

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. 108-136, div. A, title VIII, §822(c), Nov. 24, 2003, 117 Stat. 1547, provided that: “Section 2436 of title 10, United States Code [now 10 U.S.C. 4293], as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 18-month period beginning on the date of the enactment of this Act [Nov. 24, 2003].”

REGULATIONS

Pub. L. 108-136, div. A, title VIII, §822(b), Nov. 24, 2003, 117 Stat. 1547, provided that:

“(1) The Secretary of Defense shall prescribe regulations as necessary to carry out section 2436 of title 10, United States Code [now 10 U.S.C. 4293], as added by this section.

“(2) The Secretary may prescribe interim regulations as necessary to carry out such section. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this paragraph that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of section 2436 of title 10, United States Code [now 10 U.S.C. 4293] [see Effective Date note above], as added by this section.”

CHAPTER 323—LIFE-CYCLE AND SUSTAINMENT

Sec.	
4321.	Development of major defense acquisition programs: sustainment of system to be replaced.
4322.	[Reserved].
4323.	Sustainment reviews.
4324.	Life-cycle management and product support.
4325.	Major weapon systems: assessment, management, and control of operating and support costs.
4326.	[Reserved].
4327.	[Reserved].
4328.	Weapon system design: sustainment factors.

Editorial Notes**PRIOR PROVISIONS**

A prior chapter 323 “INNOVATION”, consisting of reserved section 4301, was repealed by Pub. L. 116-283, div. A, title XVIII, §1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, §1701(f)(9), Dec. 27, 2021, 135 Stat. 2140, added item 4324 and struck out former item 4324 “Major systems: life-cycle management and product support”.

Statutory Notes and Related Subsidiaries**STANDARDIZED POLICY GUIDANCE FOR CALCULATING AIRCRAFT OPERATION AND SUSTAINMENT COSTS**

Pub. L. 116-92, div. A, title XVII, §1747, Dec. 20, 2019, 133 Stat. 1847, provided that: “Not later than 270 days after the date of the enactment of this Act [Dec. 20, 2019], the Under Secretary of Defense for Acquisition and Sustainment, in coordination with the Director of Cost Analysis and Program Evaluation and in consultation with the Secretary of each of the military services, shall develop and implement standardized policy

guidance for calculating aircraft operation and sustainment costs for the Department of Defense. Such guidance shall provide for a standardized calculation of—

- “(1) aircraft cost per flying hour;
- “(2) aircraft cost per aircraft tail per year;
- “(3) total cost of ownership per flying hour for aircraft systems;
- “(4) average annual operation and sustainment cost per aircraft; and
- “(5) any other cost metrics the Under Secretary of Defense determines appropriate.”

REQUIREMENTS PRIOR TO LOW-RATE INITIAL PRODUCTION

Pub. L. 112-81, div. A, title VIII, §801(c), Dec. 31, 2011, 125 Stat. 1483, as amended by Pub. L. 112-239, div. A, title III, §322(e)(3), Jan. 2, 2013, 126 Stat. 1695, provided that: “Prior to entering into a contract for low-rate initial production of a major defense acquisition program, the Secretary of Defense shall ensure that the detailed requirements for core logistics capabilities and the associated sustaining workloads required to support such requirements, have been defined.”

ACQUISITION STRATEGIES TO ENSURE COMPETITION THROUGHOUT THE LIFECYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 111-23, title II, §202, May 22, 2009, 123 Stat. 1720, as amended by Pub. L. 112-81, div. A, title VIII, §837, Dec. 31, 2011, 125 Stat. 1509; Pub. L. 112-239, div. A, title VIII, §825, Jan. 2, 2013, 126 Stat. 1833, provided that:

“(a) ACQUISITION STRATEGIES TO ENSURE COMPETITION.—The Secretary of Defense shall ensure that the acquisition strategy for each major defense acquisition program includes—

“(1) measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level (at such tier or tiers as are appropriate) of such program throughout the life-cycle of such program as a means to improve contractor performance; and

“(2) adequate documentation of the rationale for the selection of the subcontract tier or tiers under paragraph (1).

“(b) MEASURES TO ENSURE COMPETITION.—The measures to ensure competition, or the option of competition, for purposes of subsection (a)(1) may include measures to achieve the following, in appropriate cases if such measures are cost-effective:

“(1) Competitive prototyping.

“(2) Dual-sourcing.

“(3) Unbundling of contracts.

“(4) Funding of next-generation prototype systems or subsystems.

“(5) Use of modular, open architectures to enable competition for upgrades.

“(6) Use of build-to-print approaches to enable production through multiple sources.

“(7) Acquisition of complete technical data packages.

“(8) Periodic competitions for subsystem upgrades.

“(9) Licensing of additional suppliers.

“(10) Periodic system or program reviews to address long-term competitive effects of program decisions.

“(c) ADDITIONAL MEASURES TO ENSURE COMPETITION AT SUBCONTRACT LEVEL.—The Secretary shall take actions to ensure competition or the option of competition at the subcontract level on major defense acquisition programs by—

“(1) where appropriate, breaking out a major subsystem, conducting a separate competition for the subsystem, and providing the subsystem to the prime contractor as Government-furnished equipment;

“(2) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems;