

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 (b)(6)(A)(iv), was repealed by Pub.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.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, § 1812(c)(1), (2)(A), (D), redesignated subsec. (b) of section 2334 of this title as subsec. (a) of this section, substituted “Requirement” for “Independent Cost Estimate Required Before Approval” in heading, struck out par. (1) designation before “A milestone”, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 116-283, § 1812(c)(2)(B)–(D), redesignated subsec. (a)(2) as (b), inserted heading, substituted “section 3221 of this title” for “subsection (a)” in introductory provisions, and redesignated subpars. (A) and (B) as pars. (1) and (2), respectively.

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.

§ 3223. Director: review of cost estimates, cost analyses, and records of the military departments and Defense Agencies

The Secretary of Defense shall ensure that the Director of Cost Assessment and Program Evaluation—

(1) promptly receives the results of all cost estimates and cost analyses conducted by the military departments and Defense Agencies, and all studies conducted by the military departments and Defense Agencies in connection with such cost estimates and cost analyses, for major defense acquisition programs and major subprograms of the military departments and Defense Agencies; and

(2) has timely access to any records and data in the Department of Defense (including the records and data of each military department and Defense Agency and including classified and proprietary information) that the Director considers necessary to review in order to carry out any duties under this chapter.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1812(a), (d), Jan. 1, 2021, 134 Stat. 4174, 4175; Pub. L. 117-81, div. A, title XVII, § 1701(c)(2), Dec. 27, 2021, 135 Stat. 2136.)

Editorial Notes

CODIFICATION

The text of subsec. (c) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1812(d), was based on Pub. L. 111-23, title I, § 101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114-328, div. A, title VIII, § 842(a)(3), (b)(2), Dec. 23, 2016, 130 Stat. 2288, 2289.

PRIOR PROVISIONS

A prior section 3223, act Aug. 10, 1956, ch. 1041, 70A Stat. 176, related to authorized strength of Army Reserve in warrant officers, 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 12008 of this title.

AMENDMENTS

2021—Pub. L. 116-283, § 1812(d), transferred subsec. (c) of section 2334 of this title to this section and struck out subsec. (c) designation and heading “Review of Cost Estimates, Cost Analyses, and Records of the Military Departments and Defense Agencies” at beginning.

Par. (2). Pub. L. 117-81 substituted “under this chapter” for “under this section”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by 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.

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.

§ 3224. Director: participation, concurrence, and approval in cost estimation

The Director of Cost Assessment and Program Evaluation may—

(1) participate in the discussion of any discrepancies between an independent cost estimate and the cost estimate of a military department or Defense Agency for a major defense acquisition program or major subprogram of the Department of Defense;

(2) comment on deficiencies in the methodology or execution of any cost estimate or cost analysis developed by a military department or Defense Agency for a major defense acquisition program or major subprogram;

(3) concur in the choice of a cost estimate within the baseline description or any other cost estimate (including the discussion of risk for any such cost estimate) for use at any event specified in section 3221(b)(6) of this title; and

(4) participate in the consideration of any decision to request authorization of a multiyear procurement contract for a major defense acquisition program or major subprogram.

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

Editorial Notes

CODIFICATION

The text of subsec. (d) of section 2334 of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1812(e), was based on Pub. L. 111-23, title I, § 101(b)(1), May 22, 2009, 123 Stat. 1706; Pub. L. 114-328, div. A, title VIII, § 842(a)(3), (5), (b)(3), (4), Dec. 23, 2016, 130 Stat. 2288-2290.

PRIOR PROVISIONS

A prior section 3224, act Aug. 10, 1956, ch. 1041, 70A Stat. 177, related to authorized strength of Army National Guard of United States, 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—Pub. L. 116-283, § 1812(e)(1), (2)(A), transferred subsec. (d) of section 2334 of this title to this section and struck out subsec. (d) designation and heading “Participation, Concurrence, and Approval in Cost Estimation” at beginning.