

§ 2441. Sustainment reviews

(a) IN GENERAL.—The Secretary of each military department shall conduct a sustainment review of each major weapon system not later than five years after declaration of initial operational capability of a major defense acquisition program and throughout the life cycle of the weapon system to assess the product support strategy, performance, and operation and support costs of the weapon system. For any review after the first one, the Secretary concerned shall use availability and reliability thresholds and cost estimates as the basis for the circumstances that prompt such a review. The results of the sustainment review shall be documented in a memorandum by the relevant decision authority.

(b) ELEMENTS.—At a minimum, the review required under subsection (a) shall include the following elements:

(1) An independent cost estimate for the remainder of the life cycle of the program.

(2) A comparison of actual costs to the amount of funds budgeted and appropriated in the previous five years, and if funding shortfalls exist, an explanation of the implications on equipment availability.

(3) A comparison between the assumed and achieved system reliabilities.

(4) An analysis of the most cost-effective source of repairs and maintenance.

(5) An evaluation of the cost of consumables and depot-level repairables.

(6) An evaluation of the costs of information technology, networks, computer hardware, and software maintenance and upgrades.

(7) As applicable, an assessment of the actual fuel efficiencies compared to the projected fuel efficiencies as demonstrated in tests or operations.

(8) As applicable, a comparison of actual manpower requirements to previous estimates.

(9) An analysis of whether accurate and complete data are being reported in the cost systems of the military department concerned, and if deficiencies exist, a plan to update the data and ensure accurate and complete data are submitted in the future.

(c) COORDINATION.—The review required under subsection (a) shall be conducted in coordination with the requirements of section 2337 of this title and section 832 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 10 U.S.C. 2430 note).

(Added Pub. L. 114-328, div. A, title VIII, § 849(c)(1), Dec. 23, 2016, 130 Stat. 2293.)

**CHAPTER 144A—MAJOR AUTOMATED
INFORMATION SYSTEM PROGRAMS**

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2445a.	Definitions.
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REPEAL OF CHAPTER

Pub. L. 114-328, div. A, title VIII, § 846, Dec. 23, 2016, 130 Stat. 2292, provided in part that, effective Sept. 30, 2017, this chapter is repealed.

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.

(g) EXTENSION OF A PROGRAM.—In this chapter, the term “extension of a program” means, with respect to a major automated information system program or other major information technology investment program, the further deployment or planned deployment to additional users of the system which has already been found operationally effective and suitable by an independent test agency or the Director of Operational Test and Evaluation, beyond the scope planned in the original estimate or information originally submitted on the program.

(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; Pub. L. 113-66, div. A, title X, §1092(a), Dec. 26, 2013, 127 Stat. 877.)

REPEAL OF SECTION

For repeal of section by section 846 of Pub. L. 114-328, see Effective Date of Repeal note below.

AMENDMENTS

- 2013—Subsec. (g). Pub. L. 113-66 added subsec. (g).
 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 OF REPEAL

Pub. L. 114-328, div. A, title VIII, §846, Dec. 23, 2016, 130 Stat. 2292, provided in part that, effective Sept. 30, 2017, this section is repealed.

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].”

SCIENCE AND TECHNOLOGY ACTIVITIES TO SUPPORT BUSINESS SYSTEMS INFORMATION TECHNOLOGY ACQUISITION PROGRAMS

Pub. L. 114-92, div. A, title II, §217, Nov. 25, 2015, 129 Stat. 770, provided that:

“(a) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Deputy Chief Management Officer, and the Chief Information Officer, shall establish a set of science, technology, and innovation activities to improve the acquisition outcomes of

major automated information systems through improved performance and reduced developmental and life cycle costs.

“(b) EXECUTION OF ACTIVITIES.—The activities established under subsection (a) shall be carried out by such military departments and Defense Agencies as the Under Secretary and the Deputy Chief Management Officer consider appropriate.

“(c) ACTIVITIES.—

“(1) IN GENERAL.—The set of activities established under subsection (a) may include the following:

“(A) Development of capabilities in Department of Defense laboratories, test centers, and federally funded research and development centers to provide technical support for acquisition program management and business process re-engineering activities.

“(B) Funding of intramural and extramural research and development activities as described in subsection (e).

“(2) CURRENT ACTIVITIES.—The Secretary shall identify the current activities described in subparagraphs (A) and (B) of paragraph (1) that are being carried out as of the date of the enactment of this Act [Nov. 25, 2015]. The Secretary shall consider such current activities in determining the set of activities to establish pursuant to subsection (a).

“(d) GAP ANALYSIS.—In establishing the set of activities under subsection (a), not later than 270 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary, in coordination with the Secretaries of the military departments and the heads of the Defense Agencies, shall conduct a gap analysis to identify activities that are not, as of such date, being pursued in the current science and technology program of the Department. The Secretary shall use such analysis in determining—

“(1) the set of activities to establish pursuant to subsection (a) that carry out the purposes specified in subsection (c)(1); and

“(2) the proposed funding requirements and timelines.

“(e) FUNDING OF INTRAMURAL AND EXTRAMURAL RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—In carrying out the set of activities required by subsection (a), the Secretary may award grants or contracts to eligible entities to carry out intramural or extramural research and development in areas of interest described in paragraph (3).

“(2) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity includes the following:

“(A) Entities in the defense industry.

“(B) Institutions of higher education.

“(C) Small businesses.

“(D) Nontraditional defense contractors (as defined in section 2302 of title 10, United States Code).

“(E) Federally funded research and development centers, primarily for the purpose of improving technical expertise to support acquisition efforts.

“(F) Nonprofit research institutions.

“(G) Government laboratories and test centers, primarily for the purpose of improving technical expertise to support acquisition efforts.

“(3) AREAS OF INTEREST.—The areas of interest described in this paragraph are the following:

“(A) Management innovation, including personnel and financial management policy innovation.

“(B) Business process re-engineering.

“(C) Systems engineering of information technology business systems.

“(D) Cloud computing to support business systems and business processes.

“(E) Software development, including systems and techniques to limit unique interfaces and simplify processes to customize commercial software to meet the needs of the Department of Defense.

“(F) Hardware development, including systems and techniques to limit unique interfaces and simplify processes to customize commercial hardware to meet the needs of the Department of Defense.

“(G) Development of methodologies and tools to support development and operational test of large and complex business systems.

“(H) Analysis tools to allow decision-makers to make tradeoffs between requirements, costs, technical risks, and schedule in major automated information system acquisition programs.

“(I) Information security in major automated information system systems.

“(J) Innovative acquisition policies and practices to streamline acquisition of information technology systems.

“(K) Such other areas as the Secretary considers appropriate.

“(f) PRIORITIES.—

“(1) IN GENERAL.—In carrying out the set of activities required by subsection (a), the Secretary shall give priority to—

“(A) projects that—

“(i) address the innovation and technology needs of the Department of Defense; and

“(ii) support activities of initiatives, programs, and offices identified by the Under Secretary and Deputy Chief Management Officer; and

“(B) the projects and programs identified in paragraph (2).

“(2) PROJECTS AND PROGRAMS IDENTIFIED.—The projects and programs identified in this paragraph are the following:

“(A) Major automated information system programs.

“(B) Projects and programs under the oversight of the Deputy Chief Management Officer.

“(C) Projects and programs relating to defense procurement acquisition policy.

“(D) Projects and programs of the agencies and field activities of the Office of the Secretary of Defense that support business missions such as finance, human resources, security, management, logistics, and contract management.

“(E) Military and civilian personnel policy development for information technology workforce.”

§ 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 total acquisition 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 subsection (a) after such adjustment or revision a notification to the congressional defense committees of such adjustment or revision, together with the reasons for such adjustment or revision.

(d) TIME-CERTAIN DEVELOPMENT.—If an adjustment or revision under subsection (c) for a major automated information system that is not a national security system provides for a period in excess of five years from the time of program initiation to the time of a full deployment decision, the documents submitted under subsection (a) shall include a written determination by the senior Department of Defense official re-