

how to analyze, as early in the process as feasible, the life-cycle environmental costs for such major defense acquisition programs, directed the Secretary to analyze, beginning not later than Mar. 31, 1995, the environmental costs of a major defense acquisition process as an integral part of the life-cycle cost analysis of the program, and directed the Secretary to establish a data base for documents prepared by the Department of Defense in complying with the National Environmental Policy Act of 1969 with respect to major defense acquisition programs.

EFFICIENT CONTRACTING PROCESSES

Pub. L. 103-160, div. A, title VIII, §837, Nov. 30, 1993, 107 Stat. 1718, as amended by Pub. L. 103-355, title V, §5064(b)(2), Oct. 13, 1994, 108 Stat. 3360, directed the Secretary of Defense to waive regulations not required by statute that affect the efficiency of the contracting process within the Department of Defense.

CONTRACT ADMINISTRATION: PERFORMANCE BASED CONTRACT MANAGEMENT

Pub. L. 103-160, div. A, title VIII, §838, Nov. 30, 1993, 107 Stat. 1718, as amended by Pub. L. 103-355, title V, §5064(b)(3), Oct. 13, 1994, 108 Stat. 3360, which required the Secretary of Defense to define payment milestones for certain defense acquisition programs, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(37), Aug. 13, 2018, 132 Stat. 1849.

DEFENSE ACQUISITION PILOT PROGRAM

Pub. L. 104-201, div. A, title VIII, §803, Sept. 23, 1996, 110 Stat. 2604, as amended by Pub. L. 105-85, div. A, title VIII, §847(b)(2), Nov. 18, 1997, 111 Stat. 1845, which provided that the Secretary could waive sections 2399, 2432, and 2433 of this title, under certain conditions, for any defense acquisition program designated by the Secretary of Defense for participation in the defense acquisition pilot program, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(43), Aug. 13, 2018, 132 Stat. 1850.

Pub. L. 103-355, title V, §5064, Oct. 13, 1994, 108 Stat. 3359, as amended by Pub. L. 106-398, §1 [[div. A], title VIII, §801(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-202, 1654A-203, which authorized the Secretary of Defense to designate certain defense acquisition programs for participation in the defense acquisition pilot program, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(42), Aug. 13, 2018, 132 Stat. 1850.

Pub. L. 103-337, div. A, title VIII, §819, Oct. 5, 1994, 108 Stat. 2822, which authorized the Secretary of Defense to designate certain defense acquisition programs for participation in the defense acquisition pilot program, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(41), Aug. 13, 2018, 132 Stat. 1850.

Pub. L. 103-160, div. A, title VIII, §833, Nov. 30, 1993, 107 Stat. 1716, as amended by Pub. L. 103-355, title V, §5064(b)(1), Oct. 13, 1994, 108 Stat. 3360, which related to the use of mission-oriented program management in the Defense Acquisition Pilot Program, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(39), Aug. 13, 2018, 132 Stat. 1849.

Pub. L. 103-160, div. A, title VIII, §835(b), Nov. 30, 1993, 107 Stat. 1717, which related to funding for Defense Acquisition Pilot Program, and authorized the Secretary of Defense to expend appropriated sums as necessary to carry out next phase of acquisition program cycle after Secretary determined that objective quantifiable performance expectations relating to execution of that phase had been identified, was repealed by Pub. L. 103-355, title V, §5002(b), Oct. 13, 1994, 108 Stat. 3350.

Pub. L. 103-160, div. A, title VIII, §839, Nov. 30, 1993, 107 Stat. 1718, which required the Secretary to collect and analyze specified information on contractor performance under the Defense Acquisition Pilot Program, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(40), Aug. 13, 2018, 132 Stat. 1849.

Pub. L. 101-510, div. A, title VIII, §809, Nov. 5, 1990, 104 Stat. 1593, as amended by Pub. L. 102-484, div. A, title VIII, §811, Oct. 23, 1992, 106 Stat. 2450; Pub. L. 103-160,

div. A, title VIII, §832, Nov. 30, 1993, 107 Stat. 1715, which related to a pilot program to determine the potential for increasing the efficiency and effectiveness of the acquisition process in defense acquisition programs, was repealed by Pub. L. 115-232, div. A, title VIII, §812(b)(38), Aug. 13, 2018, 132 Stat. 1849.

DEFINITIONS

Pub. L. 111-23, §2, May 22, 2009, 123 Stat. 1704, provided that: "In this Act [see Short Title of 2009 Amendment note set out under section 101 of this title]:

"(1) The term 'congressional defense committees' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

"(2) The term 'major defense acquisition program' has the meaning given that term in section 2430 of title 10, United States Code.

"(3) The term 'major weapon system' has the meaning given that term in section 2379(d) [probably means section 2379(f)] of title 10, United States Code."

§ 2430a. Major subprograms

(a) **AUTHORITY TO DESIGNATE MAJOR SUBPROGRAMS AS SUBJECT TO ACQUISITION REPORTING REQUIREMENTS.**—(1)(A) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more categories of end items which differ significantly from each other in form and function, the Secretary may designate each such category of end items as a major subprogram for the purposes of acquisition reporting under this chapter.

(B) If the Secretary of Defense determines that a major defense acquisition program requires the delivery of two or more increments or blocks, the Secretary may designate each such increment or block as a major subprogram for the purposes of acquisition reporting under this chapter.

(2) The Secretary shall notify the congressional defense committees in writing of any proposed designation pursuant to paragraph (1) not less than 30 days before the date such designation takes effect.

(b) **REPORTING REQUIREMENTS.**—(1) If the Secretary designates a major subprogram of a major defense acquisition program in accordance with subsection (a), Selected Acquisition Reports, unit cost reports, and program baselines under this chapter shall reflect cost, schedule, and performance information—

(A) for the major defense acquisition program as a whole (other than as provided in paragraph (2)); and

(B) for each major subprogram of the major defense acquisition program so designated.

(2) For a major defense acquisition program for which a designation of a major subprogram has been made under subsection (a), unit costs under this chapter shall be submitted in accordance with the definitions in subsection (d).

(c) **REQUIREMENT TO COVER ENTIRE MAJOR DEFENSE ACQUISITION PROGRAM.**—If a subprogram of a major defense acquisition program is designated as a major subprogram under subsection (a), all other elements of the major defense acquisition program shall be appropriately organized into one or more subprograms under the major defense acquisition program, each of which subprograms, as so organized, shall be treated as a major subprogram under subsection (a).

(d) DEFINITIONS.—Notwithstanding paragraphs (1) and (2) of section 2432(a) of this title, in the case of a major defense acquisition program for which the Secretary has designated one or more major subprograms under this section for the purposes of this chapter—

(1) the term “program acquisition unit cost” applies at the level of the subprogram and means the total cost for the development and procurement of, and specific military construction for, the major defense acquisition program that is reasonably allocable to each such major subprogram, divided by the relevant number of fully-configured end items to be produced under such major subprogram;

(2) the term “procurement unit cost” applies at the level of the subprogram and means the total of all funds programmed to be available for obligation for procurement for each such major subprogram, divided by the number of fully-configured end items to be procured under such major subprogram;

(3) the term “major contract”, with respect to a designated major subprogram, means each of the six largest prime, associate, or Government furnished equipment contracts under the subprogram that is in excess of \$40,000,000 and that is not a firm-fixed price contract; and

(4) the term “life cycle cost”, with respect to a designated major subprogram, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(Added Pub. L. 110-417, [div. A], title VIII, §811(a)(1), Oct. 14, 2008, 122 Stat. 4520; amended Pub. L. 111-383, div. A, title VIII, §814(a), Jan. 7, 2011, 124 Stat. 4266; Pub. L. 112-81, div. A, title IX, §912, Dec. 31, 2011, 125 Stat. 1536; Pub. L. 114-328, div. A, title VIII, §850, Dec. 23, 2016, 130 Stat. 2295.)

AMENDMENTS

2016—Subsec. (a)(1)(B). Pub. L. 114-328, which directed substitution of “major defense acquisition program requires the delivery of two or more increments or blocks” for “major defense acquisition program to purchase satellites requires the delivery of satellites in two or more increments or blocks” in par. (1)(B), was executed by making the substitution in par. (1)(B) of subsec. (a), to reflect the probable intent of Congress.

2011—Subsec. (a)(1). Pub. L. 112-81 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 111-383 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted “(other than as provided in paragraph (2))” before semicolon in subpar. (A), and added par. (2).

§ 2431. Weapons development and procurement schedules

(a) The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, budget justification documents regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of this title, and for which any funds for procurement are requested in that budget. The documents shall include data on operational testing and evaluation for each

weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual documents required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) Any documents required to be submitted under subsection (a) shall include detailed and summarized information with respect to each weapon system covered and shall specifically include each of the following:

(1) The development schedule, including estimated annual costs until development is completed.

(2) The planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed.

(3) To the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the documents, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

(B) In this paragraph:

(i) The term “most efficient production rate” means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

(ii) The term “minimum sustaining rate” means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

(c) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for that fiscal year has been submitted to Congress, the same documentation requirements shall be applicable to that system in the same manner and to the same extent as if funds had been requested for that system in that budget.

(Added Pub. L. 93-155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 614, §139; amended Pub. L. 94-106, title VIII, §805, Oct. 7, 1975, 89 Stat. 538; Pub. L. 96-513, title V, §511(5), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97-86, title IX, §909(c), Dec. 1, 1981, 95 Stat. 1120; Pub. L. 97-258, §3(b)(1), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98-525, title XIV, §1405(3), Oct. 19, 1984, 98 Stat. 2621; renumbered §2431 and amended Pub. L. 99-433, title I, §§101(a)(5), 110(d)(12), (g)(6), Oct. 1, 1986, 100 Stat. 995, 1003,