

sustainment of a major weapon system” for “or for the production of a major weapon system” and “, production, or sustainment” for “or production”.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE

Pub. L. 115-91, div. A, title VIII, §835(a)(3), Dec. 12, 2017, 131 Stat. 1471, provided that: “Section 2439 of title 10, United States Code [now 10 U.S.C. 4236], as added by paragraph (1), shall apply with respect to any contract for engineering and manufacturing development of a major weapon system, or for the production of a major weapon system, for which the contract solicitation is issued on or after the date occurring one year after the date of the enactment of this Act [Dec. 12, 2017].”

SUBCHAPTER III—MILESTONES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

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§ 4251. Major defense acquisition programs: determination required before Milestone A approval

(a) RESPONSIBILITIES.—Before granting Milestone A approval for a major defense acquisition program or a major subprogram, the milestone decision authority for the program or subprogram shall ensure that—

(1) information about the program or subprogram is sufficient to warrant entry of the program or subprogram into the risk reduction phase;

(2) the Secretary of the military department concerned and the Chief of the armed force concerned concur in the cost, schedule, technical feasibility, and performance trade-offs that have been made with regard to the program; and

(3) there are sound plans for progression of the program or subprogram to the development phase.

(b) WRITTEN DETERMINATION REQUIRED.—A major defense acquisition program or subprogram may not receive Milestone A approval or otherwise be initiated prior to Milestone B approval until the milestone decision authority determines in writing, after consultation with the Joint Requirements Oversight Council on matters related to program requirements and military needs—

(1) that the program fulfills an approved initial capabilities document;

(2) that the program has been developed in light of appropriate market research;

(3) if the program duplicates a capability already provided by an existing system, the du-

plication provided by such program is necessary and appropriate;

(4) that, with respect to any identified areas of risk, including risks determined by the identification of critical technologies required under section 4272(a)(1) of this title or any other risk assessment, there is a plan to reduce the risk;

(5) that planning for sustainment has been addressed and that a determination of applicability of core logistics capabilities requirements has been made;

(6) that an analysis of alternatives has been performed consistent with study guidance developed by the Director of Cost Assessment and Program Evaluation;

(7) that a cost estimate for the program has been submitted, with the concurrence of the Director of Cost Assessment and Program Evaluation, and that the level of resources required to develop, procure, and sustain the program is sufficient for successful program execution;

(8) that, with respect to a program initiated after January 1, 2019, technology shall be developed in the program (after Milestone A approval) only if the milestone decision authority determines with a high degree of confidence that such development will not delay the fielding target of the program, or, if the milestone decision authority does not make such determination for a major system component being developed under the program, the milestone decision authority ensures that the technology related to the major system component shall be sufficiently matured and demonstrated in a relevant environment (after Milestone A approval) separate from the program using the prototyping authorities in subchapter II of chapter 327 of this title or other authorities, as appropriate, and have an effective plan for adoption or insertion by the relevant program; and

(9) that the program or subprogram meets any other considerations the milestone decision authority considers relevant.

(c) SUBMISSIONS TO CONGRESS ON MILESTONE A.—

(1) BRIEF SUMMARY REPORT.—Not later than 15 days after granting Milestone A approval for a major defense acquisition program, the milestone decision authority for the program shall provide to the congressional defense committees and, in the case of intelligence or intelligence-related activities, the congressional intelligence committees a brief summary report that contains the following elements:

(A) The program cost and fielding targets established under section 4271(a) of this title.

(B) The estimated cost and schedule for the program established by the military department concerned, including—

(i) the dollar values estimated for the program acquisition unit cost and total life-cycle cost; and

(ii) the planned dates for each program milestone and initial operational capability.

(C) The independent estimated cost for the program established pursuant to section