

US Code, Sec. 139. Director of Operational Test and Evaluation

- (a)
 - (1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.
 - (2) In this section:
 - (A) The term "operational test and evaluation" means -
 - (i) the field test, under realistic combat conditions, of any item of (or key component of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and
 - (ii) the evaluation of the results of such test.
 - (B) The term "major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title or that is designated as such a program by the Director for purposes of this section.
- (b) The Director is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on operational test and evaluation in the Department of Defense and the principal operational test and evaluation official within the senior management of the Department of Defense. The Director shall -

- (1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of operational test and evaluation in the Department of Defense;
 - (2) provide guidance to and consult with the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;
 - (3) 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) 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. 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. 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. 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 Secretary may comment on any report of the Director to Congress under this subsection.
- (g) 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.
- (h) 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.

- (i) 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.