

programs and major automated information system programs”.

Subsec. (a)(6). Pub. L. 114-328, §842(a)(2)(A), (B), in introductory provisions, inserted “or approve” after “conduct” and substituted “all major defense acquisition programs and major subprograms—” for “major defense acquisition programs and major automated information system programs for which the Under Secretary of Defense for Acquisition, Technology, and Logistics is the Milestone Decision Authority—”.

Subsec. (a)(6)(B). Pub. L. 114-328, §842(a)(2)(C), substituted “, upon the request of the Under Secretary of Defense for Acquisition, Technology, and Logistics, or upon the request of the milestone decision authority” for “or upon the request of the Under Secretary of Defense for Acquisition, Technology, and Logistics;”.

Subsec. (b). Pub. L. 114-328, §842(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114-328, §842(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 114-328, §842(b)(2), substituted “major defense acquisition programs and major subprograms” for “major defense acquisition programs and major automated information system programs”.

Subsec. (d). Pub. L. 114-328, §842(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1), (2). Pub. L. 114-328, §842(b)(3), substituted “major defense acquisition program or major subprogram” for “major defense acquisition program or major automated information system program”.

Subsec. (d)(3). Pub. L. 114-328, §842(a)(5), substituted “discussion of risk” for “confidence level”.

Subsec. (d)(4). Pub. L. 114-328, §842(b)(4), inserted “or major subprogram” before period at end.

Subsec. (e). Pub. L. 114-328, §842(a)(3), (6)(A), redesignated subsec. (d) as (e) and substituted “Discussion of Risk in Cost Estimates” for “Disclosure of Confidence Levels for Baseline Estimates of Major Defense Acquisition Programs” in heading. Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 114-328, §842(a)(6)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “disclose in accordance with paragraph (3) the confidence level used in establishing a cost estimate for a major defense acquisition program or major automated information system program and the rationale for selecting such confidence level;”.

Subsec. (e)(2). Pub. L. 114-328, §842(a)(6)(C), substituted “cost estimates are developed, to the extent practicable, based on historical actual cost information that is based on demonstrated contractor and Government performance and that such estimates provide” for “such confidence level provides” and inserted “or subprogram” after “the program”.

Subsec. (e)(3). Pub. L. 114-328, §842(a)(6)(D), substituted “information required in the guidance under paragraph (1)” for “disclosure required by paragraph (1)” in introductory provisions.

Subsec. (e)(3)(B). Pub. L. 114-328, §842(b)(5), inserted “or major subprogram” after “major defense acquisition program”.

Subsec. (f). Pub. L. 114-328, §842(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (h).

Subsec. (f)(3). Pub. L. 114-328, §842(b)(6), substituted “major defense acquisition program and major subprogram” for “major defense acquisition program and major automated information system program”.

Subsec. (f)(4). Pub. L. 114-328, §842(b)(3), substituted “major defense acquisition program or major subprogram” for “major defense acquisition program or major automated information system program”.

Subsec. (g). Pub. L. 114-328, §842(a)(7), added subsec. (g).

Subsec. (h). Pub. L. 114-328, §842(a)(3), redesignated subsec. (f) as (h).

2015—Subsec. (a)(6)(A)(i). Pub. L. 114-92, §824(b), substituted “any decision to grant milestone approval pursuant to” for “any certification under”.

Subsecs. (f), (g). Pub. L. 114-92, §1077(a), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to annual report on cost assessment activities.

2013—Subsec. (a)(8). Pub. L. 113-66, §812(c)(1), added par. (8).

Subsec. (f)(1). Pub. L. 113-66, §812(c)(2)(A), substituted “report—” for “report, an assessment of—” in introductory provisions.

Subsec. (f)(1)(A) to (C). Pub. L. 113-66, §812(c)(2)(B), inserted “an assessment of” at beginning of subpars. (A) to (C).

Subsec. (f)(1)(D). Pub. L. 113-66, §812(c)(2)(C)–(E), added subpar. (D).

2011—Subsec. (d)(1). Pub. L. 111-383, §811(1)(A), substituted “paragraph (3)” for “paragraph (2)” and “and the rationale for selecting such confidence level;” for “, the rationale for selecting such confidence level, and, if such confidence level is less than 80 percent, the justification for selecting a confidence level of less than 80 percent; and”.

Subsec. (d)(2), (3). Pub. L. 111-383, §811(1)(B), (C), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 111-383, §811(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 112-81, §833(2)(A), (B), substituted “shall provide that” for “shall provide that—”, struck out subpar. (A) designation before “cost estimates”, and substituted period at end for “; and”.

Subsec. (e)(2). Pub. L. 112-81, §833(3), substituted “The Under Secretary of Defense for Acquisition, Technology, and Logistics shall, in consultation with the Director of Cost Assessment and Program Evaluation, develop policies, procedures, and guidance to ensure that cost analyses and targets” for “cost analyses and targets”.

Pub. L. 112-81, §833(2)(C), redesignated par. (1)(B) as (2) and realigned margin. Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 112-81, §833(4), substituted “issued by the Under Secretary of Defense for Acquisition, Technology, and Logistics under paragraph (2)” for “issued by the Director of Cost Assessment and Program Evaluation”.

Pub. L. 112-81, §833(1), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (e)(4). Pub. L. 112-81, §833(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 112-81, §833(5), substituted “paragraph (4)” for “paragraph (3)” in introductory provisions.

Pub. L. 112-81, §833(1), redesignated par. (4) as (5).

Subsecs. (f), (g). Pub. L. 111-383, §811(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title VIII, §846, Dec. 23, 2016, 130 Stat. 2292, provided that the amendment made by section 846(3) is effective Sept. 30, 2017.

§ 2335. Prohibition on collection of political information

(a) PROHIBITION ON REQUIRING SUBMISSION OF POLITICAL INFORMATION.—The head of an agency may not require a contractor to submit political information related to the contractor or a subcontractor at any tier, or any partner, officer, director, or employee of the contractor or subcontractor—

(1) as part of a solicitation, request for bid, request for proposal, or any other form of communication designed to solicit offers in connection with the award of a contract for procurement of property or services; or

(2) during the course of contract performance as part of the process associated with modifying a contract or exercising a contract option.

(b) SCOPE.—The prohibition under this section applies to the procurement of commercial prod-

ucts and commercial services, the procurement of commercial-off-the-shelf-items, and the non-commercial procurement of supplies, property, services, and manufactured items, irrespective of contract vehicle, including contracts, purchase orders, task or deliver orders under indefinite delivery/indefinite quantity contracts, blanket purchase agreements, and basic ordering agreements.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as—

(1) waiving, superseding, restricting, or limiting the application of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) or preventing Federal regulatory or law enforcement agencies from collecting or receiving information authorized by law; or

(2) precluding the Defense Contract Audit Agency from accessing and reviewing certain information, including political information, for the purpose of identifying unallowable costs and administering cost principles established pursuant to section 2324 of this title.

(d) **DEFINITIONS.**—In this section:

(1) **CONTRACTOR.**—The term “contractor” includes contractors, bidders, and offerors, and individuals and legal entities who would reasonably be expected to submit offers or bids for Federal Government contracts.

(2) **POLITICAL INFORMATION.**—The term “political information” means information relating to political spending, including any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the contractor, any of its partners, officers, directors or employees, or any of its affiliates or subsidiaries to a candidate or on behalf of a candidate for election for Federal office, to a political committee, to a political party, to a third party entity with the intention or reasonable expectation that it would use the payment to make independent expenditures or electioneering communications, or that is otherwise made with respect to any election for Federal office, party affiliation, and voting history.

(3) **OTHER TERMS.**—Each of the terms “contribution”, “expenditure”, “independent expenditure”, “candidate”, “election”, “electioneering communication”, and “Federal office” has the meaning given that term in the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.).

(Added Pub. L. 112–81, div. A, title VIII, §823(a), Dec. 31, 2011, 125 Stat. 1502; amended Pub. L. 113–291, div. A, title X, §1071(f)(17), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, §1081(a)(32), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 115–232, div. A, title VIII, §836(c)(10), Aug. 13, 2018, 132 Stat. 1866.)

REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, referred to in subsecs. (c)(1) and (d)(3), is Pub. L. 92–225, Feb. 7, 1972, 86 Stat. 3, which is classified principally to chapter 301 (§30101 et seq.) of Title 52, Voting and Elections. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2018—Subsec. (b). Pub. L. 115–232 substituted “commercial products and commercial services” for “commercial items”.

2017—Subsecs. (c)(1), (d)(3). Pub. L. 115–91 substituted “(52 U.S.C. 30101 et seq.)” for “(2 U.S.C. 431 et seq.)”.

2014—Subsec. (d)(2). Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence as par. (3).

Subsec. (d)(3). Pub. L. 113–291, §1071(f)(17)(B)(ii), (iii), substituted “that term” for “the term” and “Federal Election Campaign” for “Federal Campaign”.

Pub. L. 113–291, §1071(f)(17)(B)(i), which directed amendment of par. (3) by inserting “OTHER TERMS.—” before “each of”, was executed by making the insertion before “Each of” to reflect the probable intent of Congress.

Pub. L. 113–291, §1071(f)(17)(A), redesignated last sentence of par. (2) as (3).

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115–232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

[§ 2336. Renumbered § 2679]

§ 2337. Life-cycle management and product support

(a) **GUIDANCE ON LIFE-CYCLE MANAGEMENT.**—The Secretary of Defense shall issue and maintain comprehensive guidance on life-cycle management and the development and implementation of product support strategies for major weapon systems. The guidance issued pursuant to this subsection shall—

(1) maximize competition and make the best possible use of available Department of Defense and industry resources at the system, subsystem, and component levels; and

(2) maximize value to the Department of Defense by providing the best possible product support outcomes at the lowest operations and support cost.

(b) **PRODUCT SUPPORT MANAGERS.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall require that each major weapon system be supported by a product support manager in accordance with this subsection.

(2) **RESPONSIBILITIES.**—A product support manager for a major weapon system shall—

(A) develop and implement a comprehensive product support strategy for the weapon system;

(B) use appropriate predictive analysis and modeling tools that can improve material availability and reliability, increase operational availability rates, and reduce operation and sustainment costs;

(C) conduct appropriate cost analyses to validate the product support strategy, including cost-benefit analyses as outlined in Office of Management and Budget Circular A–94;

(D) ensure achievement of desired product support outcomes through development and implementation of appropriate product support arrangements;

(E) adjust performance requirements and resource allocations across product support integrators and product support providers as necessary to optimize implementation of the product support strategy;