

“(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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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A prior chapter 325 “DEPARTMENT OF DEFENSE LABORATORIES”, consisting of reserved section 4351, was repealed by Pub.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

meaning as provided in section 4214(d) of this title.

(6) **PROCUREMENT PROGRAM.**—The term “procurement program” means a program for which funds for procurement are authorized to be appropriated in a fiscal year.

(b) Reporting under this chapter shall not apply if a program has received a limited reporting waiver under section 4351(h) of this title.

(c) Any determination of a percentage increase under this chapter shall be stated in terms of constant base year dollars (as described in section 4202 of this title).

(Added and amended Pub. L. 116–283, div. A, title XVIII, §1850(a)–(d), Jan. 1, 2021, 134 Stat. 4265, 4266; Pub. L. 117–81, div. A, title XVII, §1701(o)(6)(E)(i), (ii), Dec. 27, 2021, 135 Stat. 2147, 2148.)

Editorial Notes

CODIFICATION

The text of subsec. (a) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116–283, §1850(b)(1), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; Pub. L. 98–525, title XII, §1242(b)(1), Oct. 19, 1984, 98 Stat. 2607; renumbered §2433 and amended Pub. L. 99–433, title I, §§101(a)(5), 110(g)(8)(A), Oct. 1, 1986, 100 Stat. 995, 1004; Pub. L. 100–26, §7(b)(4), (k)(7), Apr. 21, 1987, 101 Stat. 279, 284; Pub. L. 100–180, div. A, title XIII, §1314(a)(1), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title VIII, §811(a)(1), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 102–484, div. A, title VIII, §817(d)(1), Oct. 23, 1992, 106 Stat. 2456; Pub. L. 103–355, title III, §3003(a)(1), Oct. 13, 1994, 108 Stat. 3329; Pub. L. 109–163, div. A, title VIII, §802(a), (d)(2), Jan. 6, 2006, 119 Stat. 3367, 3370; Pub. L. 110–417, [div. A], title VIII, §811(c)(1), Oct. 14, 2008, 122 Stat. 4522; Pub. L. 111–383, div. A, title X, §1075(b)(34), Jan. 7, 2011, 124 Stat. 4371.

The text of subsec. (f) of section 2433 of this title, which was transferred to this section, redesignated subsec. (c) and amended by Pub. L. 116–283, §1850(d), was based on Pub. L. 97–252, title XI, §1107(a)(1), Sept. 8, 1982, 96 Stat. 741, §139b; renumbered §2433, Pub. L. 99–433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; Pub. L. 103–355, title III, §3003(d), Oct. 13, 1994, 108 Stat. 3329.

The text of subsec. (h) of section 2433 of this title, which was transferred to this section, redesignated subsec. (b) and amended by Pub. L. 116–283, §1850(c), was based on Pub. L. 99–500, §101(c) [title X, §961(b)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–176, and Pub. L. 99–591, §101(c) [title X, §961(b)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–176; Pub. L. 99–661, div. A, title IX, formerly title IV, §961(b)(2), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273.

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, §1850(b)(2), inserted subsec. heading and headings in pars. (1) to (6).

Pub. L. 116–283, §1850(b)(1), transferred subsec. (a) of section 2433 of this title to this section and substituted “this chapter” for “this section” in introductory provisions and par. (2).

Subsec. (a)(1). Pub. L. 116–283, §1850(b)(3)(A), as amended by Pub. L. 117–81, §1701(o)(6)(E)(i), substituted “section 4203(d)” for “section 2430a(d)” and “section 4351(a)” for “section 2432(a)”.

Subsec. (a)(2). Pub. L. 116–283, §1850(b)(4), redesignated par. (4) as (2) and transferred it to appear in numerical order. Former par. (2) redesignated (4).

Pub. L. 116–283, §1850(b)(3)(B), substituted “section 4214” for “section 2435”.

Subsec. (a)(3) to (5). Pub. L. 116–283, §1850(b)(4), redesignated pars. (5), (2), and (6) as (3) to (5), respectively,

and transferred them to appear in numerical order. Former pars. (3) and (4) redesignated pars. (6) and (2), respectively.

Subsec. (a)(6). Pub. L. 116–283, §1850(b)(4), redesignated par. (3) as (6) and transferred it to appear in numerical order. Former par. (6) redesignated (5).

Pub. L. 116–283, §1850(b)(3)(C), substituted “section 4214(d)” for “section 2435(d)”.

Subsec. (b). Pub. L. 116–283, §1850(c), as amended by Pub. L. 117–81, §1701(o)(6)(E)(ii), transferred subsec. (h) of section 2433 of this title to this section, redesignated it as subsec. (b), and substituted “under this chapter” for “under this section” and “section 4351(h)” for “section 2432(h)”.

Subsec. (c). Pub. L. 116–283, §1850(d), transferred subsec. (f) of section 2433 of this title to this section, redesignated it as subsec. (c), and substituted “under this chapter” for “under this section” and “section 4202” for “section 2430”.

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.

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.

§ 4372. Unit cost reports: quarterly report from program manager to service acquisition executive

(a) REQUIRED REPORTS.—

(1) **REQUIREMENT.**—The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 4351(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program (or of each designated major subprogram under the program).

(2) **TIME FOR SUBMITTAL.**—Each report shall be submitted not more than 30 calendar days after the end of that quarter.

(b) **MATTER TO BE INCLUDED IN UNIT COST REPORTS.**—The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

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

(2) In the case of a procurement program, the procurement unit cost for the program (or for each designated major subprogram under the program).

(3) Any cost variance or schedule variance in a major contract under the program since the contract was entered into.

(4) Any changes from program schedule milestones or program performances reflected in the baseline description established under section 4214 of this title that are known, ex-