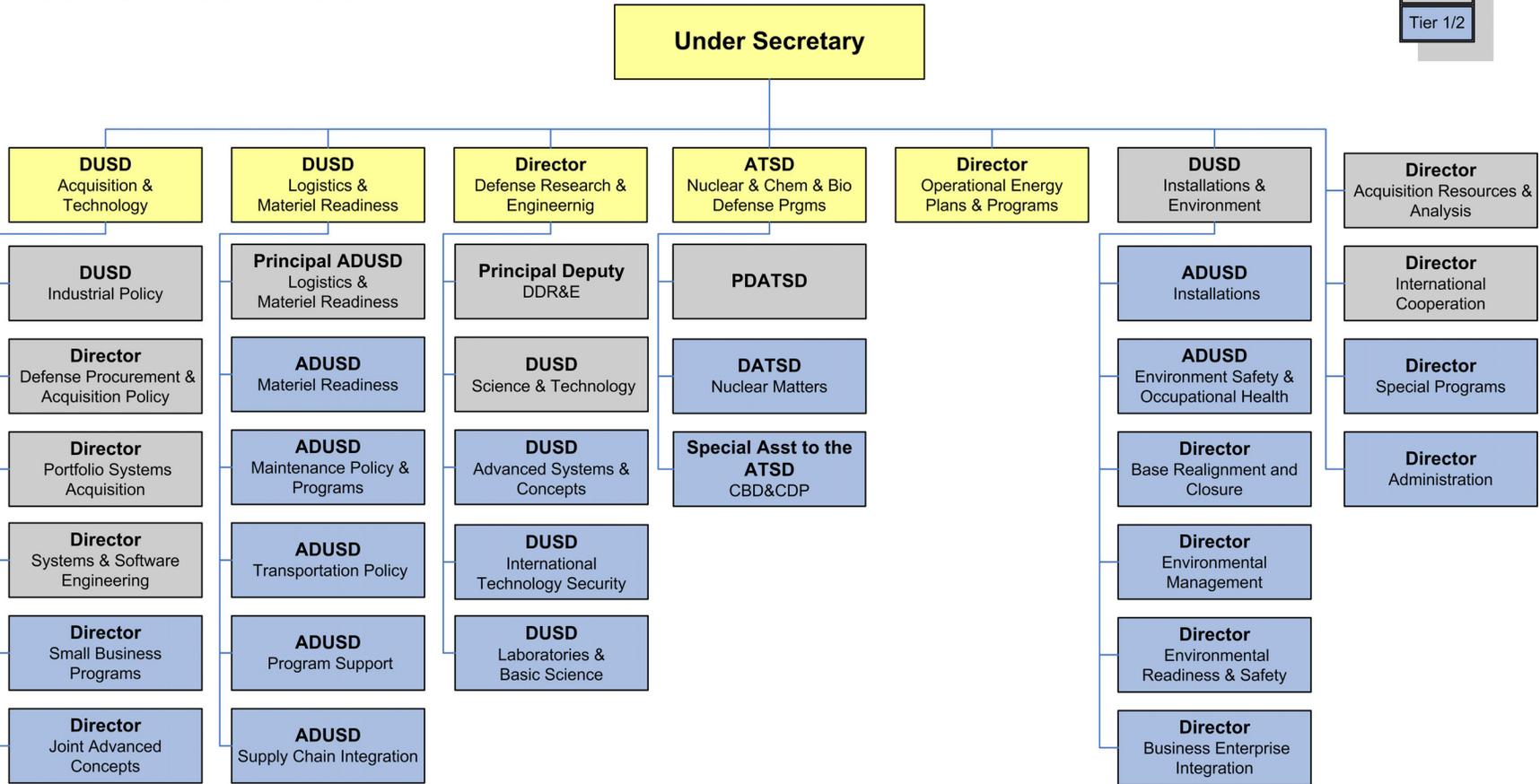
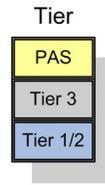


Note: Red denotes changes



OUSD(AT&L)

Prior to FY10 NDAA*



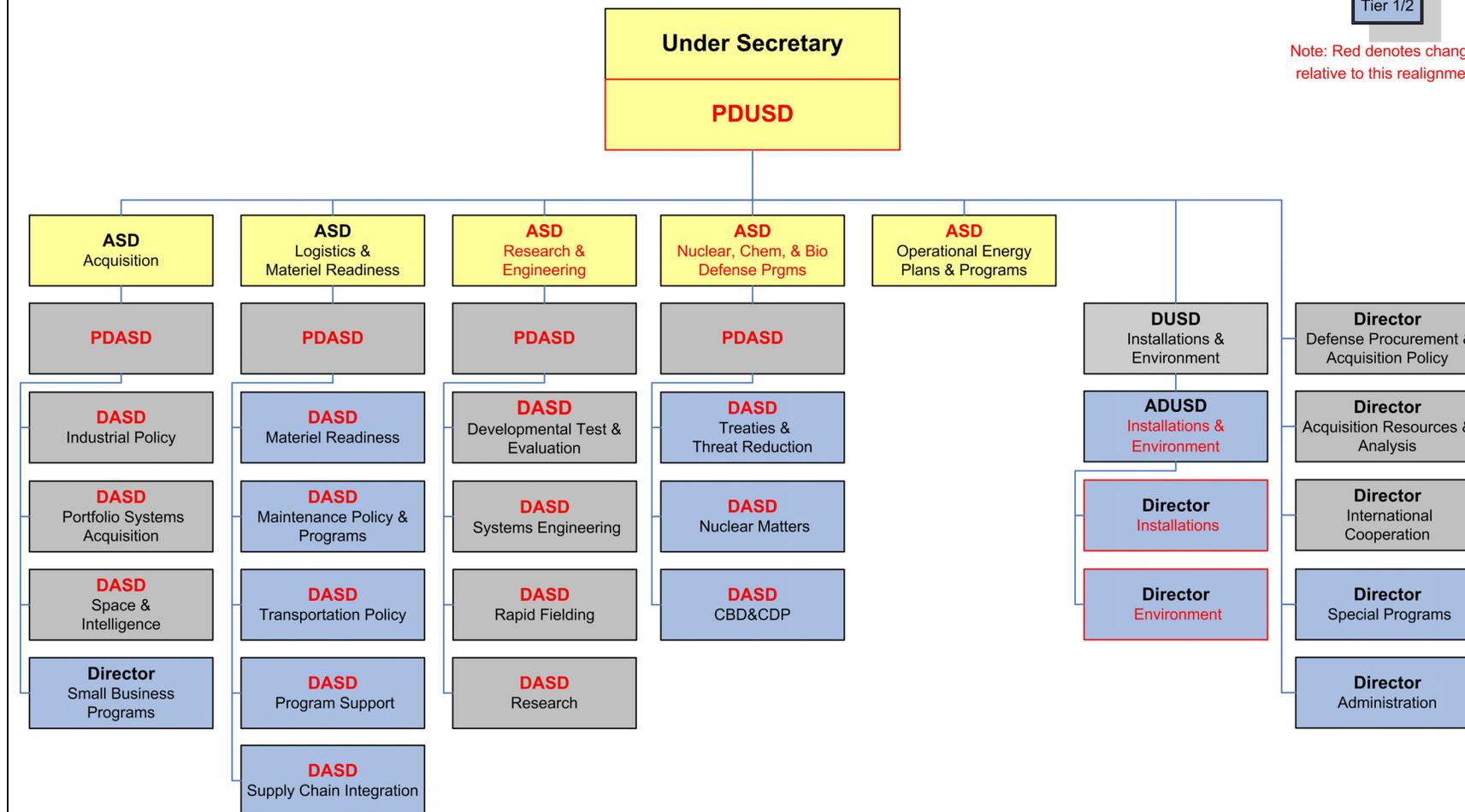
* Reflects organization prior to the Weapon Systems Acquisition Reform Act of 2009 (WSARA) (Public Law 111-23, May 22, 2009)

OUSD(AT&L) Proposed Realignment*

Tier

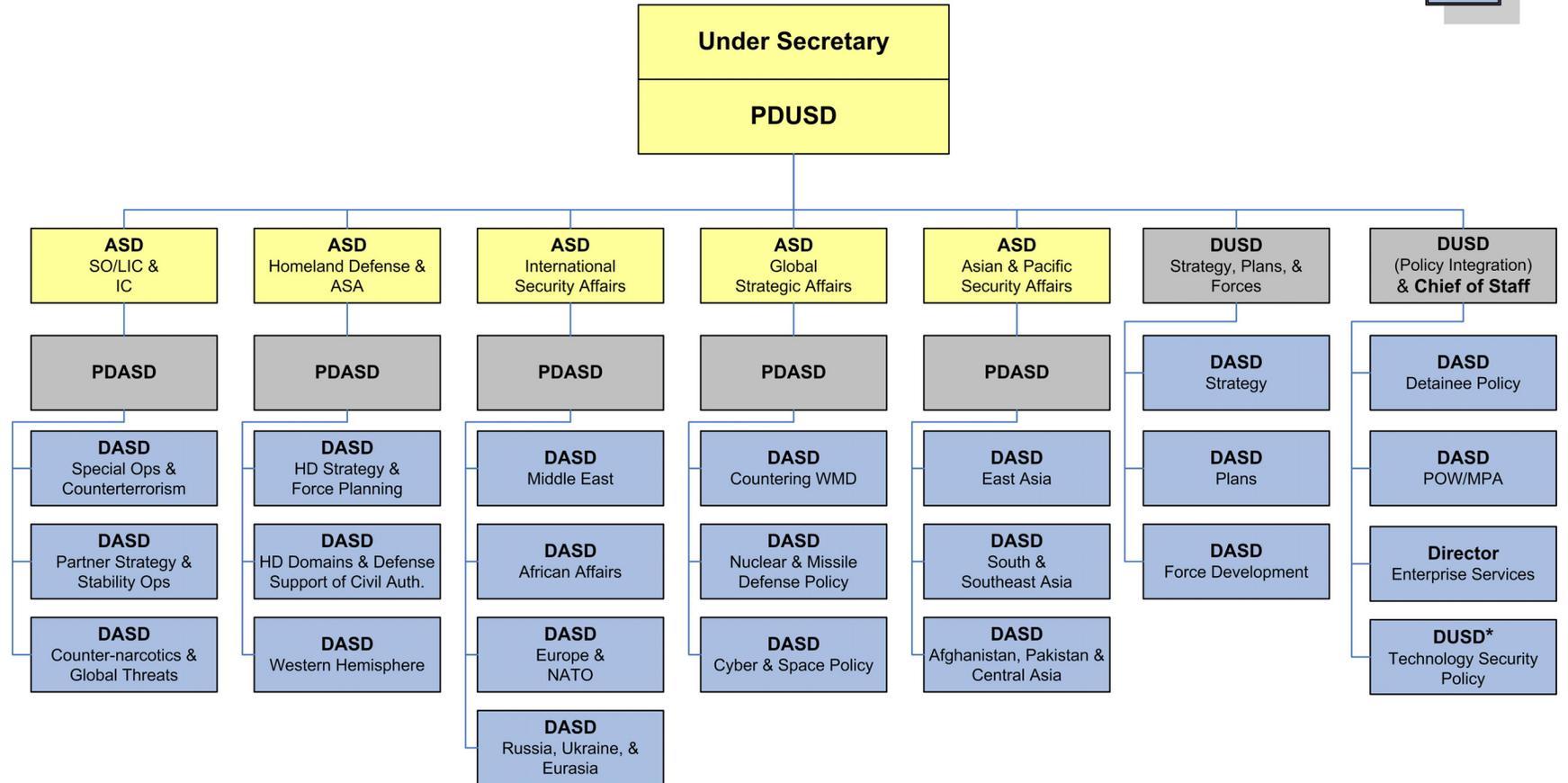
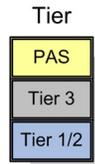


Note: Red denotes changes relative to this realignment



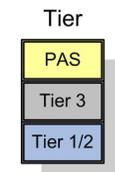
* Reflects changes since May 2009 including implementation of WSARA, FY10 NDAA, and internal realignments.

OUSD(P) Prior to FY10 NDAA

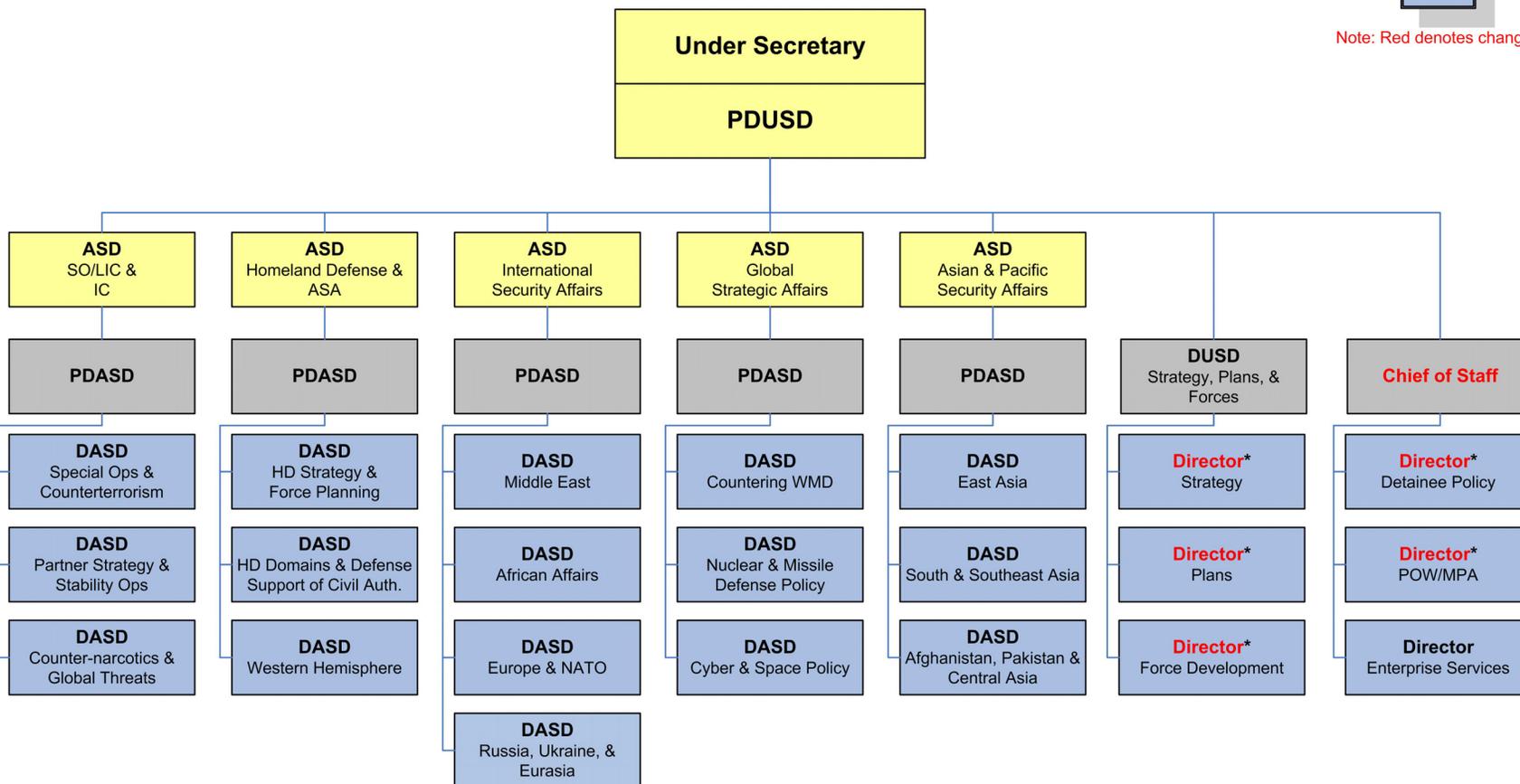


* DUSD(Technology & Security Policy) was eliminated by Section 905 of the FY10 NDAA

OUSD(P) Proposed Realignment



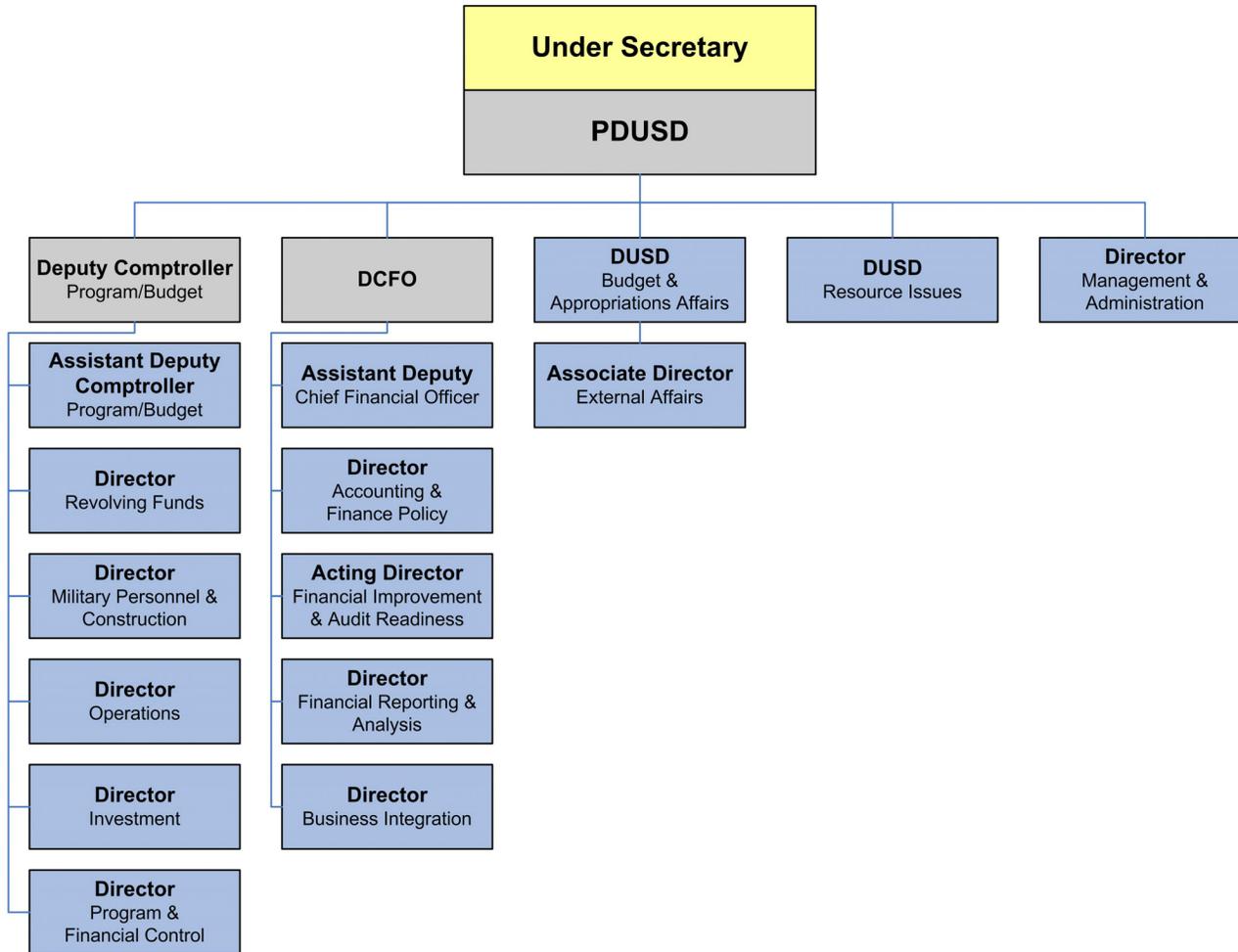
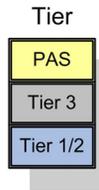
Note: Red denotes changes



* Existing DASDs (under non-ASDs) can retain their title until they vacate the position, NTE 4 years.

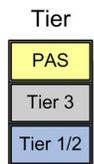
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Prior to FY10 NDAA

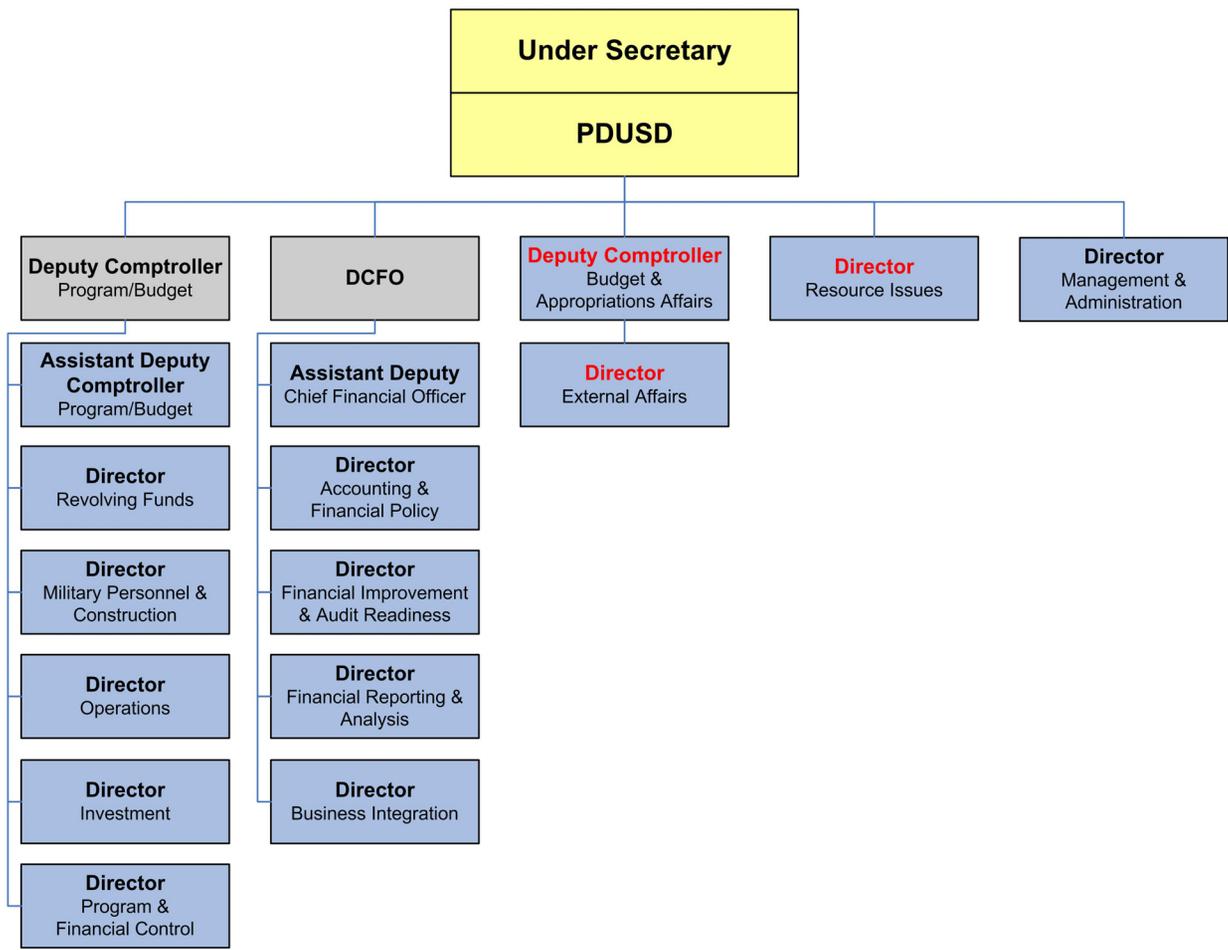


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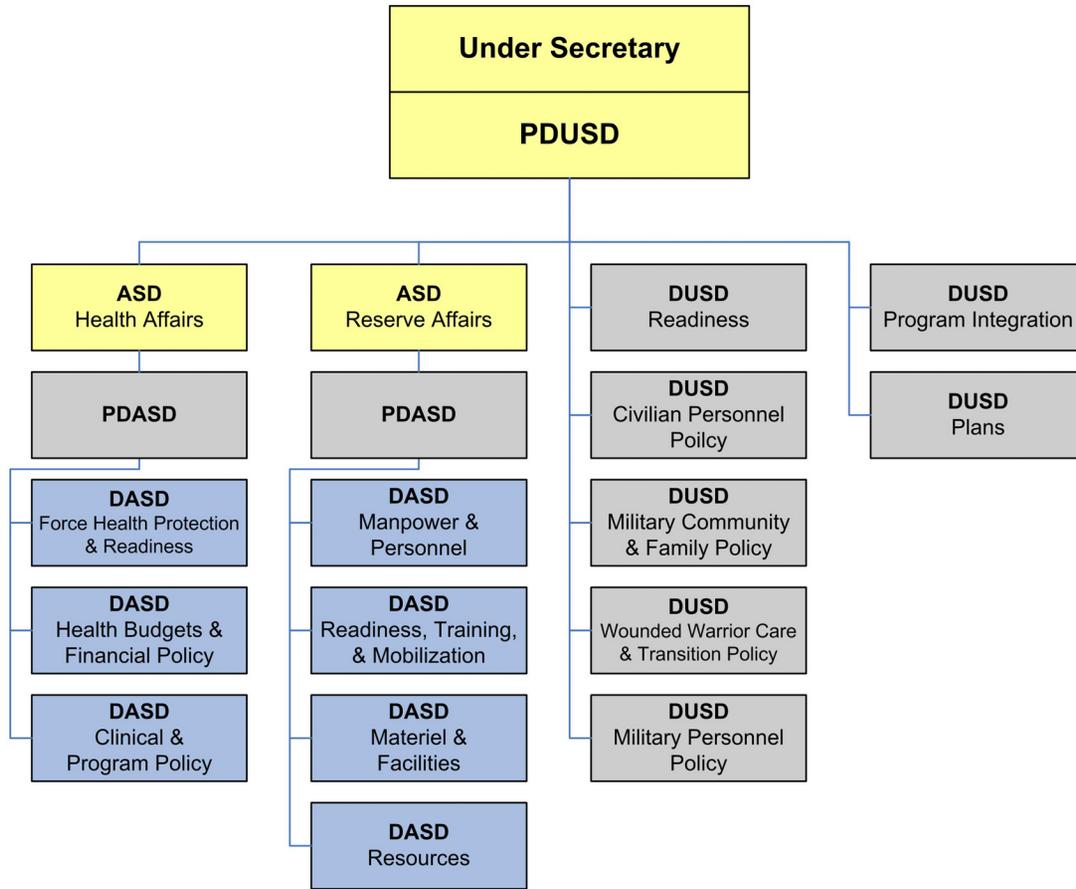
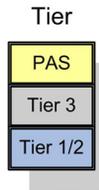
Proposed Realignment



Note: Red denotes changes



OUSD(P&R) Prior to FY10 NDAA

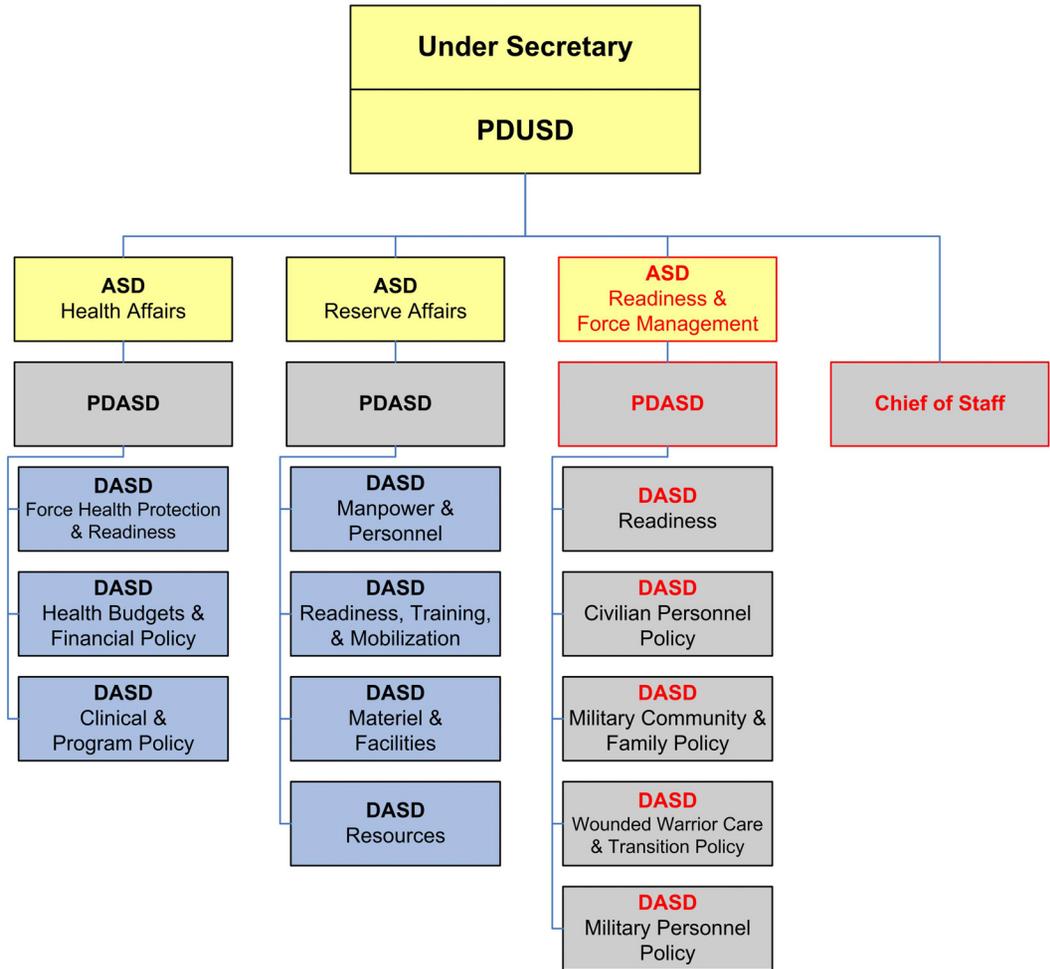


OUSD(P&R)

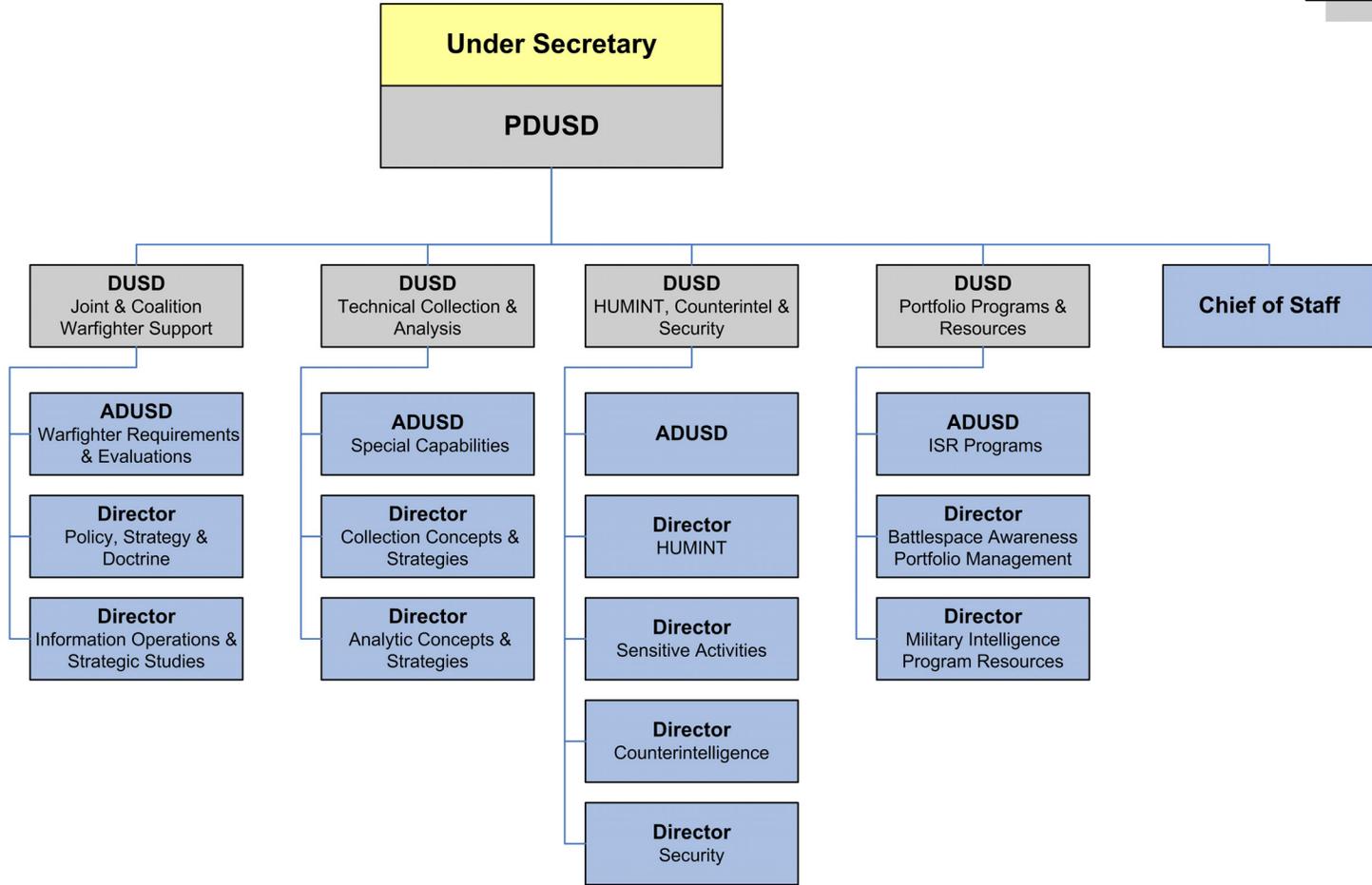
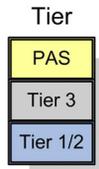
Proposed Realignment



Note: Red denotes changes



OUSD(I) Prior to FY10 NDAA

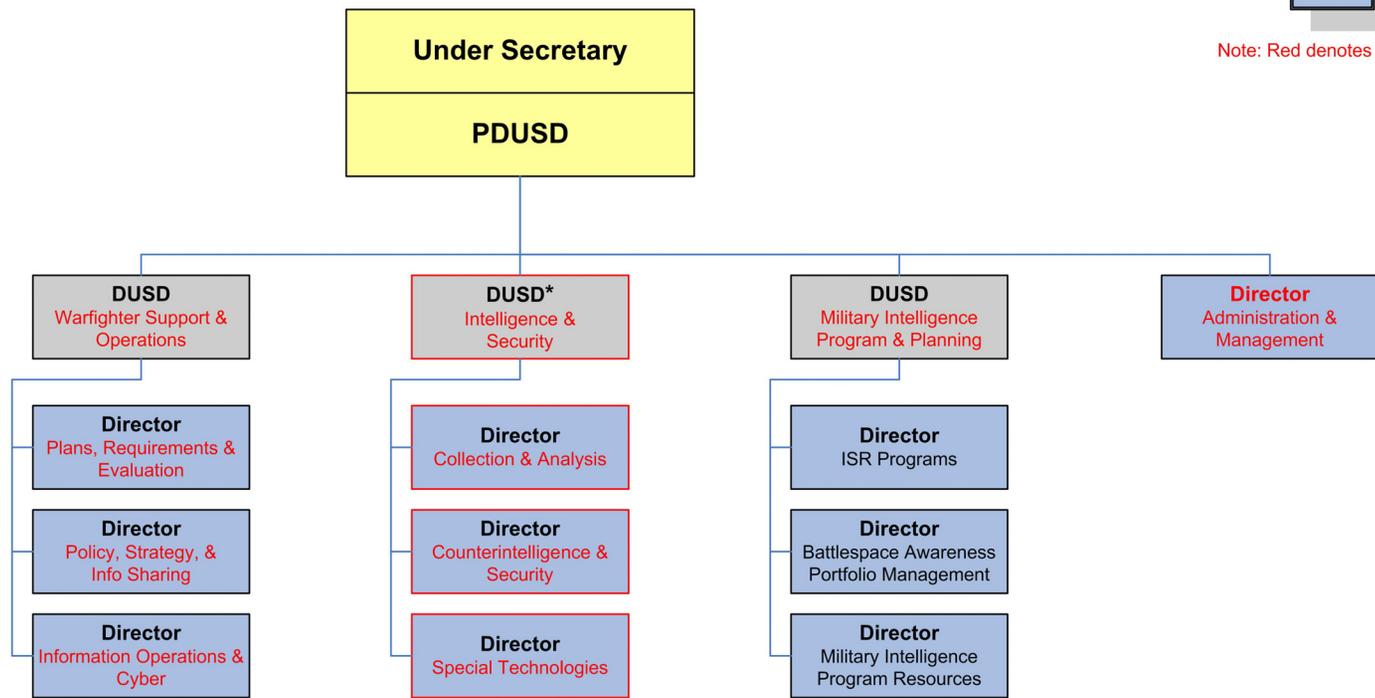


OUSD(I)

Proposed Realignment



Note: Red denotes changes

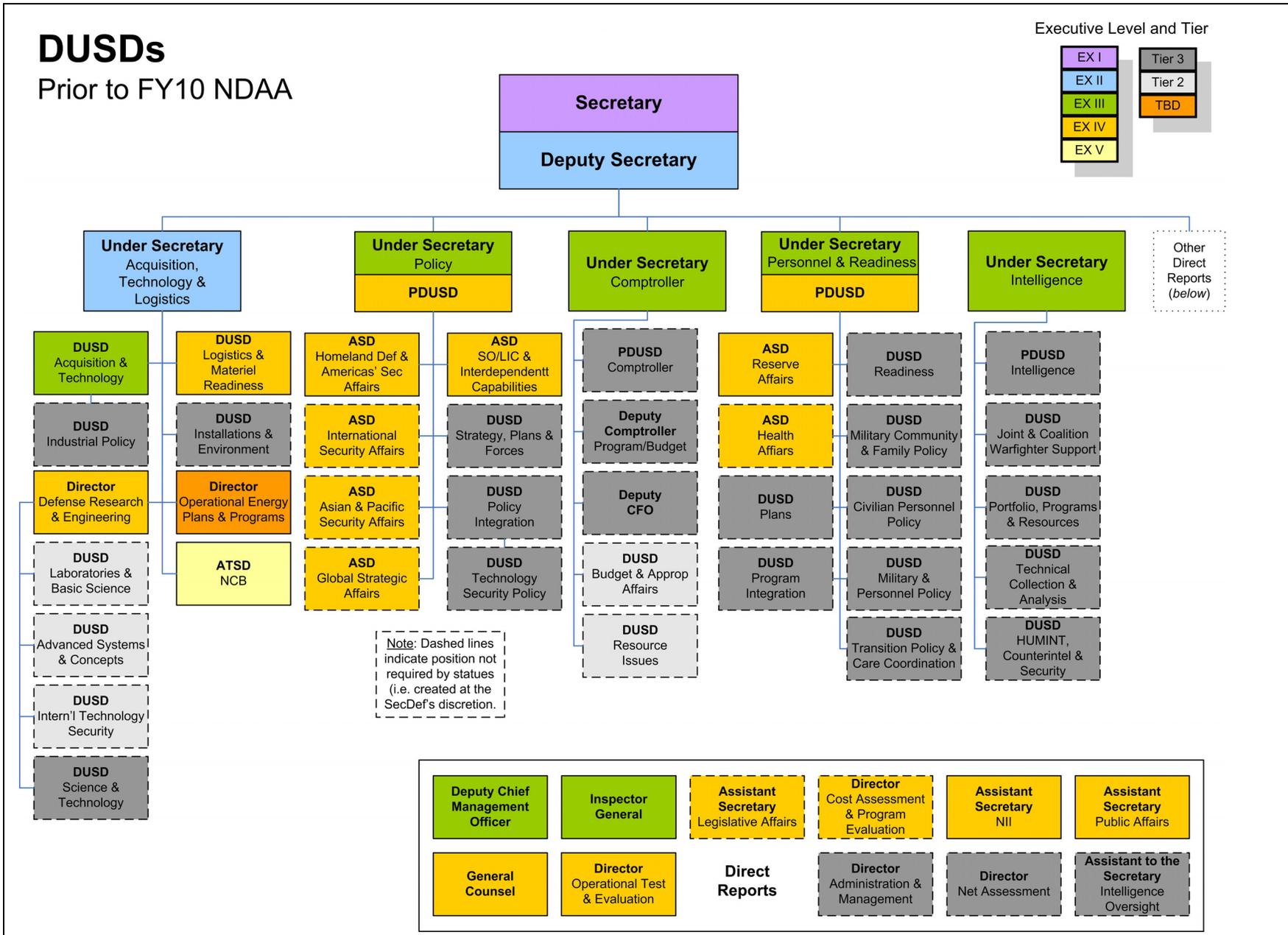
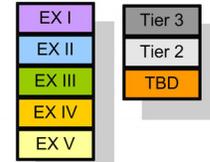


* Consolidated portfolios from DUSD(TC&A) and DUSD (HC&S)

DUSDs

Prior to FY10 NDAA

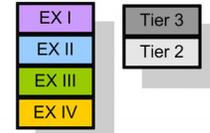
Executive Level and Tier



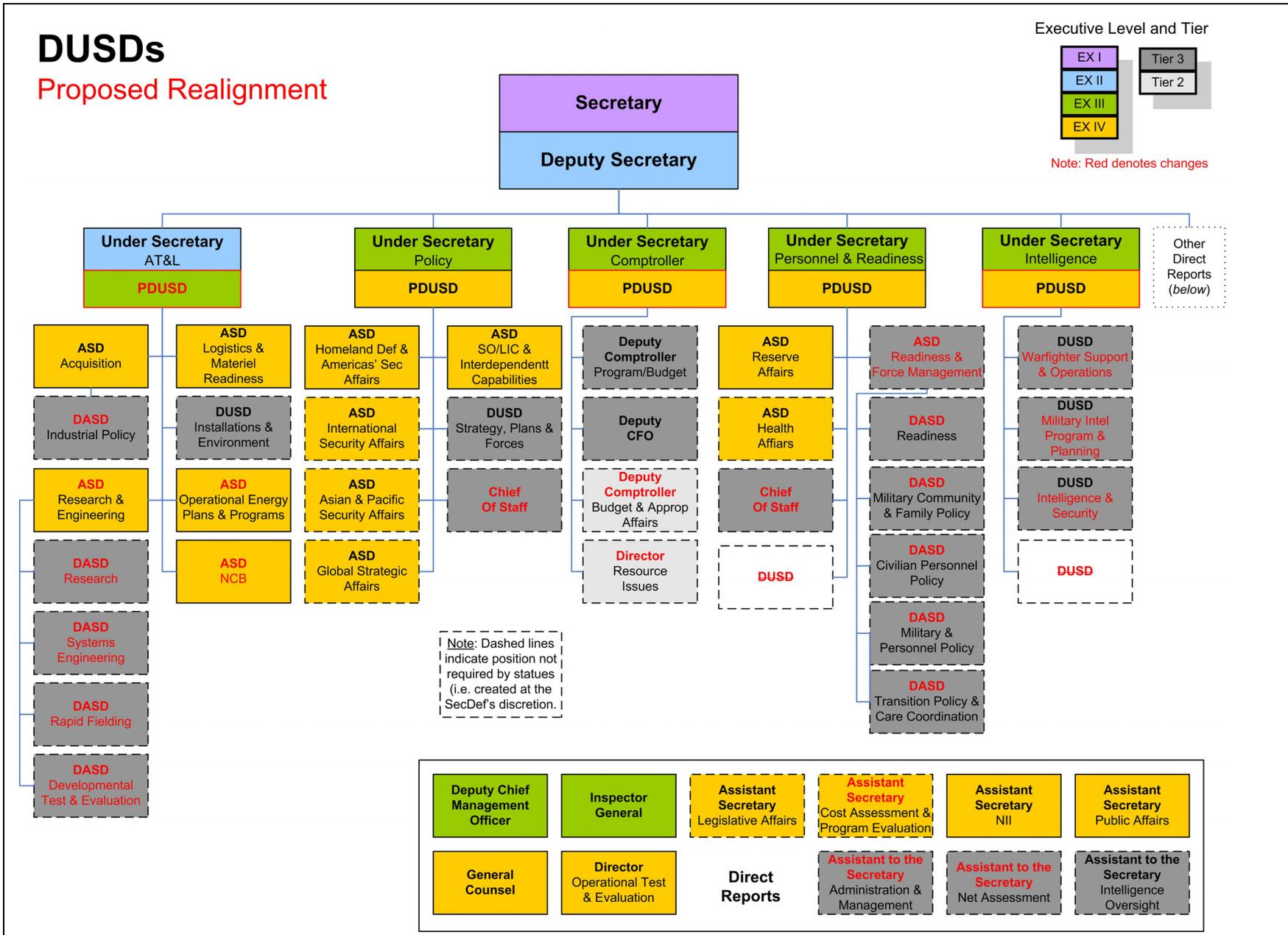
DUSDs

Proposed Realignment

Executive Level and Tier



Note: Red denotes changes



Appendix E: Proposed Legislative Proposal

1 **SEC. ____. REALIGNMENT OF THE ORGANIZATIONAL STRUCTURE OF THE**
2 **OFFICE OF THE SECRETARY OF DEFENSE TO CARRY OUT THE**
3 **REDUCTION REQUIRED BY LAW IN THE NUMBER OF DEPUTY**
4 **UNDER SECRETARIES OF DEFENSE.**

5 (a) REDESIGNATION OF CERTAIN POSITIONS IN THE OFFICE OF THE SECRETARY OF
6 DEFENSE.—Positions in the Office of the Secretary of Defense of the Department of Defense are
7 hereby redesignated as Assistant Secretaries of Defense as follows:

8 (1) The Director of Defense Research and Engineering is redesignated as the
9 Assistant Secretary of Defense for Research and Engineering.

10 (2) The Director of Operational Energy Plans and Programs is redesignated as the
11 Assistant Secretary of Defense for Operational Energy Plans and Programs.

12 (3) The Director of Cost Assessment and Program Evaluation is redesignated as
13 the Assistant Secretary of Defense for Cost Assessment and Program Evaluation.

14 (4) The Assistant to the Secretary of Defense for Nuclear and Chemical and
15 Biological Defense Programs is redesignated as the Assistant Secretary of Defense for
16 Nuclear, Chemical, and Biological Defense Programs.

17 (b) AMENDMENTS TO CHAPTER 4 OF TITLE 10 RELATING TO REALIGNMENT.—Chapter 4 of
18 title 10, United States Code, is amended as follows:

19 (1) REPEAL OF SEPARATE DEPUTY UNDER SECRETARY PROVISIONS.—The following
20 sections are repealed: section 133a, 134a, and 136a.

21 (2) COMPONENTS OF OSD.—Section 131(b) is amended to read as follows:

22 “(b) The Office of the Secretary of Defense is composed of the following:

23 “(1) The Deputy Secretary of Defense.

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1 “(2) The Under Secretaries of Defense, as follows:

2 “(A) The Under Secretary of Defense for Acquisition, Technology, and
3 Logistics.

4 “(B) The Under Secretary of Defense for Policy.

5 “(C) The Under Secretary of Defense (Comptroller).

6 “(D) The Under Secretary of Defense for Personnel and Readiness.

7 “(E) The Under Secretary of Defense for Intelligence.

8 “(3) The Deputy Chief Management Officer of the Department of Defense.

9 “(4) The Principal Deputy Under Secretaries of Defense.

10 “(5) The Assistant Secretaries of Defense.

11 “(6) Other officers who are appointed by the President, by and with the advice
12 and consent of the Senate, as follows:

13 “(A) The Director of Operational Test and Evaluation.

14 “(B) The General Counsel of the Department of Defense.

15 “(C) The Inspector General of the Department of Defense.

16 “(7) Other officials provided for by law, as follows:

17 “(A) The official designated under section 1501(a) of this title to have
18 responsibility for Department of Defense policy relating to missing persons.

19 “(B) The official designated under section 1781 of this title to have
20 responsibility for Department of Defense policy related to military families.

21 “(C) The official designated under section 2228(a) of this title to have
22 responsibility for Department of Defense policy related to the prevention and

1 mitigation of corrosion of the military equipment and infrastructure of the
2 Department of Defense.

3 “(D) The officials designated under subsections (a) and (b) of section
4 2438(a) of this title to have responsibility, respectively, for developmental test
5 and evaluation and for systems engineering.

6 “(E) The official designated under section 2438a(a) of this title to have
7 responsibility for conducting and overseeing performance assessments and root
8 cause analyses for major defense acquisition programs.

9 “(F) The Director of Small Business Programs, provided for under section
10 2508 of this title.

11 “(8) Such other offices and officials as may be established by law or the Secretary
12 of Defense may establish or designate in the Office.”.

13 (3) PRINCIPAL DEPUTY UNDER SECRETARIES OF DEFENSE.—Section 137a is
14 amended—

15 (A) in subsections (a)(1), (b), and (d), by striking “Deputy Under” each
16 place it appears and inserting “Principal Deputy Under”;

17 (B) in subsection (a)(2), by striking “(A) The” and all that follows through
18 “(5) of subsection (c)” and inserting “The Principal Deputy Under Secretaries of
19 Defense”;

20 (C) in subsection (c)—

21 (i) by striking “One of the Deputy” in paragraphs (1), (2), (3), (4),
22 and (5) and inserting “One of the Principal Deputy”;

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1 (i) by striking “appointed” and all that follows through “this title”
2 in paragraphs (1), (2), and (3);

3 (ii) by striking “shall be” in paragraphs (4) and (5) and inserting
4 “is” and

5 (iii) by adding at the end of paragraph (5) the following new
6 sentence: “Any individual nominated for appointment as the Principal
7 Deputy Under Secretary of Defense for Intelligence shall have extensive
8 intelligence expertise.”; and

9 (D) by adding at the end of subsection (d) the following new sentence:
10 “The Principal Deputy Under Secretaries take precedence among themselves in
11 the order prescribed by the Secretary of Defense.”.

12 (4) ASSISTANT SECRETARIES OF DEFENSE.—Section 138 is amended—

13 (A) in subsection (a)—

14 (i) by striking “12” and inserting “17”; and

15 (ii) by striking “(A) The” and all that follows through “The other”
16 and inserting “The”;

17 (B) in subsection (b)—

18 (i) by striking “shall be” in paragraphs (2), (3), (4), (5), and (6) and
19 inserting “is”;

20 (ii) by striking “appointed pursuant to section 138a of this title” in
21 paragraph (7); and

22 (iii) by adding at the end the following new paragraphs:

1 “(8) One of the Assistant Secretaries is the Assistant Secretary of Defense for Research
2 and Engineering. In addition to any duties and powers prescribed under paragraph (1), the
3 Assistant Secretary of Defense for Research and Engineering shall have the duties specified in
4 section 138b of this title.

5 “(9) One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational
6 Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1),
7 the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the
8 duties specified in section 138c of this title.

9 “(10) One of the Assistant Secretaries is the Assistant Secretary of Defense for Cost
10 Assessment and Program Evaluation. In addition to any duties and powers prescribed under
11 paragraph (1), the Assistant Secretary of Defense for Cost Assessment and Program Evaluation
12 shall have the duties specified in section 138d of this title.

13 “(11) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear,
14 Chemical, and Biological Defense Programs. In addition to any duties and powers prescribed
15 under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological
16 Defense Programs shall have the duties specified in section 138e of this title.”; and

17 (C) in subsection (d), by striking “and the Director of Defense Research
18 and Engineering” and inserting “the Deputy Chief Management Officer of the
19 Department of Defense, and the Principal Deputy Under Secretaries of Defense”.

20 (5) ASSISTANT SECRETARY FOR LOGISTICS AND MATERIEL READINESS.—Section
21 138a(a) is amended—

22 (A) by striking “There is a” and inserting “The”; and

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1 (B) by striking “, appointed from civilian life by the President, by and with
2 the advice and consent of the Senate. The Assistant Secretary”.

3 (6) ASSISTANT SECRETARY FOR RESEARCH AND ENGINEERING.—Section 139a is
4 transferred so as to appear after section 138a, redesignated as section 138b, and
5 amended—

6 (A) by striking subsection (a);

7 (B) by redesignating subsections (b) and (c) as subsections (a) and (b),
8 respectively;

9 (C) in subsection (a), as so redesignated, by striking “Director of Defense”
10 and inserting “Assistant Secretary of Defense for”; and

11 (D) in subsection (b), as so redesignated—

12 (i) in paragraph (1), by striking “Director of Defense Research and
13 Engineering, in consultation with the Director of Developmental Test and
14 Evaluation” and inserting “Assistant Secretary of Defense for Research
15 and Engineering, in consultation with the official designated under section
16 2438(a) of this title to have responsibility for developmental test and
17 evaluation functions”; and

18 (ii) in paragraph (2), by striking “Director” and inserting “Assistant
19 Secretary”.

20 (7) ASSISTANT SECRETARY FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—
21 Section 139b is transferred so as to appear after section 138b (as transferred and
22 redesignated by paragraph (6)), redesignated as section 138c, and amended—

1 (A) in subsection (a), by striking “There is a” and all that follows through
2 “The Director” and inserting “The Assistant Secretary of Defense for Operational
3 Energy Plans and Programs”;

4 (B) by striking “Director” each place it appears and inserting “Assistant
5 Secretary”;

6 (C) in subsection (d)(2)—

7 (i) by striking “Not later than” and all that follows through
8 “military departments” and inserting “The Secretary of each military
9 department”;

10 (ii) by striking “who will” and inserting “who shall”; and

11 (iii) by inserting “so designated” after “The officials”; and

12 (D) in subsection (d)(4), by striking “The initial” and all that follows
13 through “updates to the strategy” and inserting “Updates to the strategy required
14 by paragraph (1)”.

15 (8) ASSISTANT SECRETARY FOR COST ASSESSMENT AND PROGRAM EVALUATION.—

16 Section 139c is transferred so as to appear after section 138c (as transferred and
17 redesignated by paragraph (7)), redesignated as section 138d, and amended—

18 (A) by striking subsection (a);

19 (B) by redesignating subsection (b) as subsection (a) and in that
20 subsection—

21 (i) striking “Director of” in paragraph (1) and inserting “Assistant
22 Secretary of Defense for”; and

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1 (ii) striking “Director” each place it appears in paragraphs (1)(A),
2 (1)(B), and (2) and inserting “Assistant Secretary”;

3 (C) by striking subsection (c) and inserting the following:

4 “(b) RESPONSIBILITY FOR SPECIFIED FUNCTIONS.—There shall be within the office of the
5 Assistant Secretary the following:

6 “(1) An official with primary responsibility for cost assessment.

7 “(2) An official with primary responsibility for program evaluation.”; and

8 (D) by redesignating subsection (d) as subsection (c) and in that
9 subsection striking “Director of” in the matter preceding paragraph (1) and
10 inserting “Assistant Secretary of Defense for”.

11 (9) ASSISTANT SECRETARY FOR NUCLEAR, CHEMICAL, AND BIOLOGICAL DEFENSE
12 PROGRAMS.—Section 142 is transferred so as to appear after section 138d (as
13 redesignated and transferred by paragraph (8)), redesignated as section 138e, and
14 amended—

15 (A) by striking subsection (a);

16 (B) by striking “(b) The Assistant to the Secretary” and inserting “The
17 Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense
18 Programs”; and

19 (C) by striking subsection (c).

20 (c) OTHER AMENDMENTS TO CHAPTER 4 OF TITLE 10.—Chapter 4 of title 10, United
21 States Code, is further amended as follows:

22 (1) OFFICE OF THE SECRETARY OF DEFENSE.—Section 131(a) is amended by
23 striking “his” and inserting “the Secretary’s”.

1 (2) DEPUTY SECRETARY.—Section 132 is amended—

2 (A) by striking the second sentence of subsection (c); and

3 (B) by redesignating the second subsection (d) as subsection (e).

4 (3) DEPUTY CHIEF MANAGEMENT OFFICER.—Such chapter is further amended by
5 inserting after section 132 the following new section:

6 **“§ 132a. Deputy Chief Management Officer**

7 “(a) There is a Deputy Chief Management Officer of the Department of Defense,
8 appointed from civilian life by the President, by and with the advice and consent of the Senate.

9 “(b) The Deputy Chief Management Officer assists the Deputy Secretary of Defense in
10 the Deputy Secretary’s capacity as Chief Management Officer of the Department of Defense
11 under section 132(c) of this title.

12 “(c) The Deputy Chief Management Officer takes precedence in the Department of
13 Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the
14 military departments, and the Under Secretaries of Defense.”.

15 (4) UNDER SECRETARY OF DEFENSE (COMPTROLLER).—Section 135(c) is amended
16 by striking “clauses” and inserting “paragraphs”.

17 (d) REPEAL OF POSITION TITLES SPECIFIED BY LAW FOR STATUTORY POSITIONS RELATING
18 TO DEVELOPMENTAL TEST AND EVALUATION AND SYSTEMS ENGINEERING.—

19 (1) TRANSFER OF SECTION FROM CHAPTER 4 TO PROGRAMMATIC CHAPTER.—

20 Section 139d of title 10, United States Code, is transferred to chapter 144, inserted after
21 section 2437, and redesignated as section 2438.

22 (2) DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.—Subsection (a) of
23 such section is amended—

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1 (A) by striking “(a) DIRECTOR OF” and all that follows through paragraph
2 (3) and inserting the following:

3 “(a) DEVELOPMENTAL TEST AND EVALUATION.—

4 “(1) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall
5 designate, from among individuals with expertise in test and evaluation, an official to be
6 responsible to the Secretary and the Under Secretary of Defense for Acquisition,
7 Technology, and Logistics for developmental test and evaluation in the Department of
8 Defense.

9 “(2) SUPERVISION.—The official designated under paragraph (1) shall report
10 directly to an official of the Department appointed from civilian life by the President, by
11 and with the advice and consent of the Senate.”;

12 (B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3),
13 (4), (5), and (6), respectively;

14 (C) in paragraph (3), as so redesignated, by striking “DIRECTOR OF
15 SYSTEMS ENGINEERING” and all that follows through “Director of Systems
16 Engineering” and inserting “SYSTEMS ENGINEERING.—The official designated
17 under paragraph (1) shall closely coordinate with the official designated under
18 subsection (b)”;

19 (D) in paragraph (4), as so redesignated, by striking “Director” in the
20 matter preceding subparagraph (A) and inserting “official designated under
21 paragraph (1)”;

22 (E) in paragraph (5), as so redesignated—

1 (i) by striking “Director has” and inserting “official designated
2 under paragraph (1) has”;

3 (ii) by striking “Director considers” and inserting “designated
4 official considers”; and

5 (iii) by striking “the Director’s duties” and inserting “that official’s
6 duties”; and

7 (F) in paragraph (6), as so redesignated, by striking “serving as the
8 Director of Developmental Test and Evaluation” and inserting “official
9 designated under paragraph (1)”.

10 (3) DIRECTOR OF SYSTEMS ENGINEERING.—Subsection (b) of such section is
11 amended—

12 (A) by striking “(b) DIRECTOR OF” and all that follows through paragraph
13 (3) and inserting the following:

14 “(b) SYSTEMS ENGINEERING.—

15 “(1) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall
16 designate, from among individuals with expertise in systems engineering, an official to be
17 responsible to the Secretary and the Under Secretary of Defense for Acquisition,
18 Technology, and Logistics for systems engineering and development planning in the
19 Department of Defense.

20 “(2) SUPERVISION.—The official designated under paragraph (1) shall report
21 directly to an official of the Department appointed from civilian life by the President, by
22 and with the advice and consent of the Senate.”;

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1 (B) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4),
2 and (5), respectively;

3 (C) in paragraph (3), as so redesignated, by striking “DIRECTOR OF
4 DEVELOPMENTAL TEST AND EVALUATION” and all that follows through “Director
5 of Developmental Test And Evaluation” and inserting “DEVELOPMENTAL TEST
6 AND EVALUATION.—The official designated under paragraph (1) shall closely
7 coordinate with the official designated under subsection (a)”;

8 (D) in paragraph (4), as so redesignated, by striking “Director” in the
9 matter preceding subparagraph (A) and inserting “official designated under
10 paragraph (1)”;

11 (E) in paragraph (5), as so redesignated—

12 (i) by striking “Director shall” and inserting “official designated
13 under paragraph (1) shall”;

14 (ii) by striking “Director considers” and inserting “designated
15 official considers”; and

16 (iii) by striking “the Director’s duties” and inserting “that official’s
17 duties”.

18 (4) Joint annual report.—Subsection (c) of such section is amended in the matter
19 preceding paragraph (1)—

20 (A) by striking “beginning in 2010,”;

21 (B) by striking “Director of Developmental Test and Evaluation and the
22 Director of Systems Engineering” and inserting “officials designated under
23 subsections (a) and (b)”;

1 (C) by striking “subsections (a) and (b)” and inserting “those subsections”;

2 and

3 (D) by inserting “such” after “Each”.

4 (5) JOINT GUIDANCE.—Subsection (d) of such section is amended in the matter
5 preceding paragraph (1)—

6 (A) by striking “Director of Developmental Test and Evaluation and the
7 Director of Systems Engineering” and inserting “officials designated under
8 subsections (a) and (b)”; and

9 (B) by striking “section 103 of the Weapon Systems Acquisition Reform
10 Act of 2009” and inserting “section 2438a of this title”.

11 (6) Repeal of redundant definition.—Subsection (e) of such section is repealed.

12 (e) Codification of Section 103 of Weapon Systems ACQUISITION Reform Act of 2009.—

13 (1) Codification.—Chapter 144 of title 10, United States Code, is amended by
14 inserting after section 2438 (as transferred and redesignated by subsection (d)), a new
15 section 2438a consisting of—

16 (A) a section heading as follows:

17 “§ 2438a. **Performance assessments and root cause analyses**”; and

18 (B) a text consisting of the text of section 103 of the Weapon Systems
19 Acquisition Reform Act of 2009 (Public Law 111-23; 123 Stat. 1715; 10 U.S.C.
20 2430 note), modified as specified in paragraph (2).

21 (2) TECHNICAL AMENDMENTS DUE TO CODIFICATION.—The modifications referred
22 to in paragraph (1)(B) to the text specified in that paragraph are—

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1 (A) in subsection (b)(2), by striking “section 2433a(a)(1) of title 10,
2 United States Code (as added by section 206(a) of this Act)” and inserting
3 “section 2433a(a)(1) of this title”;

4 (B) in subsection (b)(5)—

5 (i) by striking “section 2433a of title 10, United States Code (as so
6 added)” and inserting “section 2433a of this title”; and

7 (ii) by striking “prior to” both places it appears and inserting
8 “before”;

9 (C) in subsection (d), by striking “section 2433a of title 10, United States
10 Code (as so added)” and inserting “section 2433a of this title”; and

11 (D) in subsection (f), by striking “beginning in 2010,”.

12 (f) Transfer of Section Providing for Director of Small Business Programs.—Section 144
13 of title 10, United States Code, is transferred to chapter 148, inserted after section 2507, and
14 redesignated as section 2508.

15 (g) Repeal of Statutory Requirement for Office for Missing Personnel in OSD.—Section
16 1501(a) of title 10, United States Code, is amended—

17 (1) by striking the subsection heading and inserting the following: “Missing
18 Personnel Oversight.—”;

19 (2) in paragraph (1)—

20 (A) by striking “establish within the Office of the Secretary of Defense an
21 office” in the first sentence and inserting “designate within the Office of the
22 Secretary of Defense an official”;

23 (B) by striking the second sentence; and

1 (C) by striking “of the office” and inserting “of the official designated
2 under this paragraph”;

3 (3) in paragraph (2)—

4 (A) by striking “of the office” the first place it appears; and

5 (B) by striking “head of the office” and inserting “official designated
6 under paragraph (1)”;

7 (4) in paragraphs (3) and (4), by striking “office” and inserting “designated
8 official”; and

9 (5) in paragraph (5)—

10 (A) in subparagraph (A)—

11 (i) by striking “office” both places it appears and inserting
12 “designated official”; and

13 (ii) by inserting before the period at the end the following: “to that
14 official with respect to such designation”;

15 (B) in subparagraph (B)(i)—

16 (i) by striking “to the office” and inserting “to support the
17 functions of the designated official”; and

18 (ii) by inserting “or authorized” after “required”;

19 (C) in subparagraph (B)(ii)—

20 (i) by striking “to the office” and inserting “to support the
21 functions of the designated official”; and

22 (ii) by striking “of the office” and inserting “to support those
23 functions”; and

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1 (D) in subparagraph (C), by striking “office” and inserting “designated
2 official”.

3 (h) Repeal of Statutory Requirement for Office for Family Policy in OSD.—Section 1781
4 of title 10, United States Code, is amended—

5 (1) by striking subsection (a);

6 (2) by striking “(b) Duties.—The Office—“ and inserting “The Secretary of
7 Defense shall designate within the Office of the Secretary of Defense an official to have
8 responsibility for Department of Defense policy related to military families. The official
9 so designated—”; and

10 (3) by striking subsection (c).

11 (i) Repeal of Statutory Requirement for Office for Corrosion Policy and Oversight in
12 OSD.—Section 2228 of title 10, United States Code, is amended—

13 (1) in subsection (a)—

14 (A) by striking the subsection designation and all that follows through
15 paragraph (2) and inserting the following:

16 “(a) DESIGNATION OF RESPONSIBLE OFFICIAL.—(1) The Secretary of Defense shall
17 designate, from among civilian employees of the Department of Defense with the qualifications
18 described in paragraph (3), an official to be responsible to the Secretary of Defense and the
19 Under Secretary of Defense for Acquisition, Technology, and Logistics for the prevention and
20 mitigation of corrosion of the military equipment and infrastructure of the Department of
21 Defense.

1 “(2) The official designated under paragraph (1) shall report directly to an official of the
2 Department appointed from civilian life by the President, by and with the advice and consent of
3 the Senate.”;

4 (B) in paragraph (3), by striking “assigned to the position of Director” and
5 inserting “designated under paragraph (1)”; and

6 (C) in paragraph (4), by striking “of Director” and inserting “held by the
7 official designated under paragraph (1)”.

8 (2) in subsection (b)—

9 (A) by striking “Director of Corrosion Policy and Oversight (in this
10 section referred to as the ‘Director’)” in paragraph (1) and inserting “official
11 designated under subsection (a)”; and

12 (B) by striking “Director” in paragraphs (2), (3), (4), and (5) and inserting
13 “designated official”;

14 (3) in subsection (c), by striking “Additional Authorities” and all that follows
15 through “authorized to—” and inserting “Authorities.—The official designated under
16 subsection (a) may—”; and

17 (4) in subsection (e), by striking “beginning with the budget for fiscal year 2009,”.

18 (j) REPEAL OF STATUTORY LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF
19 DEFENSE.—Section 906(a)(2) of the National Defense Authorization Act for Fiscal Year 2010
20 (Public Law 111-84; 123 Stat. 2426; 10 U.S.C. 137a note) is repealed.

21 (k) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended
22 as follows:

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1 (1) The following sections are amended by striking “Director of Cost Assessment
2 and Program Evaluation” and inserting “Assistant Secretary of Defense for Cost
3 Assessment and Program Evaluation”: sections 181(d), 2306b(i)(1)(B), 2366a(a)(4),
4 2366a(a)(5), 2366b(a)(1)(C), 2433a(a)(2), 2433a(b)(2)(C), 2434(b)(1)(A), and
5 2445c(f)(3).

6 (2) Section 179(c) is amended—

7 (A) by striking “Assistant to the Secretary of Defense for Nuclear and
8 Chemical and Biological Defense Programs” in paragraphs (2) and (3) and
9 inserting “Assistant Secretary of Defense for Nuclear, Chemical, and Biological
10 Defense Programs”; and

11 (B) by striking “to the” in paragraph (3).

12 (3) Section 2272 is amended by striking “Director of Defense Research and
13 Engineering” each place it appears and inserting “Assistant Secretary of Defense for
14 Research and Engineering”.

15 (4) Section 2334 is amended—

16 (A) by striking “Director of Cost Assessment and Program Evaluation”
17 each place it appears and inserting “Assistant Secretary of Defense for Cost
18 Assessment and Program Evaluation”; and

19 (B) by striking “Director” each place it appears (other than as specified in
20 subparagraph (A)) and inserting “Assistant Secretary”.

21 (5) Section 2365 is amended—

1 (A) in subsection (a), by striking “Director of Defense Research and
2 Engineering” and inserting “Assistant Secretary of Defense for Research and
3 Engineering”;

4 (B) in subsection (d)(1), by striking “Director” and inserting “Assistant
5 Secretary”;

6 (C) in subsection (d)(2)—

7 (i) by striking “Director of Defense Research and Engineering”
8 and inserting “Assistant Secretary of Defense for Research and
9 Engineering”; and

10 (ii) by striking “Director may” and inserting “Assistant Secretary
11 may”; and

12 (D) in subsection (e), by striking “Director” and inserting “Assistant
13 Secretary”.

14 (6) Sections 2350a(g)(3), 2366b(a)(3)(D), 2374a(a), and 2517(a) are amended by
15 striking “Director of Defense Research and Engineering” and inserting “Assistant
16 Secretary of Defense for Research and Engineering”.

17 (7) Section 2902(b) is amended—

18 (A) in paragraph (1), by striking “Deputy Under Secretary of Defense for
19 Science and Technology” and inserting “official within the Office of the Assistant
20 Secretary of Defense for Research and Engineering who is responsible for science
21 and technology”; and

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1 (B) in paragraph (3), by striking “Deputy Under Secretary of Defense” and
2 inserting “official within the Office of the Under Secretary of Defense for
3 Acquisition, Technology, and Logistics who is”.

4 (l) OTHER CONFORMING AMENDMENTS.—

5 (1) Section 214 of the National Defense Authorization Act of Fiscal Year 2008
6 (10 U.S.C. 2521 note) is amended by striking “Director of Defense Research and
7 Engineering” and inserting “Assistant Secretary of Defense for Research and
8 Engineering”.

9 (2) Section 201(d) of the Weapon Systems Acquisition Reform Act of 2009 (10
10 U.S.C. 181 note) is amended—

11 (A) by striking “The Director of Cost Assessment and Program
12 Evaluation” and inserting “The Assistant Secretary of Defense for Cost
13 Assessment and Program Evaluation”; and

14 (B) by striking “the Director” and inserting “the Assistant Secretary”.

15 (m) SECTION HEADING AND CLERICAL AMENDMENTS.—

16 (1) SECTION HEADING AMENDMENTS.—Title 10, United States Code, is amended
17 as follows:

18 (A) The heading of section 137a is amended to read as follows:

19 **“§ 137a. Principal Deputy Under Secretaries of Defense”.**

20 (B) The heading of section 138b, as transferred and redesignated by
21 subsection (b)(6), is amended to read as follows:

22 **“§ 138b. Assistant Secretary of Defense for Research and Engineering”.**

1 (C) The heading of section 138c, as transferred and redesignated by
2 subsection (b)(7), is amended to read as follows:

3 **“§ 138c. Assistant Secretary of Defense for Operational Energy Plans and Programs”.**

4 (D) The heading of section 138d, as transferred and redesignated by
5 subsection (b)(8), is amended to read as follows:

6 **“§ 138d. Assistant Secretary of Defense for Cost Assessment and Program Evaluation”.**

7 (E) The heading of section 138e, as transferred and redesignated by
8 subsection (b)(9), is amended to read as follows:

9 **“§ 138e. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense
10 Programs”.**

11 (F) The heading of section 1781 is amended to read as follows:

12 **“§ 1781. Family policy oversight”.**

13 (G) The heading of section 2228 is amended to read as follows:

14 **“§ 2228. Military equipment and infrastructure: prevention and mitigation of corrosion”.**

15 (H) The heading of section 2438 is amended to read as follows:

16 **“§ 2438. Developmental test and evaluation; systems engineering: designation of
17 responsible officials; joint guidance”.**

18 (2) CLERICAL AMENDMENTS.—Title 10, United States Code, is further amended as
19 follows:

20 (A) The table of sections at the beginning of chapter 4 is amended—

21 (i) by inserting after the item relating to section 132 the following

22 new item:

“132a. Deputy Chief Management Officer.”;

23 (ii) by striking the items relating to sections 133a, 134a, and 136a;

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1 (iii) by amending the item relating to section 137a to read as
2 follows:

“137a. Principal Deputy Under Secretaries of Defense.”;

3 (iv) by inserting after the item relating to section 138a the
4 following new items:

“138b. Assistant Secretary of Defense for Research and Engineering.

“138c. Assistant Secretary of Defense for Operational Energy Plans and Programs.

“138d. Assistant Secretary of Defense for Cost Assessment and Program Evaluation.

“138e. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.”; and

5 (v) by striking the items relating to sections 139a, 139b, 139c,
6 139d, 142, and 144.

7 (B) The item relating to section 1781 in the table of sections at the
8 beginning of subchapter I of chapter 88 is amended to read as follows:

9 “1781. Family policy oversight.”.

10 (C) The item relating to section 2228 in the table of sections at the
11 beginning of chapter 131 is amended to read as follows:

12 “2228. Military equipment and infrastructure: prevention and mitigation of corrosion.”.

13 (D) The table of sections at the beginning of chapter 144 is amended by
14 inserting after the item relating to section 2437 the following new items:

“2438. Developmental test and evaluation; systems engineering: designation of responsible officials; joint guidance.

“2438a. Performance assessments and root cause analyses.”.

15 (E) The table of sections at the beginning of subchapter II of chapter 148 is
16 amended by inserting after the item relating to section 2507 the following new
17 item:

“2508. Director of Small Business Programs.”.

18 (n) EXECUTIVE SCHEDULE AMENDMENTS.—Chapter 53 of title 5, United States Code, is
19 amended as follows:

1 (1) NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.—Section 5315 is
2 amended by striking “Assistant Secretaries of Defense (12)” and inserting “Assistant
3 Secretaries of Defense (17)”.

4 (2) POSITIONS REDESIGNATED AS ASSISTANT SECRETARY POSITIONS.—

5 (A) Section 5315 is further amended—

6 (i) by striking “Director of Cost Assessment and Program
7 Evaluation, Department of Defense.”; and

8 (ii) by striking “Director of Defense Research and Engineering.”.

9 (B) Section 5316 is amended by striking “Assistant to the Secretary of
10 Defense for Nuclear and Chemical and Biological Defense Programs.”.

11 (3) Amendments to delete references to positions in senior executive service.—
12 Section 5316 is further amended—

13 (A) by striking “Director, Defense Advanced Research Projects Agency,
14 Department of Defense.”;

15 (B) by striking “Deputy General Counsel, Department of Defense.”;

16 (C) by striking “Deputy Under Secretaries of Defense for Research and
17 Engineering, Department of Defense (4).”; and

18 (D) by striking “Special Assistant to the Secretary of Defense.”.

19 (o) References in other laws, etc.—Any reference in any provision or law other than title
20 10, United States Code, or in any rule, regulation, or other paper of the United States, to any of
21 the offices of the Department of Defense redesignated by subsection (a) shall be treated as
22 referring to that office as so redesignated.

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1 (p) EFFECTIVE DATE.—The provisions of this section and the amendments made by this
2 section shall take effect on January 1, 2011, or on such earlier date for any of such provisions as
3 may be prescribed by the Secretary of Defense. If the Secretary prescribes an earlier date for any
4 of those provisions or amendments, the Secretary shall notify Congress in writing in advance of
5 such date.

Section-by-Section Analysis

This proposal seeks to amend certain statutory provisions in U.S. Code related to the organizational structure of the Office of the Secretary of Defense (OSD). These changes are required in order to reduce the number of Deputy Under Secretaries of Defense (DUSDs) as directed by section 906(a)(2) and implement the realignment of the organizational structure of OSD as directed by section 906(a)(3) of the National Defense Authorization Act (NDAA) for Fiscal Year 2010. These changes will provide a logical construction for the organization of the most senior officials within OSD by: (1) removing the wide variance in the status and stature of officials with the same title, and (2) providing the same title to officials of generally equal status and stature. Additionally, the proposal seeks to remove the prescription on certain specific titles of officials and organizations within OSD allowing the Department to provide a more consistent, recognizable application across the entire enterprise.

Specifically, this proposal seeks the following actions:

Redesignate certain Presidentially Appointed Senate-confirmed (PAS) officials as Assistant Secretaries of Defense (ASDs). In tandem with the statutory change of the PAS DUSDs (Acquisition and Technology (A&T) and Logistics and Materiel Readiness (L&MR)) to ASDs (per 906), the Department would like to change all of the PAS officials of generally equal status and stature to ASDs. This change would redesignate four officials to ASDs: namely, the Director of Defense Research and Engineering (DDR&E), Director of Operational Energy Plans and Programs (DOEP&P), Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs (ATSD(NCB)), and Director of Cost Assessment and Program Evaluation (DCAPE). Note: Certain other PAS officials, based upon the standardization of their titles within the overall U.S. Government (i.e., General Counsel and Inspector General) or their specific statutory provisions (i.e., Deputy Chief Management Officer (DCMO) and Director of Operational Test and Evaluation (DOT&E)), would not be redesignated.

Modify the provision on the Office of the Secretary of Defense. The composition of OSD, subsection §131(b), would be changed to reflect the amendments from this proposal and streamline the list of OSD officials. The amended organization of the list will be:

- (1) Deputy Secretary of Defense
- (2) Under Secretaries of Defense
- (3) Deputy Chief Management Officer

- (4) Principal Deputy Under Secretaries of Defense
- (5) Assistant Secretaries of Defense
- (6) Other PAS officials
- (7) Statutorily required non-PAS officials
- (8) Other officials as may be established by law or the Secretary of Defense

Add an ASD for Readiness and Force Management. The Senate had proposed four additional ASDs in their draft of the NDAA, but receded with the understanding that the Department would review and make recommendations on the most pressing needs of the Secretary related to additional statutorily-designated officials. Based upon this review of OSD, the Department is requesting only one additional undesignated ASD (aside from the four additional ASDs that came from the redesignation of current PAS officials). This official would be administratively designated as the ASD for Readiness and Force Management (ASD(R&FM)) (and have those portfolios) and serve as a principal advisor to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The Department requests that this be an undesignated (i.e., unspecified) ASD so that the Secretary of Defense can retain the flexibility to modify the principal focus and designation of this official through the USD(P&R) to meet the highest priorities within the personnel and readiness enterprise.

Make technical changes to the ASD provisions. These technical changes would seek to combine and streamline the ASD provisions where possible. Specifically, for each of the four redesignated PAS officials, their establishment sections would be placed behind the ASD section (§138). The associated individual PAS appointing clauses would be removed, and their appointing clauses would come from the ASD provision. Note: There would be no changes to any of the responsibilities of these officials; they would just be redesignated as ASDs with the necessary technical changes.

Create a separate DCMO provision. The DCMO establishment provision would be removed from being part of a subsection within the Deputy Secretary of Defense (DSD) section and made a stand-alone section. This gives the DCMO increased visibility within the overall context of the officials within OSD as they are represented in Chapter 4. The section is inserted immediately after the DSD section in recognition of the relationship of the position to the DSD who serves as the Chief Management Officer of the Department. Note: Chapter 4 is the collection of sections related to the creation of OSD and the principal officials within OSD.

Streamline the organization and content of chapter 4 and remove the prescription on the titles of organizations and non-PAS officials. Chapter 4 will be changed to contain only sections relating to the PAS officials within OSD (in addition to the OSD establishment section (§131) and the personnel limitation section (§143)). Officials with establishment provisions in chapter 4 that are not PAS will be transferred into other appropriate programmatic chapters within title 10. This will ensure that chapter 4 is a representation of only the most senior OSD officials (i.e., PAS officials). Additionally, the Department is currently impeded from standardizing the titling convention of non-PAS officials across OSD due to several statutory provisions that prescribe the titles of certain officials (and in some cases the titles of organizations) within OSD. In support of the OSD realignment, the Department is seeking relief from the statutory prescription on these specified offices and non-PAS officials. Note: There would be no changes to any of the

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responsibilities of these officials or offices; the prescription on the titles would just be removed. The Department is seeking relief from the statutory prescription on the following:

- (1) Director of Developmental Test and Evaluation and Director of Systems Engineering (prescription on directors' titles and placement in chapter 4)
- (2) Small Business Program (placement in chapter 4)
- (3) Defense Prisoner of War/Missing Personnel Office (DPMO)(prescription on office's title; often confused with the DPMO DoD Field Activity established pursuant to 10 USC 192)
- (4) Office of Family Policy (prescription on office's title)
- (5) Office of Corrosion Policy and Oversight (prescription on office's title and director's title)

Retain limited use of the DUSD title. This proposal seeks to remove the prohibition, effective on 1 January 2011, on the use of the DUSD title for officials other than the Presidentially Appointed, Senate-confirmed (PAS) Principal DUSDs (PDUSDs). The DUSD title would be retained for ten officials: the five PDUSDs and five DUSDs. The five DUSDs would be officials that report directly to an Under Secretary of Defense and are responsible for major pillars of activity in the Under Secretary's enterprise. A major pillar of activity is defined as being more than just an important task or function of the Under Secretary, and, in general, will be one of the major functions and responsibilities of the Under Secretary. These DUSDs will be those that, while important and leading major efforts, are not being proposed for elevation to the level of a PAS official.

Make other technical and conforming changes. Additionally, this proposal seeks to: (1) codify the provision related to the designation of an official responsible for performance assessments and root cause analyses (PARCA) from section 103 of the Weapons Systems Acquisition Act of 2009 (10 USC 2430 note); (2) amend other provisions in United States Code that reference the titles of redesignated officials and the specific references to DUSDs; (3) make technical changes in title 5, United States Code, related to the Executive Schedule (EX) of both redesignated and eliminated officials (e.g., new ASDs or other positions presently covered by the Senior Executive Service (SES)); and (4) make other changes required so that existing or additional provisions are consistent with each other within the overall context of the organizational structure of OSD.

These changes, enacted as a whole, are necessary in order to fully implement the recommendations of the OSD realignment plan (required by section 906(a)(3)) which will ensure a logical, consistent, and recognizable application of an organizational convention across the OSD enterprise while, at the same time, comply with provisions on the reduction in the number of DUSDs (per 906(a)(2)).

Budget Implications: There will be three costs associated with the implementation of this proposal: (1) change of the ATSD(NCB) to an ASD; (2) addition of an ASD(R&FM); and (3) cost of changing titles of officials. The cost for changing the ATSD to an ASD is approximately \$9,800 per year (EX V is \$145,700 and EX IV is \$155,500 for FY10). The cost for the ASD(R&FM) will be approximately \$155,500. The staff for this office is anticipated to be taken from existing resources. These two costs should change slightly over the FYDP due to the annual changes in EX salaries. The third cost implication (costs to change titles) can be

mitigated during execution by administrative means, e.g., that letterhead will be used until exhausted (vice buying all new letterhead for a redesignated official), etc.

RESOURCE REQUIREMENTS (\$MILLIONS)								
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Appropriation From	Budget Activity	Dash-1 Line Item
Executive Salary (NCB)	+01	+01	+01	+01	+01	O&M Defense-wide	04	4GTN
Executive Salary (R&FM)	+16	+16	+16	+16	+16	O&M Defense-wide	04	4GTN
Total	+17	+17	+17	+17	+17			

Changes to Existing Law

The proposal makes the following changes to existing law:

TITLE 10, UNITED STATES CODE

* * * * *

CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

[Note: Complete text of chapter 4 is set out here]

Sec.

131. Office of the Secretary of Defense.

132. Deputy Secretary of Defense.

132a. Deputy Chief Management Officer.

133. Under Secretary of Defense for Acquisition, Technology, and Logistics.

~~133a. Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.~~

134. Under Secretary of Defense for Policy.

~~134a. Principal Deputy Under Secretary of Defense for Policy.~~

135. Under Secretary of Defense (Comptroller).

136. Under Secretary of Defense for Personnel and Readiness.

~~136a. Principal Deputy Under Secretary of Defense for Personnel and Readiness.~~

137. Under Secretary of Defense for Intelligence.

137a. Principal Deputy Under Secretaries of Defense.

138. Assistant Secretaries of Defense.

138a. Assistant Secretary of Defense for Logistics and Materiel Readiness.

~~139a~~138b. Director of Assistant Secretary of Defense for Defense Research and Engineering.

~~139b~~138c. Director of Assistant Secretary of Defense for Operational Energy Plans and Programs.

~~139c~~138d. Director of Assistant Secretary of Defense for Cost Assessment and Program Evaluation.

~~42~~138e. Assistant to the Secretary of Defense for Nuclear, and Chemical, and Biological Defense Programs.

139. Director of Operational Test and Evaluation.

[Current 139a, 139b, and 139c transferred to 138b, 138c, and 138d]

[Current 139d transferred to ch. 144 as sec. 2438]

140. General Counsel

141. Inspector General.

[Current 142 transferred to 138e]

143. Office of the Secretary of Defense personnel: limitation.

[Current 144 transferred to ch. 148 as sec. 2508]

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[Note: Sections moved to other chapters:]

~~139d2438~~. Director of Developmental Test and Evaluation; ~~Director of Systems Engineering~~: joint guidance.

~~1442508~~. Director of Small Business Programs.

§ 131. Office of the Secretary of Defense

(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out ~~his~~ the Secretary's duties and responsibilities and to carry out such other duties as may be prescribed by law.

(b) The Office of the Secretary of Defense is composed of the following:

(1) The Deputy Secretary of Defense.

(2) The Under Secretaries of Defense, as follows:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Under Secretary of Defense for Policy.

(C) The Under Secretary of Defense (Comptroller).

(D) The Under Secretary of Defense for Personnel and Readiness.

(E) The Under Secretary of Defense for Intelligence.

(3) The Deputy Chief Management Officer of the Department of Defense

(4) ~~The Director of Defense Research and Engineering~~ Principal Deputy Under Secretaries of Defense.

(5) The Assistant Secretaries of Defense.

(6) Other officers who are appointed by the President, by and with the advice and consent of the Senate, as follows:

(A) The Director of Operational Test and Evaluation.

~~(7B)~~ The General Counsel of the Department of Defense.

~~(8C)~~ The Inspector General of the Department of Defense.

(7) Other officials provided for by law, as follows:

(A) The official designated under section 1501(a) of this title to have responsibility for Department of Defense policy relating to missing persons.

(B) The official designated under section 1781 of this title to have responsibility for Department of Defense policy related to military families.

(C) The official designated under section 2228(a) of this title to have responsibility for Department of Defense policy related to the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense.

(D) The officials designated under subsections (a) and (b) of section 2438(a) of this title to have responsibility, respectively, for developmental test and evaluation and for systems engineering.

(E) The official designated under section 2438a(a) of this title to have responsibility for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(F) The Director of Small Business Programs, provided for under section 2508 of this title.

(98) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall 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.

§ 132. Deputy Secretary of Defense

(a) There is a Deputy Secretary of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Deputy Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

(c) The Deputy Secretary serves as the Chief Management Officer of the Department of Defense. ~~The Deputy Secretary shall be assisted in this capacity by a Deputy Chief Management Officer, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

(d) The Deputy Secretary takes precedence in the Department of Defense immediately after the Secretary.

~~(d)~~(e) Until September 30, 2015, the Deputy Secretary of Defense shall lead the Guam Executive Council and shall be the Department of Defense's principal representative for coordinating the interagency efforts in matters relating to Guam, including the following executive orders:

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(1) Executive Order No. 13299 of May 12, 2003 (68 Fed. Reg. 25477; 48 U.S.C. note prec. 1451; relating to the Interagency Group on Insular Affairs).

(2) Executive Order No. 12788 of January 15, 1992, as amended (57 Fed. Reg. 2213; relating to the Defense Economic Adjustment Program).

§ 132a. Deputy Chief Management Officer

(a) There is a Deputy Chief Management Officer of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Deputy Chief Management Officer assists the Deputy Secretary of Defense in the Deputy Secretary's capacity as Chief Management Officer of the Department of Defense under section 132(c) of this title.

(c) The Deputy Chief Management Officer takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.

§ 133. Under Secretary of Defense for Acquisition, Technology, and Logistics

(a) There is an Under Secretary of Defense for Acquisition, Technology, and Logistics, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

(1) supervising Department of Defense acquisition;

(2) establishing policies for acquisition (including procurement of goods and services, research and development, developmental testing, and contract administration) for all elements of the Department of Defense;

(3) establishing policies for logistics, maintenance, and sustainment support for all elements of the Department of Defense;

(4) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

(5) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

(c) The Under Secretary—

(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414 (c));

(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department. Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.

(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

(e) (1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

~~§ 133a. Principal Deputy Under Secretary of Defense for Acquisition and Technology~~

~~(a) There is a Principal Deputy Under Secretary of Defense for Acquisition, technology, and Logistics, appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

~~(b) The Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics shall assist the Under Secretary of Defense for Acquisition, Technology, and Logistics in the performance of the Under Secretary's duties.~~

§ 134. Under Secretary of Defense for Policy

(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

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

(2) The Under Secretary shall assist the Secretary of Defense—

(A) in preparing written policy guidance for the preparation and review of contingency plans; and

(B) in reviewing such plans.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.

(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have 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.

(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Secretaries of the military departments.

~~§ 134a. Principal Deputy Under Secretary of Defense for Policy~~

~~(a) There is a Principal Deputy Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

~~(b) The Principal Deputy Under Secretary of Defense for Policy shall assist the Under Secretary of Defense for Policy in the performance of his duties. The Principal Deputy Under Secretary of Defense for Policy shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.~~

§ 135. Under Secretary of Defense (Comptroller)

(a) There is an Under Secretary of Defense (Comptroller), appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary of Defense (Comptroller) is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31. The Under Secretary of Defense (Comptroller) shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Under Secretary of Defense (Comptroller) shall advise and assist the Secretary of Defense—

(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

- (A) the preparation and execution of budgets;
- (B) fiscal, cost, operating, and capital property accounting; and
- (C) progress and statistical reporting;

(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by ~~clauses~~ paragraphs (1) through (4).

(d) The Under Secretary of Defense (Comptroller) takes precedence in the Department of Defense after the Under Secretary of Defense for Policy.

(e) The Under Secretary of Defense (Comptroller) shall ensure that each of the congressional defense committees is informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the Under Secretary of Defense (Comptroller).

§ 136. Under Secretary of Defense for Personnel and Readiness

(a) There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the areas of military readiness, total force management, military and civilian personnel requirements, military and civilian personnel training, military and civilian family matters, exchange, commissary, and nonappropriated fund activities, personnel requirements for weapons support, National Guard and reserve components, and health affairs.

(c) The Under Secretary of Defense for Personnel and Readiness takes precedence in the Department of Defense after the Under Secretary of Defense (Comptroller).

(d) The Under Secretary of Defense for Personnel and Readiness is responsible, subject to the authority, direction, and control of the Secretary of Defense, for the monitoring of the operations tempo and personnel tempo of the armed forces. The Under Secretary shall establish, to the extent practicable, uniform standards within the Department of Defense for terminology and policies relating to deployment of units and personnel away from their assigned duty stations (including the length of time units or personnel may be away for such a deployment) and shall establish uniform reporting systems for tracking deployments.

~~§ 136a. Principal Deputy Under Secretary of Defense for Personnel and Readiness~~

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~~(a) There is a Principal Deputy Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

~~(b) The Principal Deputy Under Secretary of Defense for Personnel and Readiness shall assist the Under Secretary of Defense for Personnel and Readiness in the performance of the duties of that position. The Principal Deputy Under Secretary of Defense for Personnel and Readiness shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.~~

§ 137. Under Secretary of Defense for Intelligence

(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

(c) The Under Secretary of Defense for Intelligence takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.

§ 137a. Principal Deputy Under Secretaries of Defense

(a)(1) There are five Principal Deputy Under Secretaries of Defense.

~~(2)(A) The Principal Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph.~~

~~(B) The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c) shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

(b) Each Principal Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary is absent or disabled.

(c)(1) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics ~~appointed pursuant to section 133a of this title.~~

(2) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Policy ~~appointed pursuant to section 134a of this title.~~

(3) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Personnel and Readiness ~~appointed pursuant to section 136a of this title.~~

(4) One of the Principal Deputy Under Secretaries ~~shall be~~ is the Principal Deputy Under Secretary of Defense (Comptroller).

(5) One of the Principal Deputy Under Secretaries ~~shall be~~ is the Principal Deputy Under Secretary of Defense for Intelligence. Any individual nominated for appointment as the Principal Deputy Under Secretary of Defense for Intelligence shall have extensive intelligence expertise.

(d) The Principal Deputy Under Secretaries of Defense 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 Deputy Chief Management Officer of the Department of Defense. The Principal Deputy Under Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

§ 138. Assistant Secretaries of Defense

(a)(1) There are ~~12-17~~ Assistant Secretaries of Defense.

(2)(A) ~~The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection.~~

(B) ~~The other~~ The Assistant Secretaries of Defense shall be 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~~ is 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~~ is 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~~ is 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~~ is 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.

(6) One of the Assistant Secretaries ~~shall be~~ is the Assistant Secretary of Defense for Acquisition. The Assistant Secretary of Defense for Acquisition is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters relating to acquisition.

(7) One of the Assistant Secretaries is the Assistant Secretary of Defense for Logistics and Materiel Readiness ~~appointed pursuant to section 138a of this title~~. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title.

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(8) One of the Assistant Secretaries is the Assistant Secretary of Defense for Research and Engineering. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title.

(9) One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title.

(10) One of the Assistant Secretaries is the Assistant Secretary of Defense for Cost Assessment and Program Evaluation. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Cost Assessment and Program Evaluation shall have the duties specified in section 138d of this title.

(11) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138e of this title.

(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, the Deputy Chief Management Officer of the Department of Defense, and the Principal Deputy 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.

§ 138a. Assistant Secretary of Defense for Logistics and Materiel Readiness

(a) The Assistant Secretary of Defense for Logistics and Materiel Readiness, ~~appointed from civilian life by the President, by and with the advice and consent of the Senate.~~ The Assistant Secretary shall be appointed from among persons with an extensive background in the sustainment of major weapon systems and combat support equipment.

(b) The Assistant Secretary is the principal adviser to the Secretary and the Under Secretary of Defense for Acquisition, Technology, and Logistics on logistics and materiel readiness in the Department of Defense and is the principal logistics official within the senior management of the Department of Defense.

(c) The Assistant Secretary shall perform such duties relating to logistics and materiel readiness as the Under Secretary of Defense for Acquisition, Technology, and Logistics may assign, including—

(1) prescribing, by authority of the Secretary of Defense, policies and procedures for the conduct of logistics, maintenance, materiel readiness, and sustainment support in the Department of Defense;

(2) advising and assisting the Secretary of Defense, the Deputy Secretary of Defense, and the Under Secretary of Defense for Acquisition, Technology, and Logistics providing guidance to and consulting with the Secretaries of the military departments, with respect to logistics, maintenance, materiel readiness, and sustainment support in the Department of Defense; and

(3) monitoring and reviewing all logistics, maintenance, materiel readiness, and sustainment support programs in the Department of Defense.

§ ~~139a~~138b. Director of Assistant Secretary of Defense for Defense Research and Engineering

~~(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

~~(b)~~ Except as otherwise prescribed by the Secretary of Defense, the Director of Assistant Secretary of Defense for Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

~~(c)~~(1) The Director of Assistant Secretary of Defense for Defense Research and Engineering, in consultation with the Director of Developmental Test and Evaluation official designated under section 2438(a) of this title to have responsibility for developmental test and evaluation functions, 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 Assistant Secretary shall submit to the Secretary of Defense and to the congressional defense committees by March 1 of 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.

§ ~~139b~~138c. Director of Assistant Secretary of Defense for Operational Energy Plans and Programs

(a) APPOINTMENT.—~~There~~ The is a Director of Assistant Secretary of Defense for Operational Energy Plans and Programs in the Department of Defense (in this section referred to as the Director²), 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 office of Director Assistant Secretary.

(b) DUTIES.—~~The Director Assistant Secretary~~ shall—

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- (1) provide leadership and facilitate communication regarding, and conduct oversight to manage and be accountable for, operational energy plans and programs within the Department of Defense and the Army, Navy, Air Force, and Marine Corps;
- (2) establish the operational energy strategy;
- (3) coordinate and oversee planning and program activities of the Department of Defense and the Army, Navy, Air Force, and the Marine Corps related to—
 - (A) implementation of the operational energy strategy;
 - (B) the consideration of operational energy demands in defense planning, requirements, and acquisition processes; and
 - (C) research and development investments related to operational energy demand and supply technologies; and
- (4) monitor and review all operational energy initiatives in the Department of Defense.

(c) PRINCIPAL ADVISOR FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—(1) The ~~Director~~ Assistant Secretary is the principal adviser to the Secretary of Defense and the Deputy Secretary of Defense regarding operational energy plans and programs and the principal policy official within the senior management of the Department of Defense regarding operational energy plans and programs.

(2) The ~~Director~~ Assistant Secretary may communicate views on matters related to operational energy plans and programs and the operational energy strategy required by subsection (d) 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.

(d) OPERATIONAL ENERGY STRATEGY.—(1) The ~~Director~~ Assistant Secretary shall be responsible for the establishment and maintenance of a department-wide transformational strategy for operational energy. The strategy shall establish near-term, mid-term, and long-term goals, performance metrics to measure progress in meeting the goals, and a plan for implementation of the strategy within the military departments, the Office of the Secretary of Defense, and Defense Agencies.

(2) ~~Not later than 90 days after the date on which the Director is first appointed, the~~ The Secretary of each of the military departments shall designate a senior official within each armed force under the jurisdiction of the Secretary who ~~will~~ shall be responsible for operational energy plans and programs for that armed force. The officials so designated shall be responsible for coordinating with the ~~Director~~ Assistant Secretary and implementing initiatives pursuant to the strategy with regard to that official's armed force.

(3) By authority of the Secretary of Defense, the ~~Director~~ Assistant Secretary shall prescribe policies and procedures for the implementation of the strategy. The ~~Director~~ Assistant Secretary shall provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the officials designated under paragraph (2) with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

(4) ~~The initial strategy shall be submitted to the congressional defense committees not later than 180 days after the date on which the Director is first appointed. Subsequent updates~~ Updates to the strategy required by paragraph (1) shall be submitted to the congressional defense committees as soon as practicable after the modifications to the strategy are made.

(e) BUDGETARY AND FINANCIAL MATTERS.—(1) The ~~Director~~ Assistant Secretary shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the ~~Director~~ Assistant Secretary for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

(3) The ~~Director~~ Assistant Secretary shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the ~~Director~~ Assistant Secretary with respect to the proposed budget, together with the certification of the ~~Director~~ Assistant Secretary regarding whether the proposed budget is adequate for implementation of the strategy.

(4) Not later than 10 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that the ~~Director~~ Assistant Secretary has not certified under paragraph (3). The report shall include the following:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(5) The report required by paragraph (4) shall also include a separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the ~~Director~~ Assistant Secretary in carrying out the duties of the ~~Director~~ Assistant Secretary.

(f) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) The Secretary of a military department shall submit to the ~~Director~~ Assistant Secretary the results of all studies and initiatives conducted by the military department in connection with the operational energy strategy.

(2) The ~~Director~~ Assistant Secretary shall have access to all records and data in the Department of Defense (including the records and data of each military department) necessary in order to permit the ~~Director~~ Assistant Secretary to carry out the duties of the ~~Director~~ Assistant Secretary.

(g) STAFF.—The ~~Director~~ Assistant Secretary shall have a dedicated professional staff of military and civilian personnel in a number sufficient to enable the ~~Director~~ Assistant Secretary to carry out the duties and responsibilities of the ~~Director~~ Assistant Secretary.

(h) DEFINITIONS.—In this section:

(1) OPERATIONAL ENERGY.—The term “operational energy” means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.

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(2) OPERATIONAL ENERGY STRATEGY.—The terms “operational energy strategy” and “strategy” mean the operational energy strategy developed under subsection (d).

§ ~~139e~~138d. Director of Assistant Secretary of Defense for Cost Assessment and Program Evaluation

~~(a) APPOINTMENT.—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.~~

~~(b)~~ (ba) INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.—(1) The Director of Assistant Secretary of Defense for Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

(A) Matters assigned to the ~~Director~~ Assistant Secretary pursuant to this section and section 2334 of this title.

(B) Matters assigned to the ~~Director~~ Assistant Secretary by the Secretary pursuant to section 113 of this title.

(2) The ~~Director~~ Assistant Secretary may communicate views on matters within the responsibility of the ~~Director~~ Assistant Secretary 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.

~~(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:~~

~~(1) The Deputy Director for Cost Assessment.~~

~~(2) The Deputy Director for Program Evaluation.~~

(b) RESPONSIBILITY FOR SPECIFIED FUNCTIONS.—There shall be within the office of the Assistant Secretary the following:

(1) An official with primary responsibility for cost assessment.

(2) An official with primary responsibility for program evaluation.

~~(d)~~ (dc) RESPONSIBILITIES.—The Director of Assistant Secretary of Defense for Cost Assessment and Program Evaluation shall serve as the principal official within the senior management of the Department of Defense for the following:

(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section 2334 of this title.

(2) Analysis and advice on matters relating to the planning and programming phases of the Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense

(5) Review, analysis, and evaluation of programs for executing approved strategies and policies, ensuring that information on programs is presented accurately and completely, and assessing the effect of spending by the Department of Defense on the United States economy.

(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence and in accordance with applicable policies.

(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources.

§ 142138e. Assistant to the Secretary of Defense for Nuclear, ~~and Chemical,~~ and Biological Defense Programs

~~(a) There is an Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, appointed by the President, by and with the advice and consent of the Senate.~~

~~(b) The Assistant to the Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall—~~

~~(1) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;~~

~~(2) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and~~

~~(3) perform such additional duties as the Secretary may prescribe.~~

~~(c) The Assistant to the Secretary shall be considered an Assistant Secretary of Defense for purposes of section 138(d) of this title.~~

§ 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—

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

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

(5) 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

(6) 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.

(d) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.

(e)(1) The Secretary of a military department shall report promptly to the Director the results of all operational test and evaluation conducted by the military department and of all studies conducted by the military department in connection with operational test and evaluation in the military department.

(2) The Director may require that such observers as he designates be present during the preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

(3) The Director shall have access to all 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 his duties under this section.

(f)(1) The Director of the Missile Defense Agency shall make available to the Director of Operational Test and Evaluation the results of all tests and evaluations conducted by the Missile Defense Agency and of all studies conducted by the Missile Defense Agency in connection with tests and evaluations in the Missile Defense Agency.

(2) The Director of Operational Test and Evaluation may require that such observers as the Director designates be present during the preparation for and the conducting of any test and evaluation conducted by the Missile Defense Agency.

(3) The Director of Operational Test and Evaluation shall have access to all records and data in the Department of Defense (including the records and data of the Missile Defense Agency) that the Director considers necessary to review in order to carry out his duties under this subsection.

(g) The Director shall ensure that safety concerns developed during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.

(h)(1) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year.

(2) Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31.

(3) If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.

(4) The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and evaluation activities. The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.

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

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(i) The Director shall comply with requests from Congress (or any committee of either House of Congress) for information relating to operational test and evaluation in the Department of Defense.

(j) 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 activities of the Director of Operational Test and Evaluation in carrying out the duties and responsibilities of the Director under this section.

(k) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.

[Current § 139a (Director of Defense Research and Engineering) transferred to §138b and amended]

[Current § 139b (Director of Operational Energy Plans and Programs) transferred to §138c and amended]

[Current § 139c (Director of Cost Assessment and Program Evaluation) transferred to §138d and amended]

[Current § 139d (Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance) transferred to chapter 144 as §2438 and amended]

§ 140. General Counsel

(a) There is a General Counsel of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel is the chief legal officer of the Department of Defense. He shall perform such functions as the Secretary of Defense may prescribe.

§ 141. Inspector General

(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95-452; 5 App. U.S.C. 3).

(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.

[Current §142 (Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs) transferred to §138e and amended]

§ 143. Office of the Secretary of Defense personnel: limitation

[Changes shown to section 143 were transmitted to OMB as a separate legislative proposal on Jan 15 and approved by OMB on Feb 19 for transmittal to Congress]

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed ~~3,767~~ 3,370.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term “OSD personnel” means ~~military and civilian personnel~~ members of the armed forces and civilian employees of the Department of Defense who are ~~assigned to, or employed in, functions assigned or detailed to permanent duty in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).~~

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(d) EXEMPTION DURING TIME OF WAR OR NATIONAL EMERGENCY.—The limitation in subsection (a) does not apply in time of war or during a national emergency declared by the President or Congress.

[Current § 144 (Director of Small Business Program) transferred to chapter 148 as §2508]

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CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

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§ 179. Nuclear Weapons Council

(a) ESTABLISHMENT; MEMBERSHIP.—There is a Nuclear Weapons Council (hereinafter in this section referred to as the Council”) operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:

- (1) The Under Secretary of Defense for Acquisition, Technology, and Logistics.
- (2) The Vice Chairman of the Joint Chiefs of Staff.
- (3) The Under Secretary for Nuclear Security of the Department of Energy.
- (4) The Under Secretary of Defense for Policy.
- (5) The commander of the United States Strategic Command.

(b) CHAIRMAN; MEETINGS.— (1) Except as provided in paragraph (2), the Chairman of the Council shall be the member designated under subsection (a)(1).

(2) A meeting of the Council shall be chaired by the Under Secretary for Nuclear Security of the Department of Energy whenever the matter under consideration is within the

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primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

(3) The Council shall meet not less often than once every three months.

(c) STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

(2) The Assistant ~~to the~~ Secretary of Defense for Nuclear, ~~and~~ Chemical, and Biological Defense Programs shall be the Staff Director of the Council.

(3) (A) Whenever the position of Assistant ~~to the~~ Secretary of Defense for Nuclear, ~~and~~ Chemical, and Biological Defense Programs has been vacant a period of more than 6 months, the Secretary of Energy shall designate a qualified individual to serve as acting staff director of the Council until the position of that Assistant ~~to the~~ Secretary is filled.

(B) An individual designated under subparagraph (A) shall possess substantial technical and policy experience relevant to the management and oversight of nuclear weapons programs.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

(1) ***

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CHAPTER 76—MISSING PERSONS

* * * * *

§ 1501. System for accounting for missing persons

(a) ~~OFFICE FOR MISSING PERSONNEL OVERSIGHT.~~—(1) The Secretary of Defense shall ~~establish~~ designate within the Office of the Secretary of Defense an ~~office official~~ to have responsibility for Department of Defense policy relating to missing persons. ~~Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.~~ Subject to the authority, direction, and control of the Secretary of Defense, the responsibilities of the ~~office official~~ designated under this paragraph shall include—

(A) policy, control, and oversight within the Department of Defense of the entire process for investigation and recovery related to missing persons (including matters related to search, rescue, escape, and evasion); and

(B) coordination for the Department of Defense with other departments and agencies of the United States on all matters concerning missing persons.

(2) In carrying out the responsibilities ~~of the office~~ established under this subsection, the ~~head of the office official~~ designated under paragraph (1) shall be responsible for the coordination for such purposes within the Department of Defense among the military departments, the Joint Staff, and the commanders of the combatant commands.

(3) The ~~office~~ designated official shall establish policies, which shall apply uniformly throughout the Department of Defense, for personnel recovery (including search, rescue, escape, and evasion).

(4) The ~~office~~ designated official shall establish procedures to be followed by Department of Defense boards of inquiry, and by officials reviewing the reports of such boards, under this chapter.

(5)(A) The Secretary of Defense shall ensure that the ~~office-designated official~~ is provided sufficient military and civilian personnel, and sufficient funding, to enable the ~~office designated official~~ to fully perform the complete range of missions assigned to that official with respect to such designation. The Secretary shall ensure that Department of Defense programming, planning, and budgeting procedures are structured so as to ensure compliance with the preceding sentence for each fiscal year.

(B)(i) For any fiscal year, the number of military and civilian personnel, whether temporary or permanent, assigned or detailed to ~~the office support the functions of the designated official~~ may not be less than the number requested in the President's budget for fiscal year 2003, unless a level below such number is expressly required or authorized by law.

(ii) If for any reason the number of military and civilian personnel assigned or detailed to ~~the office support the functions of the designated official~~ should fall below the required level under clause (i), the Secretary of Defense shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of the number of personnel so assigned or detailed and of the Secretary's plan to restore the staffing level ~~of the office to support those functions~~ to at least the required minimum number under clause (i). The Secretary shall publish such notice and plan in the Federal Register.

(C) For any fiscal year, the level of funding allocated to the ~~office-designated official~~ within the Department of Defense may not be below the level requested for such purposes in the President's budget for fiscal year 2003, unless such a level of funding is expressly required by law.

(b) UNIFORM DOD PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures, to apply uniformly throughout the Department of Defense, for—

(A) the determination of the status of persons described in subsection (c); and

(B) for the systematic, comprehensive, and timely collection, analysis, review, dissemination, and periodic update of information related to such persons.

(2) Such procedures may provide for the delegation by the Secretary of Defense of any responsibility of the Secretary under this chapter to the Secretary of a military department.

(3) Such procedures shall be prescribed in a single directive applicable to all elements of the Department of Defense.

(4) As part of such procedures, the Secretary may provide for the extension, on a case-by-case basis, of any time limit specified in section 1502, 1503, or 1504 of this title. Any such extension may not be for a period in excess of the period with respect to which the extension is provided. Subsequent extensions may be provided on the same basis.

(c) COVERED PERSONS.—(1) Section 1502 of this title applies in the case of any member of the armed forces on active duty—

(A) who becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(2) Section 1502 of this title applies in the case of any other person who is a citizen of the United States and a civilian officer or employee of the Department of Defense or (subject to paragraph (3)) an employee of a contractor of the Department of Defense—

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(A) who serves in direct support of, or accompanies, the armed forces in the field under orders and becomes involuntarily absent as a result of a hostile action or under circumstances suggesting that the involuntary absence is a result of a hostile action; and

(B) whose status is undetermined or who is unaccounted for.

(3) The Secretary of Defense shall determine, with regard to a pending or ongoing military operation, the specific employees, or groups of employees, of contractors of the Department of Defense to be considered to be covered by this subsection.

(d) PRIMARY NEXT OF KIN.—The individual who is primary next of kin of any person described in subsection (c) may for purposes of this chapter designate another individual to act on behalf of that individual as primary next of kin. The Secretary concerned shall treat an individual so designated as if the individual designated were the primary next of kin for purposes of this chapter. A designation under this subsection may be revoked at any time by the person who made the designation.

(e) TERMINATION OF APPLICABILITY OF PROCEDURES WHEN MISSING PERSON IS ACCOUNTED FOR.—The provisions of this chapter relating to boards of inquiry and to the actions by the Secretary concerned on the reports of those boards shall cease to apply in the case of a missing person upon the person becoming accounted for or otherwise being determined to be in a status other than missing.

(f) SECRETARY CONCERNED.—In this chapter, the term “Secretary concerned” includes, in the case of a civilian officer or employee of the Department of Defense or an employee of a contractor of the Department of Defense, the Secretary of the military department or head of the element of the Department of Defense employing the officer or employee or contracting with the contractor, as the case may be.

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CHAPTER 88—MILITARY FAMILY PROGRAMS AND MILITARY CHILD CARE

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§ 1781. ~~Office of Family Policy oversight~~

~~(a) ESTABLISHMENT.—There is in the Office of the Secretary of Defense an Office of Family Policy (hereinafter in this section referred to as the Office”). The Office shall be under the Assistant Secretary of Defense for Force Management and Personnel.~~

~~(b) DUTIES.—The Office Secretary of Defense shall designate within the Office of the Secretary of Defense an official to have responsibility for Department of Defense policy related to military families. The official so designated—~~

~~(1) shall coordinate programs and activities of the military departments to the extent that they relate to military families; and~~

~~(2) shall make recommendations to the Secretaries of the military departments with respect to programs and policies regarding military families.~~

~~(c) STAFF.—The Office shall have not less than five professional staff members.~~

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CHAPTER 131—PLANNING AND COORDINATION

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§ 2228. ~~Office of Corrosion Policy and Oversight~~ Military equipment and infrastructure: prevention and mitigation of corrosion

(a) ~~OFFICE AND DIRECTOR~~ DESIGNATION OF RESPONSIBLE OFFICIAL.—(1)

~~There is an Office of Corrosion Policy and Oversight within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics.~~

~~(2) The Office shall be headed by a Director of Corrosion Policy and Oversight, who shall be assigned to such position by the Under Secretary.~~ The Secretary of Defense shall designate, from among civilian employees of the Department of Defense with the qualifications described in paragraph (3), ~~The Director is responsible in the Department of Defense to the Secretary of Defense (after the Under Secretary of Defense for Acquisition, Technology, and Logistics)~~ an official to be responsible to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department of Defense.

~~(2) The Director~~ official designated under paragraph (1) shall report directly to the Under Secretary an official of the Department appointed from civilian life by the President, by and with the advice and consent of the Senate.

~~(3) In order to qualify to be assigned to the position of Director~~ designated under paragraph (1), an individual shall—

(A) have management expertise in, and professional experience with, corrosion project and policy implementation, including an understanding of the effects of corrosion policies on infrastructure; research, development, test, and evaluation; and maintenance; and

(B) have an understanding of Department of Defense budget formulation and execution, policy formulation, and planning and program requirements.

~~(4) The Secretary of Defense shall designate the position of Director~~ held by the official designated under paragraph (1) as a critical acquisition position under section 1733 (b)(1)(C) of this title.

(b) DUTIES.—(1) ~~The Director of Corrosion Policy and Oversight (in this section referred to as the Director²⁷)~~ official designated under subsection (a) shall oversee and coordinate efforts throughout the Department of Defense to prevent and mitigate corrosion of the military equipment and infrastructure of the Department. The duties under this paragraph shall include the duties specified in paragraphs (2) through (5).

~~(2) The Director~~ designated official shall develop and recommend any policy guidance on the prevention and mitigation of corrosion to be issued by the Secretary of Defense.

~~(3) The Director~~ designated official shall review the programs and funding levels proposed by the Secretary of each military department during the annual internal Department of Defense budget review process as those programs and funding proposals relate to programs and funding for the prevention and mitigation of corrosion and shall submit to the Secretary of Defense recommendations regarding those programs and proposed funding levels.

~~(4) The Director~~ designated official shall provide oversight and coordination of the efforts within the Department of Defense to prevent or mitigate corrosion during—

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(A) the design, acquisition, and maintenance of military equipment; and

(B) the design, construction, and maintenance of infrastructure.

(5) The ~~Director~~ designated official shall monitor acquisition practices within the Department of Defense—

(A) to ensure that the use of corrosion prevention technologies and the application of corrosion prevention treatments are fully considered during research and development in the acquisition process; and

(B) to ensure that, to the extent determined appropriate for each acquisition program, such technologies and treatments are incorporated into that program, particularly during the engineering and design phases of the acquisition process.

(c) ~~ADDITIONAL AUTHORITIES FOR DIRECTOR.~~—The ~~Director~~ official designated under subsection (a) ~~is authorized to may~~—

(1) develop, update, and coordinate corrosion training with the Defense Acquisition University;

(2) participate in the process within the Department of Defense for the development of relevant directives and instructions; and

(3) interact directly with the corrosion prevention industry, trade associations, other government corrosion prevention agencies, academic research and educational institutions, and scientific organizations engaged in corrosion prevention, including the National Academy of Sciences.

(d) LONG-TERM STRATEGY.—(1) The Secretary of Defense shall develop and implement a long-term strategy to reduce corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense.

(2) The strategy under paragraph (1) shall include the following:

(A) Expansion of the emphasis on corrosion prevention and mitigation within the Department of Defense to include coverage of infrastructure.

(B) Application uniformly throughout the Department of Defense of requirements and criteria for the testing and certification of new corrosion-prevention technologies for equipment and infrastructure with similar characteristics, similar missions, or similar operating environments.

(C) Implementation of programs, including supporting databases, to ensure that a focused and coordinated approach is taken throughout the Department of Defense to collect, review, validate, and distribute information on proven methods and products that are relevant to the prevention of corrosion of military equipment and infrastructure.

(D) Establishment of a coordinated research and development program for the prevention and mitigation of corrosion for new and existing military equipment and infrastructure that includes a plan to transition new corrosion prevention technologies into operational systems, including through the establishment of memoranda of agreement, joint funding agreements, public-private partnerships, university research and education centers, and other cooperative research agreements.

(3) The strategy shall include, for the matters specified in paragraph (2), the following:

(A) Policy guidance.

(B) Performance measures and milestones.

(C) An assessment of the necessary personnel and funding necessary to accomplish the long-term strategy.

(e) REPORT.—(1) For each budget for a fiscal year, ~~beginning with the budget for fiscal year 2009~~, the Secretary of Defense shall submit, with the defense budget materials, a report on the following:

(A) Funding requirements for the long-term strategy developed under subsection

(d).

(B) The return on investment that would be achieved by implementing the strategy.

(C) The funds requested in the budget compared to the funding requirements.

(D) An explanation if the funding requirements are not fully funded in the budget.

(2) Within 60 days after submission of the budget for a fiscal year, the Comptroller General shall provide to the congressional defense committees—

(A) an analysis of the budget submission for corrosion control and prevention by the Department of Defense; and

(B) an analysis of the report required under paragraph (1).

(f) DEFINITIONS.—In this section:

(1) The term “corrosion” means the deterioration of a material or its properties due to a reaction of that material with its chemical environment.

(2) The term “military equipment” includes all weapon systems, weapon platforms, vehicles, and munitions of the Department of Defense, and the components of such items.

(3) The term “infrastructure” includes all buildings, structures, airfields, port facilities, surface and subterranean utility systems, heating and cooling systems, fuel tanks, pavements, and bridges.

(4) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105 (a) of title 31.

(5) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

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CHAPTER 144—MAJOR DEFENSE ACQUISITION PROGRAMS

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§ ~~139d~~2438. ~~Director of Developmental test and evaluation; Director of systems engineering; designation of responsible officials; joint guidance~~

(a) ~~DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.~~—

(1) ~~APPOINTMENT~~ DESIGNATION OF RESPONSIBLE OFFICIAL.—~~There is a Director of Developmental Test and Evaluation, who shall be appointed by~~ The Secretary of Defense shall designate, from among individuals with an expertise in test and evaluation, an official to be responsible.

~~(2) PRINCIPAL ADVISOR FOR DEVELOPMENTAL TEST AND EVALUATION.—The Director shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on for developmental test and evaluation in the Department of Defense.~~

~~(3) SUPERVISION.—The Director official designated under paragraph (1) shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary directly to an official of the Department appointed from civilian life by the President, by and with the advice and consent of the Senate.~~

~~(4) COORDINATION WITH DIRECTOR OF SYSTEMS ENGINEERING.—The Director of Developmental Test and Evaluation official designated under paragraph (1) shall closely coordinate with the Director of Systems Engineering official designated under subsection (b) to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.~~

~~(5) DUTIES.—The Director official designated under paragraph (1) shall—~~

~~(A) develop policies and guidance for—~~

~~(i) the conduct of developmental test and evaluation in the Department of Defense (including integration and developmental testing of software);~~

~~(ii) in coordination with the Director of Operational Test and Evaluation, the integration of developmental test and evaluation with operational test and evaluation;~~

~~(iii) the conduct of developmental test and evaluation conducted jointly by more than one military department or Defense Agency;~~

~~(B) review and approve the developmental test and evaluation plan within the test and evaluation master plan for each major defense acquisition program of the Department of Defense;~~

~~(C) monitor and review the developmental test and evaluation activities of the major defense acquisition programs;~~

~~(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for developmental test and evaluation;~~

~~(E) periodically 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 provide input regarding needed changes or improvements for the test and evaluation strategic plan developed in accordance with section 196(d) of this title; and~~

~~(F) 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.~~

(65) ACCESS TO RECORDS.—The Secretary of Defense shall ensure that the ~~Director~~official designated under paragraph (1) has access to all records and data of the Department of Defense (including the records and data of each military department and including classified and propriety information, as appropriate) that the ~~Director~~designated official considers necessary in order to carry out ~~the that Director's official's~~ duties under this subsection.

(76) CONCURRENT SERVICE AS DIRECTOR OF DEPARTMENT OF DEFENSE TEST RESOURCES MANAGEMENT CENTER.—The individual ~~-serving as the Director of Developmental Test and Evaluation~~official designated under paragraph (1) may also serve concurrently as the Director of the Department of Defense Test Resource Management Center under section 196 of this title.

(b) ~~DIRECTOR OF SYSTEMS ENGINEERING.~~—

(1) ~~APPOINTMENT DESIGNATION OF RESPONSIBLE OFFICIAL.~~—~~There is a Director of Systems Engineering, who shall be appointed by t~~The Secretary of Defense shall designate, from among individuals with an expertise in systems engineering and development planning, an official to be responsible

(2) ~~PRINCIPAL ADVISOR FOR SYSTEMS ENGINEERING AND DEVELOPMENT PLANNING.~~—~~The Director shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on for~~ systems engineering and development planning in the Department of Defense.

(32) SUPERVISION.—~~The Director~~official designated under paragraph (1) shall be subject to the supervision of the ~~Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary~~directly to an official of the Department appointed from civilian life by the President, by and with the advice and consent of the Senate.

(43) COORDINATION WITH ~~DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.~~—~~The Director of Systems Engineering~~official designated under paragraph (1) shall closely coordinate with the ~~Director of Developmental Test and Evaluation~~official designated under subsection (a) to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.

(54) DUTIES.—~~The Director~~official designated under paragraph (1) shall—

(A) develop policies and guidance for—

(i) the use of systems engineering principles and best practices, generally;

(ii) the use of systems engineering approaches to enhance reliability, availability, and maintainability on major defense acquisition programs;

(iii) the development of systems engineering master plans for major defense acquisition programs including systems engineering considerations in support of lifecycle management and sustainability; and

(iv) the inclusion of provisions relating to systems engineering and reliability growth in requests for proposals;

(B) review and approve the systems engineering master plan for each major defense acquisition program;

(C) monitor and review the systems engineering and development planning activities of the major defense acquisition programs;

(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for systems engineering, development planning, and lifecycle management and sustainability functions;

(E) provide input on the inclusion of systems engineering requirements in the process for consideration of joint military requirements by the Joint Requirements Oversight Council pursuant to section 181 of this title, including specific input relating to each capabilities development document;

(F) periodically review the organizations and capabilities of the military departments with respect to systems engineering, development planning, and lifecycle management and sustainability, and identify needed changes or improvements to such organizations and capabilities; and

(G) perform such other activities relating to the systems engineering and development planning activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

(65) ACCESS TO RECORDS.—The ~~Director~~ official designated under paragraph (1) shall have access to any records or data of the Department of Defense (including the records and data of each military department and including classified and proprietary information as appropriate) that the ~~Director~~ designated official considers necessary to review in order to carry out ~~the that Director's official's~~ the that Director's official's duties under this subsection.

(c) JOINT ANNUAL REPORT.—Not later than March 31 each year, ~~beginning in 2010, the Director of Developmental Test and Evaluation and the Director of Systems Engineering officials designated under subsections (a) and (b)~~ shall jointly submit to the congressional defense committees a report on the activities undertaken pursuant to those subsections (a) and (b) during the preceding year. Each such report shall include a section on activities relating to the major defense acquisition programs which shall set forth, at a minimum, the following:

(1) A discussion of the extent to which the major defense acquisition programs are fulfilling the objectives of their systems engineering master plans and developmental test and evaluation plans.

(2) A discussion of the waivers of and deviations from requirements in test and evaluation master plans, systems engineering master plans, and other testing requirements that occurred during the preceding year with respect to such programs, any concerns raised by such waivers or deviations, and the actions that have been taken or are planned to be taken to address such concerns.

(3) An assessment of the organization and capabilities of the Department of Defense for systems engineering, development planning, and developmental test and evaluation with respect to such programs.

(4) Any comments on such report that the Secretary of Defense considers appropriate.

(d) ~~JOINT GUIDANCE.—The Director of Developmental Test and Evaluation and the Director of Systems Engineering officials designated under subsections (a) and (b) shall jointly, in coordination with the official designated by the Secretary of Defense under section 103 of the Weapon Systems Acquisition Reform Act of 2009 2438a of this title, issue guidance on the following:~~

(1) The development and tracking of detailed measurable performance criteria as part of the systems engineering master plans and the developmental test and evaluation plans within the test and evaluation master plans of major defense acquisition programs.

(2) The use of developmental test and evaluation to measure the achievement of specific performance objectives within a systems engineering master plan.

(3) A system for storing and tracking information relating to the achievement of the performance criteria and objectives specified pursuant to this subsection.

~~(e) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term “major defense acquisition program” has the meaning given that term in section 2430 of this title.~~

§2438a. Performance assessments and root cause analyses for major defense acquisition programs

[NOTE: This proposed new section 2438a would be a codification of section 103 of WSARA (10 USC 2430 note). Changes from the text of the WSARA section are shown.]

(a) DESIGNATION OF SENIOR OFFICIAL RESPONSIBILITY FOR PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES.—

(1) IN GENERAL.—The Secretary of Defense shall designate a senior official in the Office of the Secretary of Defense as the principal official of the Department of Defense responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(2) NO PROGRAM EXECUTION RESPONSIBILITY.—The Secretary shall ensure that the senior official designated under paragraph (1) is not responsible for program execution.

(3) STAFF AND RESOURCES.—The Secretary shall assign to the senior official designated under paragraph (1) appropriate staff and resources necessary to carry out official's function under this section.

(b) RESPONSIBILITIES.—The senior official designated under subsection (a) shall be responsible for the following:

(1) Carrying out performance assessments of major defense acquisition programs in accordance with the requirements of subsection (c) periodically or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology and Logistics, the Secretary of a military department, or the head of a Defense Agency.

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(2) Conducting root cause analyses for major defense acquisition programs in accordance with the requirements of subsection (d) when required by section 2433a(a)(1) of ~~this title 10, United States Code (as added by section 206(a) of this Act)~~, or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology and Logistics, the Secretary of a military department, or the head of a Defense Agency.

(3) Issuing policies, procedures, and guidance governing the conduct of performance assessments and root cause analyses by the military departments and the Defense Agencies.

(4) Evaluating the utility of performance metrics used to measure the cost, schedule, and performance of major defense acquisition programs, and making such recommendations to the Secretary of Defense as the official considers appropriate to improve such metrics.

(5) Advising acquisition officials on performance issues regarding a major defense acquisition program that may arise—

(A) prior to before certification under section 2433a of this title 10, United States Code (as so added);

(B) prior to before entry into full-rate production; or

(C) in the course of consideration of any decision to request authorization of a multiyear procurement contract for the program.

(c) PERFORMANCE ASSESSMENTS.—For purposes of this section, a performance assessment with respect to a major defense acquisition program is an evaluation of the following:

(1) The cost, schedule, and performance of the program, relative to current metrics, including performance requirements and baseline descriptions.

(2) The extent to which the level of program cost, schedule, and performance predicted relative to such metrics is likely to result in the timely delivery of a level of capability to the warfighter that is consistent with the level of resources to be expended and provides superior value to alternative approaches that may be available to meet the same military requirement.

(d) ROOT CAUSE ANALYSES.—For purposes of this section and section 2433a of ~~this title 10, United States Code (as so added)~~, a root cause analysis with respect to a major defense acquisition program is an assessment of the underlying cause or causes of shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

(1) unrealistic performance expectations;

(2) unrealistic baseline estimates for cost or schedule;

(3) immature technologies or excessive manufacturing or integration risk;

(4) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;

(5) changes in procurement quantities;

(6) inadequate program funding or funding instability;

(7) poor performance by government or contractor personnel responsible for program management; or

(8) any other matters.

(e) SUPPORT OF APPLICABLE CAPABILITIES AND EXPERTISE.—The Secretary of Defense shall ensure that the senior official designated under subsection (a) has the support of other

Department of Defense officials with relevant capabilities and expertise needed to carry out the requirements of this section.

(f) ANNUAL REPORT.—Not later than March 1 each year, ~~beginning in 2010~~, the official responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs shall submit to the congressional defense committees a report on the activities undertaken under this section during the preceding year.

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CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION

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§ ~~1442~~508. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644 (k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644 (k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

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CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

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§ 2902. Strategic Environmental Research and Development Program Council

(a) There is a Strategic Environmental Research and Development Program Council (hereinafter in this chapter referred to as the “Council”).

(b) The Council is composed of 12 members as follows:

(1) ~~The Deputy Under Secretary of Defense for Science and Technology official within the Office of the Assistant Secretary of Defense for Research and Engineering who is responsible for science and technology.~~

(2) The Vice Chairman of the Joint Chiefs of Staff.

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(3) ~~The Deputy Under Secretary of Defense~~ official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics who is responsible for environmental security.

(4) The Assistant Secretary of Energy for Defense programs.

(5) The Assistant Secretary of Energy responsible for environmental restoration and waste management.

(6) The Director of the Department of Energy Office of Science.

(7) The Administrator of the Environmental Protection Agency.

(8) One representative from each of the Army, Navy, Air Force, and Coast Guard.

(9) The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

(c) ***

TITLE 5, UNITED STATES CODE

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CHAPTER 53—PAY RATES AND SYSTEMS

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which [***]:

* * * * *

Assistant Secretaries of Defense (~~12~~17).

* * * * *

~~Director of Cost Assessment and Program Evaluation, Department of Defense.~~

* * * * *

~~Director of Defense Research and Engineering.~~

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§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which [***]:

* * * * *

~~Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.~~

* * * * *

~~Director, Defense Advanced Research Projects Agency, Department of Defense.~~

~~* * * * *~~

~~Deputy General Counsel, Department of Defense.~~

~~* * * * *~~

~~Deputy Under Secretaries of Defense for Research and Engineering, Department of Defense (4)~~

~~* * * * *~~

~~Special Assistant to the Secretary of Defense.~~

Prepared by:
Directorate for Organizational and Management Planning
Office of the Director of Administration and Management

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