

Pub. L. 98-94, title XI, §1235, Sept. 24, 1983, 97 Stat. 695; as amended by Pub. L. 98-525, title II, §205, Oct. 19, 1984, 98 Stat. 2509.

EAST COAST TRIDENT BASE AND MX MISSILE SYSTEM SITES; USE OF FUNDS APPROPRIATED TO DEPARTMENT OF DEFENSE; ASSISTANCE TO NEARBY COMMUNITIES TO HELP MEET COSTS OF INCREASED MUNICIPAL SERVICES

Pub. L. 96-418, title VIII, §802, Oct. 10, 1980, 94 Stat. 1775, as amended by Pub. L. 97-99, title IX, §904(b), Dec. 23, 1981, 95 Stat. 1382; Pub. L. 98-115, title VIII, §805, Oct. 11, 1983, 97 Stat. 785; Pub. L. 101-510, div. A, title XIII, §1322(f), Nov. 5, 1990, 104 Stat. 1672, authorized the Secretary of Defense to assist communities located near MX Missile System sites and the East Coast Trident Base, and the States in which such communities were located, in meeting the increased costs of municipal services and facilities resulting from the construction and operation of the MX Missile System or the East Coast Trident Base.

MX MISSILE AND BASING MODE

Pub. L. 96-342, title II, §202, Sept. 8, 1980, 94 Stat. 1079, directed the Secretary of Defense to proceed with the development of the MX missile and a Multiple Protective Structure (MPS) basing mode in order to achieve an Initial Operational Capability not later than Dec. 31, 1986.

DEVELOPMENT OF MX MISSILE SYSTEM

Pub. L. 96-29, title II, §202, June 27, 1979, 93 Stat. 79, directed the Secretary of Defense to proceed with the development of the Multiple Protective Structure (MPS) system concurrently with the development of the MX missile, unless and until the Secretary of Defense certified to the Congress that an alternative basing mode was militarily or technologically superior to, and was more cost effective than, the MPS system or the President informed the Congress that in his view the MPS system was not consistent with United States national security interests.

REPORTS TO CONGRESS OF ACQUISITIONS FOR MAJOR DEFENSE SYSTEMS

Pub. L. 94-106, title VIII, §811, Oct. 7, 1975, 89 Stat. 539, as amended by Pub. L. 96-107, title VIII, §809, Nov. 9, 1979, 93 Stat. 815; Pub. L. 97-86, title IX, §917(e), Dec. 1, 1981, 95 Stat. 1131, which required reports to Congress respecting acquisitions of major defense systems, including total program acquisition unit costs, was repealed by Pub. L. 97-252, title XI, §1107(b), Sept. 8, 1982, 96 Stat. 746, effective Jan. 1, 1983, as provided in section 1107(c) of Pub. L. 97-252, set out as an Effective Date note under section 2432 of this title. See sections 2432 and 2433 of this title.

TRIDENT SUPPORT SITE, BANGOR, WASHINGTON; FINANCIAL AID TO LOCAL COMMUNITIES; REPORTS

Pub. L. 93-552, title VI, §608, Dec. 27, 1974, 88 Stat. 1763, authorized the Secretary of Defense to assist communities located near the TRIDENT Support Site in Bangor, Washington, in meeting the increased costs of municipal services and facilities resulting from the construction and operation of the TRIDENT Weapon System, and directed the Secretary to transmit to the Committees on Armed Services of the Senate and the House of Representatives semiannual reports on such assistance provided during the preceding six-month period.

§ 2431a. Acquisition strategy

(a) **ACQUISITION STRATEGY REQUIRED.**—There shall be an acquisition strategy for each major defense acquisition program, each major automated information system, and each major system approved by a milestone decision authority.

(b) **RESPONSIBLE OFFICIAL.**—For each acquisition strategy required by subsection (a), the Under Secretary of Defense for Acquisition and Sustainment, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program, is responsible for issuing and maintaining the requirements for—

- (1) the content of the strategy; and
- (2) the review and approval process for the strategy.

(c) **CONSIDERATIONS.**—(1) In issuing requirements for the content of an acquisition strategy for a major defense acquisition program, major automated information system, or major system, the Under Secretary, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program, shall ensure that—

(A) the strategy clearly describes the proposed top-level business and technical management approach for the program or system, in sufficient detail to allow the milestone decision authority to assess the viability of the proposed approach, the method of implementing laws and policies, and program objectives;

(B) the strategy contains a clear explanation of how the strategy is designed to be implemented with available resources, such as time, funding, and management capacity;

(C) the strategy is tailored to address program requirements and constraints; and

(D) the strategy considers the items listed in paragraph (2).

(2) Each strategy shall, where appropriate, consider the following:

(A) An approach that delivers required capability in increments, each depending on available mature technology, and that recognizes up front the need for future capability improvements.

(B) Acquisition approach, including industrial base considerations in accordance with section 2440 of this title.

(C) Risk management, including such methods as competitive prototyping at the system, subsystem, or component level.

(D) Business strategy, including measures to ensure competition at the system and subsystem level throughout the life-cycle of the program or system in accordance with section 2337 of this title.

(E) Contracting strategy, including—

(i) contract type and how the type selected relates to level of program risk in each acquisition phase;

(ii) how the plans for the program or system to reduce risk enable the use of fixed-price elements in subsequent contracts and the timing of the use of those fixed price elements;

(iii) market research; and

(iv) consideration of small business participation.

(F) Intellectual property strategy in accordance with section 2320 of this title.

(G) International involvement, including foreign military sales and cooperative oppor-

tunities, in accordance with section 2350a of this title.

(H) Multiyear procurement in accordance with section 2306b of this title.

(I) Integration of current intelligence assessments into the acquisition process.

(J) Requirements related to logistics, maintenance, and sustainment in accordance with sections 2464 and 2466 of this title.

(d) REVIEW.—(1) The milestone decision authority shall review and approve, as appropriate, the acquisition strategy for a major defense acquisition program, major automated information system, or major system at each of the following times:

(A) Milestone A approval.

(B) The decision to release the request for proposals for development of the program or system.

(C) Milestone B approval.

(D) Each subsequent milestone.

(E) Review of any decision to enter into full-rate production.

(F) When there has been—

(i) a significant change to the cost of the program or system;

(ii) a critical change to the cost of the program or system;

(iii) a significant change to the schedule of the program or system; or

(iv) a significant change to the performance of the program or system.

(G) Any other time considered relevant by the milestone decision authority.

(2) If the milestone decision authority revises an acquisition strategy for a program or system because of a change described in paragraph (1)(F), the milestone decision authority shall provide notice of the revision to the congressional defense committees.

(e) DEFINITIONS.—In this section:

(1) The term “major defense acquisition program” has the meaning provided in section 2430 of this title.

(2) The term “major system” has the meaning provided in section 2302(5) of this title.

(3) The term “Milestone A approval” means a decision to enter into technology maturation and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(4) The term “Milestone B approval” has the meaning provided in section 2366(e)(7) of this title.

(5) The term “milestone decision authority”, with respect to a major defense acquisition program, major automated information system, or major system, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program or system, including authority to approve entry of the program or system into the next phase of the acquisition process.

(6) The term “management capacity”, with respect to a major defense acquisition program, major automated information system, or major system, means the capacity to manage the program or system through the use of

highly qualified organizations and personnel with appropriate experience, knowledge, and skills.

(7) The term “significant change to the cost”, with respect to a major defense acquisition program or major system, means a significant cost growth threshold, as that term is defined in section 2433(a)(4) of this title.

(8) The term “critical change to the cost”, with respect to a major defense acquisition program or major system, means a critical cost growth threshold, as that term is defined in section 2433(a)(5) of this title.

(9) The term “significant change to the schedule”, with respect to a major defense acquisition program, major automated information system, or major system, means any schedule delay greater than six months in a reported event.

(Added Pub. L. 114-92, div. A, title VIII, § 821(a)(1), Nov. 25, 2015, 129 Stat. 897; amended Pub. L. 114-328, div. A, title VIII, § 848, Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115-91, div. A, title X, § 1081(a)(39), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116-92, div. A, title IX, § 902(70), Dec. 20, 2019, 133 Stat. 1551.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1847(b)(1)(A), Jan. 1, 2021, 134 Stat. 4151, 4253, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 322 of this title, as added by section 1847(a) of Pub. L. 116-283, inserted after the table of sections at the beginning of subchapter I, and redesignated as section 4211 of this title. See Effective Date of 2021 Amendment note below.

AMENDMENTS

2019—Subsec. (b). Pub. L. 116-92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics” in introductory provisions.

2017—Subsec. (d)(1). Pub. L. 115-91 inserted “(1)” before “The milestone”.

2016—Subsec. (b). Pub. L. 114-328, § 848(1), in introductory provisions, inserted “, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program,” after “the Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Subsec. (c)(1). Pub. L. 114-328, § 848(2)(A), in introductory provisions, inserted “, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program,” after “the Under Secretary”.

Subsec. (c)(2)(C). Pub. L. 114-328, § 848(2)(B), struck out “, in accordance with section 2431b of this title” before period at end.

Subsec. (d). Pub. L. 114-328, § 848(3), substituted “The” for “(1) Subject to the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the” and, in par. (2), inserted “because of a change described in paragraph (1)(F)” after “for a program or system”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of

Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 2431b. Risk management and mitigation in major defense acquisition programs and major systems

(a) REQUIREMENT.—The Secretary of Defense shall ensure that the initial acquisition strategy (required under section 2431a of this title) approved by the milestone decision authority and any subsequent revisions include the following:

(1) A comprehensive approach for managing and mitigating risk (including technical, cost, and schedule risk) during each of the following periods or when determined appropriate by the milestone decision authority:

(A) The period preceding engineering manufacturing development, or its equivalent.

(B) The period preceding initial production.

(C) The period preceding full-rate production.

(2) An identification of the major sources of risk in each of the periods listed in paragraph (1) to improve programmatic decisionmaking and appropriately minimize and manage program concurrency.

(b) APPROACH TO MANAGE AND MITIGATE RISKS.—The comprehensive approach to manage and mitigate risk included in the acquisition strategy for purposes of subsection (a)(1) shall, at a minimum, include consideration of risk mitigation techniques such as the following:

(1) Prototyping (including prototyping at the system, subsystem, or component level and competitive prototyping, where appropriate) and, if prototyping at either the system, subsystem, or component level is not used, an explanation of why it is not appropriate.

(2) Modeling and simulation, the areas that modeling and simulation will assess, and identification of the need for development of any new modeling and simulation tools in order to support the comprehensive strategy.

(3) Technology demonstrations and decision points for disciplined transition of planned technologies into programs or the selection of alternative technologies.

(4) Multiple design approaches.

(5) Alternative designs, including any designs that meet requirements but do so with reduced performance.

(6) Phasing of program activities or related technology development efforts in order to address high-risk areas as early as feasible.

(7) Manufacturability and industrial base availability.

(8) Independent risk element assessments by outside subject matter experts.

(9) Schedule and funding margins for identified risks.

(c) PREFERENCE FOR PROTOTYPING.—To the maximum extent practicable and consistent with the economical use of available financial resources, the milestone decision authority for each major defense acquisition program shall ensure that the acquisition strategy for the program provides for—

(1) the production of competitive prototypes at the system or subsystem level before Milestone B approval; or

(2) if the production of competitive prototypes is not practicable, the production of single prototypes at the system or subsystem level.

(d) DEFINITIONS.—

(1) CONCURRENCY.—The term “concurrency” means, with respect to an acquisition strategy, the combination or overlap of program phases or activities.

(2) MAJOR DEFENSE ACQUISITION PROGRAM AND MAJOR SYSTEM.—The terms “major defense acquisition program” and “major system” have the meanings provided in section 2431a of this title.

(Added Pub. L. 114-92, div. A, title VIII, § 822(a)(1), Nov. 25, 2015, 129 Stat. 900; amended Pub. L. 114-328, div. A, title X, § 1081(a)(7), Dec. 23, 2016, 130 Stat. 2417.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§ 1801(d), 1847(b)(3), Jan. 1, 2021, 134 Stat. 4151, 4254, provided that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 322 of this title, as added by section 1847(a) of Pub. L. 116-283, inserted after section 4211, and redesignated as section 4212 of this title. See Effective Date of 2021 Amendment note below.

AMENDMENTS

2016—Subsec. (d). Pub. L. 114-328 amended subsec. (d) generally. Prior to amendment, subsec. (d) defined terms “major defense acquisition program” and “major system”.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 2432. Selected Acquisition Reports

(a) In this section:

(1) The term “program acquisition unit cost”, with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

(2) The term “procurement unit cost”, with respect to a major defense acquisition program, means the amount equal to (A) the total of all funds programmed to be available for obligation for procurement for the program, divided by (B) the number of fully-configured end items to be procured.

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

(4) The term “full life-cycle cost”, with respect to a major defense acquisition program,