

(A) reliability metrics for major weapon systems; and

(B) requirements on the use of metrics under subparagraph (A) as triggers—

- (i) to conduct further investigation and analysis into drivers of those metrics; and
- (ii) to develop strategies for improving reliability, availability, and maintainability of such systems at an affordable cost; and

(10) require the military departments to conduct periodic reviews of operating and support costs of major weapon systems after such systems achieve initial operational capability to identify and address factors resulting in growth in operating and support costs and adapt support strategies to reduce such costs.

(c) RETENTION OF DATA ON OPERATING AND SUPPORT COSTS.—

(1) IN GENERAL.—The Director of Cost Assessment and Program Evaluation shall be responsible for developing and maintaining a database on operating and support estimates, supporting documentation, and actual operating and support costs for major weapon systems.

(2) SUPPORT.—The Secretary of Defense shall ensure that the Director, in carrying out such responsibility—

(A) promptly receives the results of all cost estimates and cost analyses conducted by the military departments with regard to operating and support costs of major weapon systems;

(B) has timely access to any records and data of the military departments (including classified and proprietary information) that the Director considers necessary to carry out such responsibility; and

(C) with the concurrence of the Under Secretary of Defense for Acquisition and Sustainment, may direct the military departments to collect and retain information necessary to support the database.

(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term “major weapon system” has the meaning given that term in section 2379(f) of this title.

(Added Pub. L. 115–91, div. A, title VIII, § 836(a)(1), Dec. 12, 2017, 131 Stat. 1472; amended Pub. L. 115–232, div. A, title X, § 1081(a)(20), Aug. 13, 2018, 132 Stat. 1984.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in section 832 of Pub. L. 112–81, which was set out as a note under section 2430 of this title, prior to repeal by Pub. L. 115–91, div. A, title VIII, § 836(b)(1), Dec. 12, 2017, 131 Stat. 1473.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–232 substituted “this title” for “title 10, United States Code”.

STANDARDIZED POLICY GUIDANCE FOR CALCULATING AIRCRAFT OPERATION AND SUSTAINMENT COSTS

Pub. L. 116–92, div. A, title XVII, § 1747, Dec. 20, 2019, 133 Stat. 1847, provided that: “Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Director of Cost Analysis and Program Evaluation and in consulta-

tion with the Secretary of each of the military services, shall develop and implement standardized policy guidance for calculating aircraft operation and sustainment costs for the Department of Defense. Such guidance shall provide for a standardized calculation of—

- “(1) aircraft cost per flying hour;
- “(2) aircraft cost per aircraft tail per year;
- “(3) total cost of ownership per flying hour for aircraft systems;
- “(4) average annual operation and sustainment cost per aircraft; and
- “(5) any other cost metrics the Under Secretary of Defense determines appropriate.”

SHOULD-COST MANAGEMENT

Pub. L. 115–91, div. A, title VIII, § 837, Dec. 12, 2017, 131 Stat. 1474, provided that:

“(a) REQUIREMENT FOR REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall amend the Defense Supplement to the Federal Acquisition Regulation to provide for the appropriate use of the should-cost review process of a major weapon system in a manner that is transparent, objective, and provides for the efficiency of the systems acquisition process in the Department of the Defense.

“(b) REQUIRED ELEMENTS.—The regulations required under subsection (a) shall incorporate, at a minimum, the following elements:

- “(1) A description of the features of the should-cost review process.
- “(2) Establishment of a process for communicating with the prime contractor on the program the elements of a proposed should-cost review.
- “(3) A method for ensuring that identified should-cost savings opportunities are based on accurate, complete, and current information and can be quantified and tracked.
- “(4) A description of the training, skills, and experience that Department of Defense and contractor officials carrying out a should-cost review in subsection (a) should possess.
- “(5) A method for ensuring appropriate collaboration with the contractor throughout the review process.
- “(6) Establishment of review process requirements that provide for sufficient analysis and minimize any impact on program schedule.”

§ 2338. Micro-purchase threshold

The micro-purchase threshold for the Department of Defense is \$10,000.

(Added Pub. L. 114–328, div. A, title VIII, § 821(a), Dec. 23, 2016, 130 Stat. 2276; amended Pub. L. 115–232, div. A, title VIII, § 821(a), Aug. 13, 2018, 132 Stat. 1853.)

AMENDMENTS

2018—Pub. L. 115–232 substituted “The micro-purchase threshold for the Department of Defense is \$10,000” for “Notwithstanding subsection (a) of section 1902 of title 41, the micro-purchase threshold for the Department of Defense for purposes of such section is \$5,000”.

§ 2339. Prohibition on criminal history inquiries by contractors prior to conditional offer

(a) LIMITATION ON CRIMINAL HISTORY INQUIRIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the head of an agency—

(A) may not require that an individual or sole proprietor who submits a bid for a contract to disclose criminal history record information regarding that individual or sole proprietor before determining the apparent awardee; and