

sponsible for the program justifying the need for the longer period.

(e) ELEMENTS REGARDING OTHER MAJOR INFORMATION TECHNOLOGY INVESTMENT PROGRAMS.—With respect to each other major information technology investment program, the information required by subsection (a) may be provided in the format that is most appropriate to the current status of 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(b), Oct. 14, 2008, 122 Stat. 4525; Pub. L. 111-84, div. A, title VIII, § 841(a), Oct. 28, 2009, 123 Stat. 2418; Pub. L. 111-383, div. A, title VIII, § 805(b), Jan. 7, 2011, 124 Stat. 4259; Pub. L. 113-66, div. A, title X, § 1092(d)(1), Dec. 26, 2013, 127 Stat. 877; Pub. L. 114-92, div. A, title VIII, § 891(a), Nov. 25, 2015, 129 Stat. 951.)

REPEAL OF SECTION

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

AMENDMENTS

2015—Subsecs. (d), (e). Pub. L. 114-92 added subsec. (d) and redesignated former subsec. (d) as (e).

2013—Subsec. (b)(3). Pub. L. 113-66 substituted “total acquisition costs” for “development costs”.

2011—Subsec. (b)(5), (6). Pub. L. 111-383 added pars. (5) and (6).

2009—Subsec. (b)(2). Pub. L. 111-84 substituted “full deployment decision, and full deployment” for “initial operational capability, and full operational capability”.

2008—Subsec. (a). Pub. L. 110-417, § 812(b)(1), inserted “and each other major information technology investment program” after “each major automated information system program”.

Subsec. (b). Pub. L. 110-417, § 812(b)(2), inserted “Regarding Major Automated Information System Programs” after “Elements” in heading.

Subsec. (d). Pub. L. 110-417, § 812(b)(3), 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 A, title VIII, § 846, Dec. 23, 2016, 130 Stat. 2292, provided in part that, effective Sept. 30, 2017, this section is repealed.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

Section effective Jan. 1, 2008, and applicable with respect to any major automated information system program for which amounts are requested in the budget of the President for a fiscal year after fiscal year 2008, see section 816(c) of Pub. L. 109-364, set out as a note under section 2445a of this title.

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

(a) QUARTERLY REPORTS BY PROGRAM MANAGERS.—The program manager of a major automated information system program or other major information technology investment program shall, on a quarterly basis, submit to the senior Department of Defense official responsible for the program a written report identifying any variance in the projected development schedule, implementation schedule, life-cycle costs, or key performance parameters for the major automated information system or information technology investment to be acquired under the program from such information as

originally submitted to Congress under section 2445b of this title.

(b) SENIOR OFFICIALS RESPONSIBLE FOR PROGRAMS.—For purposes of this section, the senior Department of Defense official responsible for a major automated information system program or other major information technology investment program is—

(1) in the case of an automated information system or information technology investment to be acquired for a military department, the senior acquisition executive for the military department; or

(2) in the case of any other automated information system or information technology investment to be acquired for the Department of Defense or any component of the Department of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(c) REPORT ON SIGNIFICANT CHANGES IN PROGRAM.—

(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (2), the official shall, not later than 45 days after receiving such report, notify the congressional defense committees in writing of such determination.

(2) COVERED DETERMINATION.—A determination described in this paragraph with respect to a major automated information system program is a determination that—

(A) there has been a schedule change that will cause a delay of more than six months but less than a year in any program schedule milestone or significant event from the schedule originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title;

(B) the estimated total acquisition cost or full life-cycle cost for the program has increased by at least 15 percent, but less than 25 percent, over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title; or

(C) there has been a significant, adverse change in the expected performance of the major automated information system to be acquired under the program from the parameters originally submitted to Congress under paragraph (4) of section 2445b(b) of this title.

(d) REPORT ON CRITICAL CHANGES IN PROGRAM.—

(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program or other major information technology investment program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (3), the official shall, not later than 60 days after receiving such report—

(A) carry out an evaluation of the program under subsection (e); and

(B) submit, through the Secretary of Defense, to the congressional defense commit-

tees a report meeting the requirements of subsection (f).

(2) **CERTIFICATION WHEN VARIANCE DUE TO EXTENSION OF PROGRAM.**—If an official with milestone decision authority for a program who, following receipt of a quarterly report described in paragraph (1) and making a determination described in paragraph (3), also determines that the circumstances resulting in the determination described in paragraph (3) are primarily due to an extension of a program and involve minimal developmental risk, the official may, in lieu of carrying out an evaluation and submitting a report in accordance with paragraph (1), submit to the congressional defense committees, within 45 days after receiving the quarterly report, a certification that the official has made those determinations. If such a certification is submitted, the limitation in subsection (g)(1) does not apply with respect to that determination under paragraph (3).

(3) **COVERED DETERMINATION.**—A determination described in this paragraph with respect to a major automated information system program or other major information technology investment program is a determination that—

(A) there has been a schedule change that will cause a delay of one year or more in any program schedule milestone or significant event from the schedule originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title or section 2445b(d) of this title, as applicable;

(B) the estimated total acquisition cost or full life-cycle cost for the program has increased by 25 percent or more over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title or section 2445b(d) of this title, as applicable; or

(C) there has been a change in the expected performance of the major automated information system or major information technology investment to be acquired under the program that will undermine the ability of the system to perform the functions anticipated at the time information on the program was originally submitted to Congress under section 2445b(b) of this title or section 2445b(d) of this title, as applicable.

(e) **PROGRAM EVALUATION.**—The evaluation of a major automated information system program or other major information technology investment program conducted under this subsection for purposes of subsection (d)(1)(A) shall include an assessment of—

(1) the projected cost and schedule for completing the program if current requirements are not modified;

(2) the projected cost and schedule for completing the program based on reasonable modification of such requirements; and

(3) the rough order of magnitude of the cost and schedule for any reasonable alternative system or capability.

(f) **REPORT ON CRITICAL PROGRAM CHANGES.**—A report on a major automated information system program or other major information technology investment program conducted under

this subsection for purposes of subsection (d)(1)(B) shall include a written certification (with supporting explanation) stating that—

(1) the automated information system or information technology investment to be acquired under the program is essential to the national security or to the efficient management of the Department of Defense;

(2) there is no alternative to the system or information technology investment which will provide equal or greater capability at less cost;

(3) the new estimates of the costs, schedule, and performance parameters with respect to the program and system or information technology investment, as applicable, have been determined, with the concurrence of the Director of Cost Assessment and Program Evaluation, to be reasonable; and

(4) the management structure for the program is adequate to manage and control program costs.

(g) **PROHIBITION ON OBLIGATION OF FUNDS.**—(1) If the determination of a critical change to a program is made by the senior Department official responsible for the program under subsection (d)(3) and a report is not submitted to Congress within the 60-day period provided by subsection (d)(1), appropriated funds may not be obligated for any major contract under the program.

(2) The prohibition on the obligation of funds for a program under paragraph (1) shall cease to apply on the date on which Congress has received a report under subsection (d)(1)(B).

(Added Pub. L. 109-364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2324; amended Pub. L. 110-417, [div. A], title VIII, §812(c), Oct. 14, 2008, 122 Stat. 4526; Pub. L. 111-23, title I, §101(d)(6), May 22, 2009, 123 Stat. 1710; Pub. L. 111-84, div. A, title VIII, §841(b), Oct. 28, 2009, 123 Stat. 2418; Pub. L. 112-81, div. A, title VIII, §811, Dec. 31, 2011, 125 Stat. 1491; Pub. L. 113-66, div. A, title X, §1092(b), (c), (d)(2), (e), Dec. 26, 2013, 127 Stat. 877, 878; Pub. L. 113-291, div. A, title VIII, §802, Dec. 19, 2014, 128 Stat. 3427; Pub. L. 114-92, div. A, title VIII, §891(b), Nov. 25, 2015, 129 Stat. 952.)

REPEAL OF SECTION

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

AMENDMENTS

2015—Subsec. (c)(2)(B) to (D). Pub. L. 114-92 substituted “; or” for semicolon at end of subpar. (B) and period for “; or” at end of subpar. (C) and struck out subpar. (D) which read as follows: “the automated information system or information technology investment failed to achieve a full deployment decision within five years after the Milestone A decision for the program or, if there was no Milestone A decision, the date when the preferred alternative is selected for the program (excluding any time during which program activity is delayed as a result of a bid protest).”

2014—Subsec. (c)(2)(D). Pub. L. 113-291, §802(a), added subpar. (D).

Subsec. (d)(2). Pub. L. 113-291, §802(c), substituted “are primarily due to an extension of a program and involve” for “(A) is primarily due to an extension of a program, and (B) involves”.

Subsec. (d)(3). Pub. L. 113-291, §802(b), redesignated subpars. (B) to (D) as (A) to (C), respectively, and

struck out former subpar. (A) which read as follows: “the automated information system or information technology investment failed to achieve a full deployment decision within five years after the Milestone A decision for the program or, if there was no Milestone A decision, the date when the preferred alternative is selected for the program (excluding any time during which program activity is delayed as a result of a bid protest);”.

2013—Subsec. (c)(2)(B). Pub. L. 113–66, §1092(d)(2)(A), substituted “total acquisition cost” for “program development cost”.

Subsec. (d)(1). Pub. L. 113–66, §1092(b)(1), substituted “paragraph (3)” for “paragraph (2)” in introductory provisions.

Subsec. (d)(2). Pub. L. 113–66, §1092(b)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 113–66, §1092(b)(2), (d)(2)(B), redesignated par. (2) as (3) and substituted “total acquisition cost” for “program development cost” in subpar. (C).

Subsec. (g)(1). Pub. L. 113–66, §1092(c), substituted “subsection (d)(3)” for “subsection (d)(2)”.

Subsec. (g)(2). Pub. L. 113–66, §1092(e), substituted “under subsection (d)(1)(B)” for “in compliance with the requirements of subsection (d)(2)”.

2011—Subsec. (d)(2)(A). Pub. L. 112–81 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the automated information system or information technology investment failed to achieve a full deployment decision within five years after funds were first obligated for the program;”.

2009—Subsec. (d)(2)(A). Pub. L. 111–84 substituted “a full deployment decision” for “initial operational capability”.

Subsec. (f)(3). Pub. L. 111–23 substituted “have been determined, with the concurrence of the Director of Cost Assessment and Program Evaluation, to be reasonable” for “are reasonable”.

2008—Subsec. (a). Pub. L. 110–417, §812(c)(1), inserted “or other major information technology investment program” after “major automated information system program” and “or information technology investment” after “the major automated information system”.

Subsec. (b). Pub. L. 110–417, §812(c)(2), inserted “or other major information technology investment program” after “major automated information system program” in introductory provisions and “or information technology investment” after “automated information system” in pars. (1) and (2).

Subsec. (d)(1), (2). Pub. L. 110–417, §812(c)(3)(A), inserted “or other major information technology investment program” after “major automated information system program” in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 110–417, §812(c)(3)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “the system failed to achieve initial operational capability within five years of milestone A approval;”.

Subsec. (d)(2)(B), (C). Pub. L. 110–417, §812(c)(3)(B)(ii), (iii), inserted “or section 2445b(d) of this title, as applicable” before semicolon at end.

Subsec. (d)(2)(D). Pub. L. 110–417, §812(c)(3)(B)(iv), inserted “or major information technology investment” after “major automated information system” and “or section 2445b(d) of this title, as applicable” before period at end.

Subsec. (e). Pub. L. 110–417, §812(c)(4), inserted “or other major information technology investment program” after “major automated information system program” in introductory provisions.

Subsec. (f). Pub. L. 110–417, §812(c)(5)(A), inserted “or other major information technology investment program” after “major automated information system program” in introductory provisions.

Subsec. (f)(1). Pub. L. 110–417, §812(c)(5)(B), inserted “or information technology investment” after “automated information system”.

Subsec. (f)(2). Pub. L. 110–417, §812(c)(5)(C), inserted “or information technology investment” after “the system”.

Subsec. (f)(3). Pub. L. 110–417, §812(c)(5)(D), inserted “or information technology investment, as applicable,” after “the program and system”.

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

Section effective Jan. 1, 2008, and applicable with respect to any major automated information system program for which amounts are requested in the budget of the President for a fiscal year after fiscal year 2008, see section 816(c) of Pub. L. 109–364, set out as a note under section 2445a of this title.

§ 2445d. Construction with other reporting requirements

In the case of a major automated information system program covered by this chapter that is also treatable as a major defense acquisition program for which reports would be required under chapter 144 of this title, the Secretary may designate the program to be treated only as a major automated information system program covered by this chapter or to be treated only as a major defense acquisition program covered by such chapter 144.

(Added Pub. L. 109–364, div. A, title VIII, §816(a)(1), Oct. 17, 2006, 120 Stat. 2326; amended Pub. L. 111–84, div. A, title VIII, §817(a), Oct. 28, 2009, 123 Stat. 2408.)

REPEAL OF SECTION

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

AMENDMENTS

2009—Pub. L. 111–84 substituted “of this title, the Secretary may designate the program to be treated only as a major automated information system program covered by this chapter or to be treated only as a major defense acquisition program covered by such chapter 144.” for “of this title, no reports on the program are required under such chapter if the requirements of this chapter with respect to the program are met.”

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

Section effective Jan. 1, 2008, and applicable with respect to any major automated information system program for which amounts are requested in the budget of the President for a fiscal year after fiscal year 2008, see section 816(c) of Pub. L. 109–364, set out as a note under section 2445a of this title.

GUIDANCE REQUIRED

Pub. L. 111–84, div. A, title VIII, §817(b), Oct. 28, 2009, 123 Stat. 2408, provided that: “Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall issue guidance on the implementation of section 2445d of title 10, United States Code (as amended by subsection (a)). The guidance shall provide that, as a general rule—

“(1) a program covered by such section that requires the development of customized hardware shall be treated only as a major defense acquisition program under chapter 144 of title 10, United States Code; and

“(2) a program covered by such section that does not require the development of customized hardware