

REPORTS TO CONGRESS OF ACQUISITIONS FOR MAJOR
DEFENSE SYSTEMS

Pub. L. 94-106, title VIII, §811, Oct. 7, 1975, 89 Stat. 539, as amended by Pub. L. 96-107, title VIII, §809, Nov. 9, 1979, 93 Stat. 815; Pub. L. 97-86, title IX, §917(e), Dec. 1, 1981, 95 Stat. 1131, which required reports to Congress respecting acquisitions of major defense systems, including total program acquisition unit costs, was repealed by Pub. L. 97-252, title XI, §1107(b), Sept. 8, 1982, 96 Stat. 746, effective Jan. 1, 1983, as provided in section 1107(c) of Pub. L. 97-252, set out as an Effective Date note under section 2432 of this title. See sections 2432 and 2433 of this title.

TRIDENT SUPPORT SITE, BANGOR, WASHINGTON;
FINANCIAL AID TO LOCAL COMMUNITIES; REPORTS

Pub. L. 93-552, title VI, §608, Dec. 27, 1974, 88 Stat. 1763, provided:

“(a) The Secretary of Defense is authorized to assist communities located near the TRIDENT Support Site Bangor, Washington, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the TRIDENT Weapon System and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities.

“(b) The Secretary of Defense shall carry out the provisions of this section through existing Federal programs. The Secretary is authorized to supplement funds made available under such Federal programs to the extent necessary to carry out the provisions of this section, and is authorized to provide financial assistance to communities described in subsection (a) of this section to help such communities pay their share of the costs under such programs. The heads of all departments and agencies concerned shall cooperate fully with the Secretary of Defense in carrying out the provisions of this section on a priority basis.

“(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary of Defense shall consult with the head of the department or agency of the Federal Government concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residents of any such community, and (3) such other pertinent factors as the Secretary of Defense deems appropriate.

“(d) Any funds appropriated to the Department of Defense for the fiscal year beginning July 1, 1974, for carrying out the TRIDENT Weapon System shall be utilized by the Secretary of Defense in carrying out the provisions of this section to the extent that funds are unavailable under other Federal programs. Funds appropriated to the Department of Defense for any fiscal year beginning after June 30, 1975, for carrying out the TRIDENT Weapon System may, to the extent specifically authorized in an annual Military Construction Authorization Act, be utilized by the Secretary of Defense in carrying out the provision of this section to the extent that funds are unavailable under other Federal programs.

“(e) The Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives semiannual reports indicating the total amount expended in the case of each local community which was provided assistance under the authority of this section during the preceding six-month period, the

specific projects for which assistance was provided during such period, and the total amount provided for each such project during such period.”

§ 2431a. Acquisition strategy

(a) ACQUISITION STRATEGY REQUIRED.—There shall be an acquisition strategy for each major defense acquisition program, each major automated information system, and each major system approved by a milestone decision authority.

(b) RESPONSIBLE OFFICIAL.—For each acquisition strategy required by subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics is responsible for issuing and maintaining the requirements for—

- (1) the content of the strategy; and
- (2) the review and approval process for the strategy.

(c) CONSIDERATIONS.—(1) In issuing requirements for the content of an acquisition strategy for a major defense acquisition program, major automated information system, or major system, the Under Secretary shall ensure that—

- (A) the strategy clearly describes the proposed top-level business and technical management approach for the program or system, in sufficient detail to allow the milestone decision authority to assess the viability of the proposed approach, the method of implementing laws and policies, and program objectives;
- (B) the strategy contains a clear explanation of how the strategy is designed to be implemented with available resources, such as time, funding, and management capacity;
- (C) the strategy is tailored to address program requirements and constraints; and
- (D) the strategy considers the items listed in paragraph (2).

(2) Each strategy shall, where appropriate, consider the following:

(A) An approach that delivers required capability in increments, each depending on available mature technology, and that recognizes up front the need for future capability improvements.

(B) Acquisition approach, including industrial base considerations in accordance with section 2440 of this title.

(C) Risk management, including such methods as competitive prototyping at the system, subsystem, or component level, in accordance with section 2431b of this title.

(D) Business strategy, including measures to ensure competition at the system and subsystem level throughout the life-cycle of the program or system in accordance with section 2337 of this title.

(E) Contracting strategy, including—

(i) contract type and how the type selected relates to level of program risk in each acquisition phase;

(ii) how the plans for the program or system to reduce risk enable the use of fixed-price elements in subsequent contracts and the timing of the use of those fixed price elements;

(iii) market research; and

(iv) consideration of small business participation.

(F) Intellectual property strategy in accordance with section 2320 of this title.

(G) International involvement, including foreign military sales and cooperative opportunities, in accordance with section 2350a of this title.

(H) Multiyear procurement in accordance with section 2306b of this title.

(I) Integration of current intelligence assessments into the acquisition process.

(J) Requirements related to logistics, maintenance, and sustainment in accordance with sections 2464 and 2466 of this title.

(d) REVIEW.—(1) Subject to the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the milestone decision authority shall review and approve, as appropriate, the acquisition strategy for a major defense acquisition program, major automated information system, or major system at each of the following times:

(A) Milestone A approval.

(B) The decision to release the request for proposals for development of the program or system.

(C) Milestone B approval.

(D) Each subsequent milestone.

(E) Review of any decision to enter into full-rate production.

(F) When there has been—

(i) a significant change to the cost of the program or system;

(ii) a critical change to the cost of the program or system;

(iii) a significant change to the schedule of the program or system; or

(iv) a significant change to the performance of the program or system.

(G) Any other time considered relevant by the milestone decision authority.

(2) If the milestone decision authority revises an acquisition strategy for a program or system, the milestone decision authority shall provide notice of the revision to the congressional defense committees.

(e) DEFINITIONS.—In this section:

(1) The term “major defense acquisition program” has the meaning provided in section 2430 of this title.

(2) The term “major system” has the meaning provided in section 2302(5) of this title.

(3) The term “Milestone A approval” means a decision to enter into technology maturation and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(4) The term “Milestone B approval” has the meaning provided in section 2366(e)(7) of this title.

(5) The term “milestone decision authority”, with respect to a major defense acquisition program, major automated information system, or major system, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program or system, including authority to approve entry of the program or system into the next phase of the acquisition process.

(6) The term “management capacity”, with respect to a major defense acquisition pro-

gram, major automated information system, or major system, means the capacity to manage the program or system through the use of highly qualified organizations and personnel with appropriate experience, knowledge, and skills.

(7) The term “significant change to the cost”, with respect to a major defense acquisition program or major system, means a significant cost growth threshold, as that term is defined in section 2433(a)(4) of this title.

(8) The term “critical change to the cost”, with respect to a major defense acquisition program or major system, means a critical cost growth threshold, as that term is defined in section 2433(a)(5) of this title.

(9) The term “significant change to the schedule”, with respect to a major defense acquisition program, major automated information system, or major system, means any schedule delay greater than six months in a reported event.

(Added Pub. L. 114-92, div. A, title VIII, § 821(a)(1), Nov. 25, 2015, 129 Stat. 897.)

§ 2431b. Risk management and mitigation in major defense acquisition programs and major systems

(a) REQUIREMENT.—The Secretary of Defense shall ensure that the initial acquisition strategy (required under section 2431a of this title) approved by the milestone decision authority and any subsequent revisions include the following:

(1) A comprehensive approach for managing and mitigating risk (including technical, cost, and schedule risk) during each of the following periods or when determined appropriate by the milestone decision authority:

(A) The period preceding engineering manufacturing development, or its equivalent.

(B) The period preceding initial production.

(C) The period preceding full-rate production.

(2) An identification of the major sources of risk in each of the periods listed in paragraph (1) to improve programmatic decisionmaking and appropriately minimize and manage program concurrency.

(b) APPROACH TO MANAGE AND MITIGATE RISKS.—The comprehensive approach to manage and mitigate risk included in the acquisition strategy for purposes of subsection (a)(1) shall, at a minimum, include consideration of risk mitigation techniques such as the following:

(1) Prototyping (including prototyping at the system, subsystem, or component level and competitive prototyping, where appropriate) and, if prototyping at either the system, subsystem, or component level is not used, an explanation of why it is not appropriate.

(2) Modeling and simulation, the areas that modeling and simulation will assess, and identification of the need for development of any new modeling and simulation tools in order to support the comprehensive strategy.

(3) Technology demonstrations and decision points for disciplined transition of planned