

ferred to this chapter, renumbered as this section, and amended by Pub. L. 111-383, §901(d), (k)(1)(F), was based on Pub. L. 111-23, title I, §103, May 22, 2009, 123 Stat. 1715.

PRIOR PROVISIONS

A prior section 2438, added Pub. L. 102-484, div. A, title VIII, §821(a)(1)(B), Oct. 23, 1992, 106 Stat. 2459; amended Pub. L. 103-160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728, required competitive prototyping of major weapon systems and subsystems prior to development under major defense acquisition program, prior to repeal by Pub. L. 103-355, title III, §3006(a), Oct. 13, 1994, 108 Stat. 3331.

Another prior section 2438 was renumbered section 2439 of this title.

AMENDMENTS

2011—Pub. L. 111-383, §901(k)(1)(F), substituted “Performance assessments and root cause analyses” for “PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES FOR MAJOR DEFENSE ACQUISITION PROGRAMS” in section catchline.

Pub. L. 111-383, §901(d), transferred section 103 of Pub. L. 111-23 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (b)(2). Pub. L. 111-383, §901(d)(1), substituted “section 2433a(a)(1) of this title” for “section 2433a(a)(1) of title 10, United States Code (as added by section 206(a) of this Act)”.

Subsec. (b)(5)(A). Pub. L. 111-383, §901(d)(2), substituted “before” for “prior to” and “section 2433a of this title” for “section 2433a of title 10, United States Code (as so added)”.

Subsec. (b)(5)(B). Pub. L. 111-383, §901(d)(2)(B), substituted “before” for “prior to”.

Subsec. (d). Pub. L. 111-383, §901(d)(3), substituted “section 2433a of this title” for “section 2433a of title 10, United States Code (as so added)” in introductory provisions.

Subsec. (f). Pub. L. 111-383, §901(d)(4), struck out “beginning in 2010,” after “each year.”

EFFECTIVE DATE

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

[§ 2439. Repealed. Pub. L. 103-355, title III, § 3007(a), Oct. 13, 1994, 108 Stat. 3331]

Section 2439, added Pub. L. 99-145, title IX, §912(a)(1), Nov. 8, 1985, 99 Stat. 685, §2305a; amended Pub. L. 99-433, title I, §110(g)(3), Oct. 1, 1986, 100 Stat. 1004; renumbered §2438 and amended Pub. L. 100-26, §7(b)(9)(A), (k)(2), Apr. 21, 1987, 101 Stat. 280, 284; Pub. L. 101-510, div. A, title VIII, §805, Nov. 5, 1990, 104 Stat. 1591; renumbered §2439, Pub. L. 102-484, div. A, title VIII, §821(a)(1)(A), Oct. 23, 1992, 106 Stat. 2459, directed Secretary of Defense, before full-scale development under major program began, to prepare acquisition strategy which ensured that contracts for each major program, including each major subsystem under program, were awarded in accordance with acquisition strategy, and granted Secretary option of using competitive alternative sources for major programs and major subsystems throughout period.

§ 2440. Technology and industrial base plans

The Secretary of Defense shall prescribe regulations requiring consideration of the national technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

(Added Pub. L. 102-484, div. D, title XLII, §4216(b)(1), Oct. 23, 1992, 106 Stat. 2669; amended

Pub. L. 109-364, div. A, title X, §1071(a)(17), Oct. 17, 2006, 120 Stat. 2399.)

AMENDMENTS

2006—Pub. L. 109-364 substituted “industrial base plans” for “Industrial Base Plans” in section catchline.

CHAPTER 144A—MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS

Sec.

2445a. Definitions.

2445b. Cost, schedule, and performance information.

2445c. Reports: quarterly reports; reports on program changes.

2445d. Construction with other reporting requirements.

AMENDMENTS

2008—Pub. L. 110-417, [div. A], title VIII, §812(a)(3), Oct. 14, 2008, 122 Stat. 4525, added item 2445a and struck out former item 2445a “Major automated information system program defined”.

§ 2445a. Definitions

(a) MAJOR AUTOMATED INFORMATION SYSTEM PROGRAM.—In this chapter, the term “major automated information system program” means a Department of Defense program for the acquisition of an automated information system (either as a product or a service) if—

(1) the program is designated by the Secretary of Defense, or a designee of the Secretary, as a major automated information system program; or

(2) the dollar value of the program is estimated to exceed—

(A) \$32,000,000 in fiscal year 2000 constant dollars for all program costs in a single fiscal year;

(B) \$126,000,000 in fiscal year 2000 constant dollars for all program acquisition costs for the entire program; or

(C) \$378,000,000 in fiscal year 2000 constant dollars for the total life-cycle costs of the program (including operation and maintenance costs).

(b) ADJUSTMENT.—The Secretary of Defense may adjust the amounts (and base fiscal year) set forth in subsection (a) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the congressional defense committees.

(c) INCREMENTS.—In the event any increment of a major automated information system program separately meets the requirements for treatment as a major automated information system program, the provisions of this chapter shall apply to such increment as well as to the overall major automated information system program of which such increment is a part.

(d) OTHER MAJOR INFORMATION TECHNOLOGY INVESTMENT PROGRAM.—In this chapter, the term “other major information technology investment program” means the following:

(1) An investment that is designated by the Secretary of Defense, or a designee of the Secretary, as a “pre-Major Automated Information System” or “pre-MAIS” program.

(2) Any other investment in automated information system products or services that is

expected to exceed the thresholds established in subsection (a), as adjusted under subsection (b), but is not considered to be a major automated information system program because a formal acquisition decision has not yet been made with respect to such investment.

(e) FULL DEPLOYMENT DECISION.—In this chapter, the term “full deployment decision” means, with respect to a major automated information system program, the final decision made by the Milestone Decision Authority authorizing an increment of the program to deploy software for operational use.

(f) FULL DEPLOYMENT.—In this chapter, the term “full deployment” means, with respect to a major automated information system program, the fielding of an increment of the program in accordance with the terms of a full deployment decision.

(Added Pub. L. 109-364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2323; amended Pub. L. 110-417, [div. A], title VIII, §812(a)(1), (2), Oct. 14, 2008, 122 Stat. 4525; Pub. L. 111-84, div. A, title VIII, §841(c), Oct. 28, 2009, 123 Stat. 2418.)

AMENDMENTS

2009—Subsecs. (e), (f). Pub. L. 111-84 added subsecs. (e) and (f).

2008—Pub. L. 110-417, §812(a)(2), substituted “Definitions” for “Major automated information system program defined” in section catchline.

Subsec. (a). Pub. L. 110-417, §812(a)(1)(A), substituted “Major Automated Information System Program” for “In General” in heading.

Subsec. (d). Pub. L. 110-417, §812(a)(1)(B), added subsec. (d).

EFFECTIVE DATE

Pub. L. 109-364, div. A, title VIII, §816(c), Oct. 17, 2006, 120 Stat. 2326, provided that:

“(1) IN GENERAL.—The amendments made by subsection (a) [enacting this chapter] shall take effect on January 1, 2008, and shall apply with respect to any major automated information system program for which amounts are requested in the budget of the President (as submitted to Congress under section 1105 of title 31, United States Code) for a fiscal year after fiscal year 2008, regardless of whether the acquisition of the automated information system to be acquired under the program was initiated before, on, or after January 1, 2008.

“(2) REPORT REQUIREMENT.—Subsection (b) [120 Stat. 2326] shall take effect on the date of the enactment of this Act [Oct. 17, 2006].”

§ 2445b. Cost, schedule, and performance information

(a) SUBMITTAL OF COST, SCHEDULE, AND PERFORMANCE INFORMATION.—The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits to Congress the budget for a fiscal year under section 1105 of title 31, budget justification documents regarding cost, schedule, and performance for each major automated information system program and each other major information technology investment program for which funds are requested by the President in the budget.

(b) ELEMENTS REGARDING MAJOR AUTOMATED INFORMATION SYSTEM PROGRAMS.—The documents submitted under subsection (a) with respect to a major automated information system

program shall include detailed and summarized information with respect to the automated information system to be acquired under the program, and shall specifically include each of the following:

(1) The development schedule, including major milestones.

(2) The implementation schedule, including estimates of milestone dates, full deployment decision, and full deployment.

(3) Estimates of development costs and full life-cycle costs.

(4) A summary of key performance parameters.

(5) For each major automated information system program for which such information has not been provided in a previous annual report—

(A) a description of the business case analysis (if any) that has been prepared for the program and key functional requirements for the program;

(B) a description of the analysis of alternatives conducted with regard to the program;

(C) an assessment of the extent to which the program, or portions of the program, have technical requirements of sufficient clarity that the program, or portions of the program, may be feasibly procured under firm, fixed-price contracts;

(D) the most recent independent cost estimate or cost analysis for the program provided by the Director of Cost Assessment and Program Evaluation in accordance with section 2334(a)(6) of this title;

(E) a certification by a Department of Defense acquisition official with responsibility for the program that all technical and business requirements have been reviewed and validated to ensure alignment with the business case; and

(F) an explanation of the basis for the certification described in subparagraph (E).

(6) For each major automated information system program for which the information required under paragraph (5) has been provided in a previous annual report, a summary of any significant changes to the information previously provided.

(c) BASELINE.—(1) For purposes of this chapter, the initial submittal to Congress of the documents required by subsection (a) with respect to a major automated information system program shall constitute the original estimate or information originally submitted on such program for purposes of the reports and determinations on program changes in section 2445c of this title.

(2) An adjustment or revision of the original estimate or information originally submitted on a program may be treated as the original estimate or information originally submitted on the program if the adjustment or revision is the result of a critical change in the program covered by section 2445c(d) of this title.

(3) In the event of an adjustment or revision to the original estimate or information originally submitted on a program under paragraph (2), the Secretary of Defense shall include in the next budget justification documents submitted under