

Subsec. (b). Pub. L. 116-283, §1811(g)(2), (4), redesignated subsec. (a)(2) as (b), inserted subsec. heading, redesignated subpar. (A) as par. (1), inserted par. heading, and substituted “paragraph (2)” for “subparagraph (B)”, and redesignated subpar. (B) and its cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively, inserted par. heading, and substituted “paragraph (1)” for “subparagraph (A)” in introductory provisions.

Subsec. (c). Pub. L. 116-283, §1811(g)(2), (5), redesignated subsec. (a)(3) as (c), inserted heading, and substituted “subsections (a) and (b)” for “paragraphs (1) and (2)”.

Subsec. (d). Pub. L. 116-283, §1811(g)(2), (6), redesignated subsec. (a)(4) as (d), inserted subsec. heading, and substituted “subsection (a)(2) or (b)(2)” for “paragraph (1)(B) or (2)(B)” in introductory provisions; redesignated subpar. (A) and its cls. (i) and (ii) as par. (1) and subpars. (A) and (B), respectively, inserted par. heading, and realigned margins; and redesignated subpar. (B) as par. (2), inserted heading, realigned margin, and substituted “subsection (a)(2) or (b)(2)” for “paragraph (1)(B) or (2)(B)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section and 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 an Effective Date of 2021 Amendment note preceding section 3001 of this title.

CHAPTER 222—INDEPENDENT COST ESTIMATION AND COST ANALYSIS

Sec. ¹	
3221.	Director of Cost Assessment and Program Evaluation.
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§ 3221. Director of Cost Assessment and Program Evaluation

(a) IN GENERAL.—The Director of Cost Assessment and Program Evaluation shall ensure that the cost estimation and cost analysis processes of the Department of Defense provide accurate information and realistic estimates of cost for the acquisition programs of the Department of Defense.

(b) FUNCTIONS.—In carrying out the responsibility of the Director under subsection (a), the Director shall—

(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of cost estimation and cost analysis for the acquisition programs of the Department of Defense;

(2) with respect to cost estimation in the Department of Defense in general and with respect to specific cost estimates and cost analyses to be conducted in connection with a

major defense acquisition program or major subprogram under chapters 321, 324, and 325, subchapter I of chapter 322, and sections 3042, 4232, 4273, 4293, 4321, 4323, and 4328 of this title, provide guidance to and consult with—

(A) the Secretary of Defense;

(B) the Under Secretary of Defense for Acquisition and Sustainment;

(C) the Under Secretary of Defense (Comptroller);

(D) the Secretaries of the military departments; and

(E) the heads of the Defense Agencies;

(3) issue guidance relating to the proper discussion of risk in cost estimates generally, and specifically, for the proper discussion of risk in cost estimates for major defense acquisition programs and major subprograms;

(4) issue guidance relating to full consideration of life-cycle management and sustainability costs in major defense acquisition programs and major subprograms;

(5) review all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major subprograms;

(6) conduct or approve independent cost estimates and cost analyses for all major defense acquisition programs and major subprograms—

(A) in advance of—

(i) any decision to grant milestone approval pursuant to section 4251 or 4252 of this title;

(ii) any decision to enter into low-rate initial production or full-rate production;

(iii) any certification under section 4376 of this title; and

(iv) any report under section 2445c(f)¹ of this title; and

(B) at any other time considered appropriate by the Director, upon the request of the Under Secretary of Defense for Acquisition and Sustainment, or upon the request of the milestone decision authority;

(7) periodically assess and update the cost indexes used by the Department to ensure that such indexes have a sound basis and meet the Department’s needs for realistic cost estimation; and

(8) annually review the cost and associated information required to be included, by section 4351(c)(1) of this title, in the Selected Acquisition Reports required by that section.

(c) STAFF.—The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation has sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director under this chapter.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1812(a), (b), Jan. 1, 2021, 134 Stat. 4174; Pub. L. 117-81, div. A, title XVII, §1701(c)(1), (d)(5), (o)(6)(A)(i), Dec. 27, 2021, 135 Stat. 2135, 2136, 2147.)

¹ Editorially supplied.

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 2445c of this title, referred to in subsec. (b)(6)(A)(iv), was repealed by Pub. L. 114-328, div. A, title VIII, § 846(1), Dec. 23, 2016, 130 Stat. 2292.

CODIFICATION

The text of subsec. (a) of section 2334 of this title, which was transferred to this section, redesignated as subsecs. (a) and (b), and amended by Pub. L. 116-283, § 1812(b)(1), (2), was based on Pub. L. 111-23, title I, § 101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 113-66, div. A, title VIII, § 812(c)(1), Dec. 26, 2013, 127 Stat. 808; Pub. L. 114-92, div. A, title VIII, § 824(b), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114-328, div. A, title VIII, §§ 842(a)(1), (2), (b)(1), (2), 846(3), Dec. 23, 2016, 130 Stat. 2288, 2289, 2292; Pub. L. 115-91, div. A, title X, § 1081(a)(31), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116-92, div. A, title IX, § 902(53), Dec. 20, 2019, 133 Stat. 1549.

The text of subsec. (h) of section 2334 of this title, which was transferred to this section, redesignated as subsec. (c), and amended by Pub. L. 116-283, § 1812(b)(3), was based on Pub. L. 111-23, title I, § 101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114-92, div. A, title X, § 1077(a), Nov. 25, 2015, 129 Stat. 998; Pub. L. 114-328, div. A, title VIII, § 842(a)(3), Dec. 23, 2016, 130 Stat. 2288.

PRIOR PROVISIONS

A prior section 3221, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, related to authorized strength of Army Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§ 1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12001 of this title.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, § 1812(b)(1), transferred subsec. (a) of section 2334 of this title to this section.

Subsec. (b). Pub. L. 116-283, § 1812(b)(1), (2)(A), designated second sentence of subsec. (a) as (b), inserted heading, and substituted “In carrying out the responsibility of the Director under subsection (a),” for “In carrying out that responsibility,” in introductory provisions.

Subsec. (b)(2). Pub. L. 117-81, § 1701(d)(5), in introductory provisions, substituted “chapters 321, 324, and 325, subchapter I of chapter 322, and sections 3042, 4232, 4273, 4293, 4321, 4323, and 4328” for “chapter 144”.

Pub. L. 116-283, § 1812(b)(2)(B), struck out “provide guidance to and consult with the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Under Secretary of Defense (Comptroller), the Secretaries of the military departments, and the heads of the Defense Agencies” before “with respect to cost estimation” and substituted “of this title, provide guidance to and consult with—” and subpars. (A) to (E) for “of this title;”.

Subsec. (b)(6)(A)(i). Pub. L. 116-283, § 1812(b)(2)(C)(i), substituted “section 4251 or 4252” for “section 2366a or 2366b”.

Subsec. (b)(6)(A)(iii). Pub. L. 116-283, § 1812(b)(2)(C)(ii), substituted “section 4376” for “section 2433a”.

Subsec. (b)(8). Pub. L. 116-283, § 1812(b)(2)(D), as amended by Pub. L. 117-81, § 1701(o)(6)(A)(i), substituted “section 4351(c)(1)” for “section 2432(c)(1)”.

Subsec. (c). Pub. L. 117-81, § 1701(c)(1), substituted “under this chapter” for “under this section”.

Pub. L. 116-283, § 1812(b)(3), redesignated subsec. (h) of section 2334 of this title as subsec. (c) of this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by section 1701(c)(1), (d)(5) of Pub. L. 117-81 to take effect immediately after the amendments made by title XVIII of Pub. L. 116-283 have taken effect, see section 1701(a)(3) of Pub. L. 117-81, set out in

a note preceding section 3001 of this title and Effective Date note below.

Amendment by section 1701(o)(6)(A)(i) of Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set out in a note preceding section 3001 of this title and Effective Date note below.

EFFECTIVE DATE

Section and 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 an Effective Date of 2021 Amendment note preceding section 3001 of this title.

§ 3222. Independent cost estimate required before approval

(a) REQUIREMENT.— A milestone decision authority may not approve entering a milestone phase of a major defense acquisition program or major subprogram unless an independent cost estimate has been conducted or approved by the Director of Cost Assessment and Program Evaluation and considered by the milestone decision authority that—

(1) for the technology maturation and risk reduction phase, includes the identification and sensitivity analysis of key cost drivers that may affect life-cycle costs of the program or subprogram; and

(2) for the engineering and manufacturing development phase, or production and deployment phase, includes a cost estimate of the full life-cycle cost of the program or subprogram.

(b) REGULATIONS.—The regulations governing the content and submission of independent cost estimates required by section 3221 of this title shall require that the independent cost estimate of the full life-cycle cost of a program or subprogram include—

(1) all costs of development, procurement, military construction, operations and support, and trained manpower to operate, maintain, and support the program or subprogram upon full operational deployment, without regard to funding source or management control; and

(2) an analysis to support decisionmaking that identifies and evaluates alternative courses of action that may reduce cost and risk, and result in more affordable programs and less costly systems.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1812(a), (c), Jan. 1, 2021, 134 Stat. 4174, 4175.)

Editorial Notes

CODIFICATION

The text of subsec. (b) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1812(c), was based on Pub. L. 114-328, div. A, title VIII, § 842(a)(4), Dec. 23, 2016, 130 Stat. 2288.

PRIOR PROVISIONS

A prior section 3222, act Aug. 10, 1956, ch. 1041, 70A Stat. 176; Pub. L. 96-513, title V, § 502(7), Dec. 12, 1980, 94 Stat. 2909, related to authorized strength of Army Reserve, exclusive of members on active duty, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§ 1662(a)(3), 1691, Oct. 5, 1994, 108 Stat. 2988, 3026, effective Dec. 1, 1994. See section 12002(a) of this title.