

Sec.

**Editorial Notes**

## AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVII, §1701(o)(1)(A), (2)(B), Dec. 27, 2021, 135 Stat. 2146, amended Pub. L. 116–283, div. A, title XVIII, §1849(a), Jan. 1, 2021, 134 Stat. 4259, which added this analysis, by substituting “SELECTED ACQUISITION REPORTS” for “PROGRAM STATUS-SELECTED ACQUISITION REPORTS” in chapter heading, adding item 4351, and striking out what would have been items 4350 to 4358. Amendment by section 1701(o)(2)(B) of Pub. L. 117–81, which directed amendment of the text inserted by section 1849 of Pub. L. 116–283, was executed as if it had referred to the text inserted by section 1849(a) of that Act to reflect the probable intent of Congress.

**[§ 4350. Omitted]****Editorial Notes**

## CODIFICATION

See Codification note set out under section 4351 of this title.

**§ 4351. 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, means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs and any program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than \$1,800,000,000 (based on fiscal year 1990 constant dollars). Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major

defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and during the period since that report there has been—

(A) less than a 15 percent increase in program acquisition unit cost and current procurement unit cost for the program (or for each designated subprogram under the program); and

(B) less than a six-month delay in any program schedule milestone shown in the Selected Acquisition Report.

(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

(i) the program has not entered system development and demonstration;

(ii) a reasonable cost estimate has not been established for such program; and

(iii) the system configuration for such program is not well defined.

(B) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.

(c)(1) Each Selected Acquisition Report for the first quarter for a fiscal year shall include—

(A) the same information, in detailed and summarized form, as is provided in reports submitted under section 4205 of this title;

(B) for each major defense acquisition program or designated major subprogram included in the report—

(i) the Baseline Estimate (as that term is defined in section 4371(a)(4) of this title), along with the associated risk and sensitivity analysis of that estimate;

(ii) the original Baseline Estimate (as that term is defined in section 4214(d)(1) of this title), along with the associated risk and sensitivity analysis of that estimate;

(iii) if the original Baseline Estimate was adjusted or revised pursuant to section 4214(d)(2) of this title, such adjusted or revised estimate, along with the associated risk and sensitivity analysis of that estimate; and

(iv) the primary risk parameters associated with the current procurement cost for the program (as that term is used in section 4355(4)<sup>1</sup> of this title);

(C) a summary of the history of significant developments from the date each major defense acquisition program or designated major subprogram included in the report was first included in a Selected Acquisition Report and program highlights since the last Selected Acquisition Report;

<sup>1</sup> See References in Text note below.

(D) the significant schedule and technical risks for each such program or subprogram, identified at each major milestone and as of the quarter for which the current report is submitted;

(E) the current program acquisition cost and program acquisition unit cost for each such program or subprogram included in the report and the history of those costs from the December 2001 reporting period to the end of the quarter for which the current report is submitted;

(F) the current procurement unit cost for each such program or subprogram included in the report and the history of that cost from the December 2001 reporting period to the end of the quarter for which the current report is submitted;

(G) for each major defense acquisition program that receives Milestone B approval after January 1, 2019, a brief summary description of the key elements of the modular open system approach as defined in section 4401 of this title or, if a modular open system approach was not used, the rationale for not using such an approach; and

(H) such other information as the Secretary of Defense considers appropriate.

(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the information such Committees need to perform their oversight functions. Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.

(3) In addition to the material required by paragraphs (1) and (2), each Selected Acquisition Report for the first quarter of a fiscal year shall include the following:

(A) A full life-cycle cost analysis for each major defense acquisition program and each designated major subprogram included in the report that is in the system development and demonstration stage or has completed that stage. The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.

(B) If the system that is included in that major defense acquisition program has an antecedent system, a full life-cycle cost analysis for that system.

(4) Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected

Acquisition Report, the information described in subsection (e); and

(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

(1) The quantity of items to be purchased under the program.

(2) The program acquisition cost.

(3) The program acquisition unit cost for the program (or for each designated major subprogram under the program).

(4) The current procurement cost for the program.

(5) The current procurement unit cost for the program (or for each designated major subprogram under the program).

(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

(7) The reasons for any significant changes (from the previous Selected Acquisition Report) in the total program cost for development and procurement of the software component of the program or subprogram, schedule milestones for the software component of the program or subprogram, or expected performance for the software component of the program or subprogram that are known, expected, or anticipated by the program manager.

(8) The major contracts under the program and designated major subprograms under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

(9) Program highlights since the last Selected Acquisition Report.

(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 45 days after the end of the fiscal-year quarter.

(g) The requirements of this section with respect to a major defense acquisition program or designated major subprogram shall cease to apply after 90 percent of the items to be delivered to the United States under the program or subprogram (shown as the total quantity of items to be purchased under the program or subprogram in the most recent Selected Acquisition Report) have been delivered or 90 percent of planned expenditures under the program or subprogram have been made.

(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such program and the Secretary of Defense has

decided to proceed to system development and demonstration of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to system development and demonstration if the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

(2) A limited report under this subsection shall include the following:

(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (b)(1) and (b)(3) of section 4205 of this title.

(B) Reasons for any change in the development cost and schedule.

(C) The major contracts under the development program and designated major subprograms under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

(D) Program highlights since the last Selected Acquisition Report.

(E) Other information as the Secretary of Defense considers appropriate.

(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.

(i) FORM OF REPORT.—A Selected Acquisition Report required under this section shall be submitted in unclassified form without any designation relating to dissemination control, but may contain a classified annex.

(j) TERMINATION.—The requirements under this section shall terminate after the final submission covering fiscal year 2023.

(Added Pub. L. 97-252, title XI, § 1107(a)(1), Sept. 8, 1982, 96 Stat. 739, § 139a; amended Pub. L. 98-525, title XII, § 1242(a), Oct. 19, 1984, 98 Stat. 2606; Pub. L. 99-145, title XII, § 1201, Nov. 8, 1985, 99 Stat. 715; renumbered § 2432 and amended Pub. L. 99-433, title I, §§ 101(a)(5), 110(d)(13), (g)(7), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99-500, § 101(c) [title X, § 961(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-175, and Pub. L. 99-591, § 101(c) [title X, § 961(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-175; Pub. L. 99-661, div. A, title IX, formerly title IV, § 961(a), Nov. 14, 1986, 100 Stat. 3955, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-26, § 7(b)(3), (k)(2), Apr. 21, 1987, 101 Stat. 279, 284; Pub. L. 100-180, div. A, title XII, § 1233(a)(1), title XIII, § 1314(a)(1), Dec. 4, 1987, 101 Stat. 1161, 1175; Pub. L. 101-189, div. A, title VIII, § 811(c), Nov. 29, 1989, 103 Stat. 1493; Pub. L. 101-510, div. A, title XIV, §§ 1407(a)-(c), 1484(f)(4), Nov. 5, 1990, 104 Stat. 1681, 1717; Pub. L. 102-25, title VII, § 701(f)(3), Apr. 6, 1991, 105 Stat. 115; Pub. L. 102-190, div. A, title VIII, § 801(b)(2), title X, § 1061(a)(14), Dec. 5, 1991, 105 Stat. 1412, 1473; Pub. L. 102-484, div. A, title VIII, § 817(c), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 103-355, title III, § 3002(a)(1), (b)-(h), Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 104-106, div. A, title XV, § 1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub.

L. 104-201, div. A, title VIII, § 806, Sept. 23, 1996, 110 Stat. 2606; Pub. L. 105-85, div. A, title VIII, § 841(c), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-107, div. A, title VIII, § 821(a), Dec. 28, 2001, 115 Stat. 1181; Pub. L. 108-136, div. A, title X, § 1045(a)(6), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 108-375, div. A, title VIII, § 801(b)(2), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 109-364, div. A, title X, § 1071(g)(10), Oct. 17, 2006, 120 Stat. 2402; Pub. L. 110-417, [div. A], title VIII, § 811(b), Oct. 14, 2008, 122 Stat. 4521; Pub. L. 112-81, div. A, title VIII, § 812, Dec. 31, 2011, 125 Stat. 1491; Pub. L. 113-66, div. A, title VIII, § 812(a), Dec. 26, 2013, 127 Stat. 807; Pub. L. 113-291, div. A, title X, § 1071(g)(2), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114-328, div. A, title VIII, §§ 805(b), 841, Dec. 23, 2016, 130 Stat. 2255, 2288; Pub. L. 116-92, div. A, title VIII, § 830(a), Dec. 20, 2019, 133 Stat. 1492; renumbered § 4351 and amended Pub. L. 116-283, div. A, title XVIII, § 1849(a)-(d), Jan. 1, 2021, 134 Stat. 4259, 4260; Pub. L. 117-81, div. A, title VIII, § 805(a), title XVII, § 1701(o)(1), (3), (4), Dec. 27, 2021, 135 Stat. 1816, 2146, 2147.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 4355(4), referred to in subsec. (c)(1)(B)(iv), probably should be a reference to subsec. (e)(4) of this section. Prior to amendment by Pub. L. 116-283, such reference was to section 2432(e)(4) of this title, which was initially transferred to section 4355(4) of this title but, after amendment by Pub. L. 117-81, § 1701(o)(1)(B), was instead transferred to subsec. (e)(4) of this section.

##### CODIFICATION

Pub. L. 116-283, § 1849(a)-(l), which had initially directed the enactment of sections 4350 to 4358 of this title, the transfers of various subsections of section 2432 of this title to those new sections, and the subsequent repeal of section 2432, was amended by Pub. L. 117-81, § 1701(o)(1)-(5), by revising subsecs. (a) to (d), striking out subsecs. (e) to (k), and redesignating subsec. (l) as (e). After that amendment, those enactments and transfers were no longer directed. Instead, Pub. L. 116-283, § 1849(b), as amended by Pub. L. 117-81, directed the transfer of section 2432 of this title in its entirety to this section, thereby omitting what would have been sections 4350 and 4352 to 4358 of this title.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

##### AMENDMENTS

2021—Pub. L. 116-283, § 1849(b), as amended by Pub. L. 117-81, § 1701(o)(1)(B), renumbered section 2432 of this title as this section. See Codification note above.

Subsec. (c)(1)(A). Pub. L. 116-283, § 1849(c)(1), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4205” for “section 2431”.

Subsec. (c)(1)(B)(i). Pub. L. 116-283, § 1849(c)(2), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4371(a)(4)” for “section 2433(a)(2)”.

Subsec. (c)(1)(B)(ii). Pub. L. 116-283, § 1849(c)(3), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4214(d)(1)” for “section 2435(d)(1)”.

Subsec. (c)(1)(B)(iii). Pub. L. 116-283, § 1849(c)(4), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4214(d)(2)” for “section 2435(d)(2)”.

Subsec. (c)(1)(B)(iv). Pub. L. 116-283, § 1849(c)(5), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4355(4)” for “section 2432(e)(4)”.

Subsec. (c)(1)(G). Pub. L. 116-283, § 1849(c)(6), as amended by Pub. L. 117-81, § 1701(o)(3), substituted “section 4401” for “section 2446a”.

Subsec. (h)(2)(A). Pub. L. 116-283, § 1849(d), as amended by Pub. L. 117-81, § 1701(o)(4), substituted “section 4205” for “section 2431”.

Subsec. (j). Pub. L. 117-81, §805(a), substituted “fiscal year 2023” for “fiscal year 2021”.

2019—Subsec. (b)(1). Pub. L. 116-92, §830(a)(1), inserted “and any program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than \$1,800,000,000 (based on fiscal year 1990 constant dollars)” after “major defense acquisition programs”.

Subsecs. (i), (j). Pub. L. 116-92, §830(a)(2), added subsecs. (i) and (j).

2016—Subsec. (c)(1)(G), (H). Pub. L. 114-328, §805(b), added subpar. (G) and redesignated former subpar. (G) as (H).

Subsec. (f). Pub. L. 114-328, §841, substituted “30” for “45” before “days after the date”.

2014—Subsec. (c)(1)(E). Pub. L. 113-291, §1071(g)(2), amended Pub. L. 113-66, §812(a)(3)(B). See 2013 Amendment note below.

2013—Subsec. (c)(1)(B) to (D). Pub. L. 113-66, §812(a)(2), added subpars. (B) to (D). Former subpars. (B) to (D) redesignated (E) to (G), respectively.

Subsec. (c)(1)(E). Pub. L. 113-66, §812(a)(3)(B), as amended by Pub. L. 113-291, §1071(g)(2), inserted “program acquisition cost and” after “current” the first place appearing.

Pub. L. 113-66, §812(a)(1), (3)(A), (C), (D), redesignated subpar. (B) as (E) and substituted “such program or subprogram” for “major defense acquisition program or designated major subprogram”, “those costs” for “that cost”, and “December 2001 reporting period” for “date the program or subprogram was first included in a Selected Acquisition Report”.

Subsec. (c)(1)(F). Pub. L. 113-66, §812(a)(1), (4), redesignated subpar. (C) as (F) and substituted “such program or subprogram” for “major defense acquisition program or designated major subprogram” and “December 2001 reporting period” for “date the program or subprogram was first included in a Selected Acquisition Report”.

Subsec. (c)(1)(G). Pub. L. 113-66, §812(a)(1), redesignated subpar. (D) as (G).

2011—Subsec. (f). Pub. L. 112-81 substituted “45 days after the date” for “60 days after the date”.

2008—Subsec. (b)(2)(A). Pub. L. 110-417, §811(b)(1), inserted “for the program (or for each designated subprogram under the program)” after “procurement unit cost”.

Subsec. (c)(1)(B). Pub. L. 110-417, §811(b)(2)(A), inserted “or designated major subprogram” after “for each major defense acquisition program” and “or subprogram” after “the program”.

Subsec. (c)(1)(C). Pub. L. 110-417, §811(b)(2)(B), inserted “or designated major subprogram” after “major defense acquisition program” and “or subprogram” after “the program”.

Subsec. (c)(3)(A). Pub. L. 110-417, §811(b)(2)(C), inserted “and each designated major subprogram” after “for each major defense acquisition program”.

Subsec. (e)(3). Pub. L. 110-417, §811(b)(3)(A), inserted “for the program (or for each designated major subprogram under the program)” before period at end.

Subsec. (e)(5). Pub. L. 110-417, §811(b)(3)(B), inserted “(or for each designated major subprogram under the program)” before period at end.

Subsec. (e)(7). Pub. L. 110-417, §811(b)(3)(C), inserted “or subprogram” after “of the program” wherever appearing.

Subsec. (e)(8). Pub. L. 110-417, §811(b)(3)(D), inserted “and designated major subprograms under the program” after “the program”.

Subsec. (g). Pub. L. 110-417, §811(b)(4), inserted “or designated major subprogram” after “major defense acquisition program” and “or subprogram” after “the program” wherever appearing.

Subsec. (h)(2)(C). Pub. L. 110-417, §811(b)(5), inserted “and designated major subprograms under the program” after “the development program”.

2006—Subsec. (e)(7) to (9). Pub. L. 109-364 made technical correction to directory language of Pub. L. 108-375, §801(b)(2). See 2004 Amendment note below.

2004—Subsec. (e)(7) to (9). Pub. L. 108-375, §801(b)(2), as amended by Pub. L. 109-364, added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

2003—Subsec. (h)(1). Pub. L. 108-136 inserted “program” after “for such” in first sentence.

2001—Subsecs. (b)(3)(A)(i), (c)(3)(A), (h)(1). Pub. L. 107-107 substituted “system development and demonstration” for “engineering and manufacturing development” wherever appearing.

1999—Subsecs. (b)(3)(B), (c)(2), (h)(1). Pub. L. 106-85 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (h)(2)(D) to (F). Pub. L. 105-85 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: “The completion status of the development program expressed—

“(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

“(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.”

1996—Subsec. (b)(3)(B). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (c)(1). Pub. L. 104-201, §806(1), struck out “and” at end of subpar. (B), added subpar. (C), and redesignated former subpar. (C) as (D).

Subsec. (c)(2). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

Subsec. (e)(8), (9). Pub. L. 104-201, §806(2), redesignated par. (9) as (8) and struck out former par. (8) which read as follows: “The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.”

Subsec. (h)(1). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

1994—Subsec. (a)(2). Pub. L. 103-355, §3002(a)(1), struck out “for a fiscal year, reduced by the amount of funds programmed to be available for obligation for such fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year” after “procurement for the program” in cl. (A), “with such funds during such fiscal year” after “procured” in cl. (B), and last sentence which read as follows: “If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.”

Subsec. (a)(3). Pub. L. 103-355, §3002(b), inserted before period at end “and that is not a firm, fixed price contract”.

Subsec. (a)(4). Pub. L. 103-355, §3002(c), substituted “means all costs of development, procurement, military construction, and operations and support, without

regard to funding source or management control.” for “has the meaning given the term ‘cost of the program’ in section 2434(b)(2) of this title.”

Subsec. (b)(3)(A)(i). Pub. L. 103-355, §3002(h)(1), struck out “full scale development or” before “engineering”.

Subsec. (c)(2). Pub. L. 103-355, §3002(d), substituted second sentence for former second sentence which read as follows: “The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.”

Subsec. (c)(3)(A). Pub. L. 103-355, §3002(f)(2), (h)(2), substituted “engineering and manufacturing” for “full-scale engineering” and inserted at end “The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.”

Subsec. (c)(3)(C). Pub. L. 103-355, §3002(e), struck out subpar. (C) which required production information for each major defense acquisition program included in report that is produced at rate of six units or more per year.

Subsec. (c)(5). Pub. L. 103-355, §3002(f)(1), struck out par. (5) which read as follows: “The Secretary of Defense shall ensure that paragraph (4) of subsection (a) is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.”

Subsec. (f). Pub. L. 103-355, §3002(g), struck out last sentence which read as follows: “A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress.”

Subsec. (h)(1). Pub. L. 103-355, §3002(h)(3), substituted “engineering and manufacturing” for “full-scale engineering” in two places.

1992—Subsec. (a)(3). Pub. L. 102-484, §817(c)(1), added par. (3) and struck out former par. (3) which read as follows: “The term ‘major contract’, with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program that is one of the six largest contracts under the program in dollar amount and that is in excess of \$40,000,000.”

Subsec. (b)(3). Pub. L. 102-484, §817(c)(2), added par. (3) and struck out former par. (3) which read as follows: “A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives.”

Subsec. (c)(2). Pub. L. 102-484, §817(c)(3), added sentence at end and struck out former last sentence which read as follows: “A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.”

Subsec. (c)(3)(C)(i) to (vii). Pub. L. 102-484, §817(c)(4), added cls. (i) to (vii) and struck out former cls. (i) to (vii) which contained similar specification and estimation requirements.

1991—Subsec. (a)(4). Pub. L. 102-190, §801(b)(2), substituted “2434(b)(2)” for “2434(c)(2)”.

Subsec. (c)(5). Pub. L. 102-25 substituted “subsection (a)” for “section 2432(a) of title 10, United States Code, as added by subsection (a)(2),”.

Subsec. (h)(2)(A). Pub. L. 102-190, §1061(a)(14), substituted “(b)(1) and (b)(3)” for “(c)(1) and (c)(3)”.

1990—Subsec. (a)(4). Pub. L. 101-510, §1407(b), added par. (4).

Subsec. (c)(3). Pub. L. 101-510, §1484(f)(4)(A), substituted “include the following:” for “include—” in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 101-510, §1407(a), amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: “a full life-cycle cost analysis for each major defense acquisition program included in the report that—

“(i) is in the full-scale engineering development stage or has completed that stage; and

“(ii) was first included in a Selected Acquisition Report for a quarter after the first quarter of fiscal year 1985;”

Subsec. (c)(3)(B). Pub. L. 101-510, §1484(f)(4)(B), (C), substituted “If” for “if” and a period for “; and”.

Subsec. (c)(3)(C). Pub. L. 101-510, §1484(f)(4)(B), (D), substituted “Production” for “production” and “program” the following:” for “program—” in introductory provisions, “Specification” for “specification” in cls. (i) to (iv), “Estimation” for “estimation” in cls. (v) to (vii), a period for a semicolon in cls. (i) to (v), and a period for “; and” in cl. (vi).

Subsec. (c)(5). Pub. L. 101-510, §1407(c), added par. (5). 1989—Subsec. (b)(2)(A). Pub. L. 101-189 substituted “15 percent increase in program acquisition unit cost and current procurement unit cost” for “5 percent change in total program cost”.

1987—Pub. L. 100-180, §1314(a)(1), made technical amendment to directory language of Pub. L. 99-433, §101(a)(5). See 1986 Amendment note below.

Subsec. (a). Pub. L. 100-26, §7(b)(3)(A), as amended by Pub. L. 100-180, §1233(a)(1), redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which defined “major defense acquisition program”.

Pub. L. 100-26, §7(k)(2)(A), inserted “The term” after each par. designation and struck out uppercase letter of first word after first quotation marks in each par. and substituted lowercase letter.

Subsec. (a)(2). Pub. L. 100-26, §7(b)(3)(B), substituted “programmed” for “programed” wherever appearing.

1986—Pub. L. 99-433, §101(a)(5), as amended by Pub. L. 100-180, §1314(a)(1), renumbered section 139a of this title as section 2432.

Pub. L. 99-433, §110(d)(13), struck out “Oversight of cost growth in major programs:” before “Selected Acquisition Reports” in section catchline.

Subsec. (a)(3). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(1)], Pub. L. 99-661, §961(a)(1), amended par. (3) identically, inserting provision that if for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.

Subsec. (a)(4). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(2)], Pub. L. 99-661, §961(a)(2), amended par. (4) identically, substituting “\$40,000,000” for “\$2,000,000”.

Subsec. (b)(2)(B). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(3)], Pub. L. 99-661, §961(a)(3), amended subpar. (B) identically, substituting “six-month” for “three-month”.

Subsec. (c)(1). Pub. L. 99-433, §110(g)(7), substituted “section 2431” for “section 139”.

Subsec. (c)(2). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(4)], Pub. L. 99-661, §961(a)(4), amended subsec. (c) identically, enacting a new par. (2) and striking out former par. (2) which read as follows: “Each Selected Acquisition Report for the first quarter of a fiscal year shall be prepared and submitted with the same content as was used for the Selected Acquisition Report for the first quarter of fiscal year 1984.”

Subsec. (c)(3)(C). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(5)], Pub. L. 99-661, §961(a)(5), amended subpar. (C) identically, inserting in provision preceding cl. (i) “that is produced at a rate of six units or more per year” after “report”.

Subsec. (h). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§961(a)(6)], Pub. L. 99-661, §961(a)(6), amended section identically, adding subsec. (h).

1985—Subsec. (c). Pub. L. 99-145 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Each Selected Acquisition Report for the first quarter of a fiscal year shall include (1) the same information, in detailed and summarized form, as is pro-

vided in reports submitted under section 139 of this title, (2) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (3) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.”

1984—Subsec. (a)(3). Pub. L. 98-525, §1242(a)(1), substituted “funds programed to be available for obligation for procurement” for “procurement funds appropriated” and “of funds programed to be available for obligation” for “of funds appropriated”.

Subsec. (a)(4). Pub. L. 98-525, §1242(a)(2), inserted “and that is in excess of \$2,000,000”.

Subsec. (b)(2). Pub. L. 98-525, §1242(a)(3), substituted “during the period since that report there has been— (A) less than a 5 percent change in total program cost; and (B) less than a three-month delay in any program schedule milestone shown in the Selected Acquisition Report” for “there has been no change in program cost, performance, or schedule since the most recent such report”.

Subsec. (f). Pub. L. 98-525, §1242(a)(4), substituted: “60” for “30”, “45” for “30, and “A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress” for “If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report”.

Subsec. (g). Pub. L. 98-525, §1242(a)(5), added subsec. (g).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by 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.

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 OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(2) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113-66 as enacted.

##### EFFECTIVE DATE OF 2013 AMENDMENT; PHASE-IN OF ADDITIONAL INFORMATION REQUIREMENTS

Pub. L. 113-66, div. A, title VIII, §812(b), Dec. 26, 2013, 127 Stat. 807, provided that: “Section 2432(c)(1) of title 10, United States Code [now 10 U.S.C. 4351(c)(1)], as amended by subsection (a), shall apply to Selected Acquisition Reports after the date of the enactment of this Act [Dec. 26, 2013] as follows:

“(1) For the December 2014 reporting period, to Selected Acquisition Reports for five major defense acquisition programs or designated major subprograms, as determined by the Secretary.

“(2) For the December 2019 reporting period and each reporting period thereafter, to Selected Acquisition Reports for all major defense acquisition programs or designated major subprograms.”

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(10) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

##### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VIII, §801(c), Oct. 28, 2004, 118 Stat. 2004, provided that: “The amendments made by this section [amending this section and former section 2433 of this title] shall take effect on the date occurring 60 days after the date of the enactment of this Act [Oct. 28, 2004], and shall apply with respect to reports due to be submitted to Congress on or after such date.”

##### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-510, div. A, title XIV, §1407(d), Nov. 5, 1990, 104 Stat. 1681, as amended by Pub. L. 102-25, title VII, §704(a)(8), Apr. 6, 1991, 105 Stat. 119, provided that: “The amendments made by subsection (a) [amending this section] shall take effect with respect to Selected Acquisition Reports submitted under section 2432 of title 10, United States Code [now 10 U.S.C. 4351], after December 31, 1991.”

##### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 1233(a)(1) of Pub. L. 100-180 applicable as if included in enactment of the Defense Technical Corrections Act of 1987, Pub. L. 100-26, see section 1233(c) of Pub. L. 100-180, set out as a note under section 101 of this title.

Amendment by section 1314(a)(1) of Pub. L. 100-180 applicable as if included in enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99-433, see section 1314(e) of Pub. L. 100-180, set out as a note under section 743 of this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-500, §101(c) [title X, §961(c)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-176, Pub. L. 99-591, §101(c) [title X, §961(c)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-176, and Pub. L. 99-661, div. A, title IX, formerly title IV, §961(c), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273, provided that: “The amendments made by subsections (a) and (b) [amending this section and former section 2433 of this title] shall take effect on January 1, 1987.”

##### EFFECTIVE DATE

Pub. L. 97-252, title XI, §1107(c), Sept. 8, 1982, 96 Stat. 746, provided that: “Sections 139a [now 10 U.S.C. 4351] and 139b [see 10 U.S.C. 4371 to 4375] of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) [repealing section 811 of Pub. L. 94-106, formerly set out as a Reports to Congress of Acquisitions for Major Defense Systems note under section 2431 of this title] shall take effect on January 1, 1983.”

##### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in this section requiring submittal of reports to Congress, see section 1051(x) of Pub. L. 115-91, set out as a note under section 111 of this title.

##### ANNUAL REPORTING

Pub. L. 114-328, div. A, title VIII, §847(b), Dec. 23, 2016, 130 Stat. 2292, provided that: “The Secretary of Defense shall include in each comprehensive annual Selected Acquisition Report submitted under section 2432 of title 10, United States Code [now 10 U.S.C. 4351], a listing of all programs or projects being developed or procured under the exceptions to the definition of major defense acquisition program set forth in paragraph (2) of section 2430(a) of [title 10,] United States Code [now 10 U.S.C. 4201(b)], as added by subsection (a)(1)(C) of this section.”

##### SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS

Pub. L. 100-180, div. A, title I, §127, Dec. 4, 1987, 101 Stat. 1044, as amended by Pub. L. 102-484, div. A, title VIII, §817(a), Oct. 23, 1992, 106 Stat. 2454, provided that:

“(a) SAR COVERAGE FOR ATB, ACM, AND ATA PROGRAMS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code [now 10 U.S.C. 4351(b)], a Selected Acquisition Report with respect to each program referred to in subsection (b), notwithstanding that such a report would not otherwise be required under section 2432 of title 10, United States Code [now 10 U.S.C. 4351].”

“(b) COVERED PROGRAMS.—Subsection (a) applies to the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program.

“(c) SELECTED ACQUISITION REPORT DEFINED.—As used in subsection (a), the term ‘Selected Acquisition Report’ means a report containing the information referred to in section 2432 of title 10, United States Code [now 10 U.S.C. 4351].”

### [§§ 4352 to 4358. Omitted]

#### Editorial Notes

##### CODIFICATION

See Codification note set out under section 4351 of this title.

### CHAPTER 325—COST GROWTH—UNIT COST REPORTS (NUNN-MCCURDY)

|       |   |
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| Sec.  |   |
| 4371. | Cost growth definitions; applicability of reporting requirements; constant base year dollars.   |
| 4372. | Unit cost reports: quarterly report from program manager to service acquisition executive.  |
| 4373. | Unit cost reports: immediate report from program manager to service acquisition executive upon breach of significant cost growth threshold.   |
| 4374. | Unit cost reports: determinations by service acquisition executive and secretary concerned of breach of significant cost growth threshold or critical cost growth threshold; reports to Congress. |
| 4375. | Breach of significant cost growth threshold or critical cost growth threshold: required action.   |
| 4376. | Breach of critical cost growth threshold: reassessment of program; presumption of program termination.  |
| 4377. | Breach of critical cost growth threshold: actions if program not terminated.  |

#### Editorial Notes

##### PRIOR PROVISIONS

A prior chapter 325 “DEPARTMENT OF DEFENSE LABORATORIES”, consisting of reserved section 4351, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

#### § 4371. Cost growth definitions; applicability of reporting requirements; constant base year dollars

(a) DEFINITIONS.—In this chapter:

(1) PROGRAM ACQUISITION UNIT COST; PROCUREMENT UNIT COST; MAJOR CONTRACT.—Except as provided in section 4203(d) of this title, the terms “program acquisition unit cost”, “procurement unit cost”, and “major contract” have the same meanings as provided in section 4351(a) of this title.

(2) SIGNIFICANT COST GROWTH THRESHOLD.—The term “significant cost growth threshold” means the following:

(A) In the case of a major defense acquisition program or designated major defense subprogram, a percentage increase in the program acquisition unit cost for the program or subprogram of—

(i) at least 15 percent over the program acquisition unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 30 percent over the program acquisition unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(B) In the case of a major defense acquisition program or designated major defense subprogram that is a procurement program, a percentage increase in the procurement unit cost for the program or subprogram of—

(i) at least 15 percent over the procurement unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 30 percent over the procurement unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(3) CRITICAL COST GROWTH THRESHOLD.—The term “critical cost growth threshold” means the following:

(A) In the case of a major defense acquisition program or designated major defense subprogram, a percentage increase in the program acquisition unit cost for the program or subprogram of—

(i) at least 25 percent over the program acquisition unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 50 percent over the program acquisition unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(B) In the case of a major defense acquisition program or designated major defense subprogram that is a procurement program, a percentage increase in the procurement unit cost for the program or subprogram of—

(i) at least 25 percent over the procurement unit cost for the program or subprogram as shown in the current Baseline Estimate for the program or subprogram; or

(ii) at least 50 percent over the procurement unit cost for the program or subprogram as shown in the original Baseline Estimate for the program or subprogram.

(4) BASELINE ESTIMATE.—The term “Baseline Estimate”, with respect to a unit cost report that is submitted under this chapter to the service acquisition executive designated by the Secretary concerned on a major defense acquisition program or designated major subprogram, means the cost estimate included in the baseline description for the program or subprogram under section 4214 of this title.

(5) ORIGINAL BASELINE ESTIMATE.—The term “original Baseline Estimate” has the same