

pected, or anticipated by the program manager.

(5) Any significant changes 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.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1850(a), (e), Jan. 1, 2021, 134 Stat. 4265, 4266; Pub. L. 117-81, div. A, title XVII, §1701(b)(18), (o)(6)(E)(iii), Dec. 27, 2021, 135 Stat. 2135, 2148.)

#### Editorial Notes

##### CODIFICATION

The text of subsec. (b) of section 2433 of this title, which was transferred to this section and redesignated as subsec. (a) by Pub. L. 116-283, §1850(e)(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)(2), Oct. 19, 1984, 98 Stat. 2607; renumbered §2433 and amended Pub. L. 99-433, title I, §§101(a)(5), 110(g)(8)(B), Oct. 1, 1986, 100 Stat. 995, 1004; Pub. L. 99-500, §101(c) [title X, §961(b)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-176, and Pub. L. 99-591, §101(c) [title X, §961(b)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-176; Pub. L. 99-661, div. A, title IX, formerly title IV, §961(b)(1), Nov. 14, 1986, 100 Stat. 3956, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; 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)(2), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 102-484, div. A, title VIII, §817(d)(2), Oct. 23, 1992, 106 Stat. 2456; Pub. L. 103-355, title III, §3003(b), Oct. 13, 1994, 108 Stat. 3329; Pub. L. 108-375, div. A, title VIII, §801(a), Oct. 28, 2004, 118 Stat. 2004; Pub. L. 110-417, [div. A], title VIII, §811(c)(2), Oct. 14, 2008, 122 Stat. 4522.

##### AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, §1850(e)(3), designated first and second sentences as pars. (1) and (2), respectively, and inserted subsec. and par. headings.

Pub. L. 116-283, §1850(e)(2), as amended by Pub. L. 117-81, §1701(b)(18), designated third sentence of subsec. (a) as (b).

Pub. L. 116-283, §1850(e)(1), transferred subsec. (b) of section 2433 of this title to this section and redesignated it as subsec. (a).

Subsec. (a)(1). Pub. L. 116-283, §1850(e)(4)(A), as amended by Pub. L. 117-81, §1701(o)(6)(E)(iii), substituted “section 4351(b)(3)” for “section 2432(b)(3)”.

Subsec. (b). Pub. L. 116-283, §1850(e)(2), as amended by Pub. L. 117-81, §1701(b)(18), designated third sentence of subsec. (a) as (b) and inserted heading.

Subsec. (b)(4). Pub. L. 116-283, §1850(e)(4)(B), substituted “section 4214” for “section 2435”.

#### 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.

#### § 4373. Unit cost reports: immediate report from program manager to service acquisition executive upon breach of significant cost growth threshold

If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under section 4372 of this title determines at any time during a quarter that there is reasonable cause to believe that the program acquisition unit cost for the program (or for a designated major subprogram under the program) or the procurement unit cost for the program (or for such a subprogram), as applicable, has increased by a percentage equal to or greater than the significant cost growth threshold; and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the service acquisition executive designated by the Secretary concerned, then the program manager shall immediately submit to such service acquisition executive a unit cost report containing the information, determined as of the date of the report, required under section 4372 of this title.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1850(a), (f), Jan. 1, 2021, 134 Stat. 4265, 4266.)

#### Editorial Notes

##### CODIFICATION

The text of subsec. (c) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1850(f), 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)(3), Oct. 19, 1984, 98 Stat. 2608; renumbered §2433, Pub. L. 99-433, title I, §101(a)(5), Oct. 1, 1986, 100 Stat. 995; 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)(3), Nov. 29, 1989, 103 Stat. 1490; Pub. L. 101-510, div. A, title XIV, §1484(k)(10), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102-484, div. A, title VIII, §817(d)(3), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103-355, title III, §§3002(a)(2)(A), 3003(a)(2)(A), (c), Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 105-85, div. A, title VIII, §833(a), (b), Nov. 18, 1997, 111 Stat. 1842, 1843; Pub. L. 109-163, div. A, title VIII, §802(b)(1), Jan. 6, 2006, 119 Stat. 3368; Pub. L. 110-417, [div. A], title VIII, §811(c)(3), Oct. 14, 2008, 122 Stat. 4522.

##### AMENDMENTS

2021—Pub. L. 116-283, §1850(f), transferred subsec. (c) of section 2433 of this title to this section, struck out subsec. designation, and substituted “section 4372 of this title” for “subsection (b)” in two places.

#### 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.

#### § 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

(a) DETERMINATION OF BREACH BY SERVICE ACQUISITION EXECUTIVE.—When a unit cost report

is submitted to the service acquisition executive designated by the Secretary concerned under this chapter with respect to a major defense acquisition program or any designated major subprogram under the program, the service acquisition executive shall determine whether the current program acquisition unit cost for the program or subprogram has increased by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program or subprogram.

(b) **ADDITIONAL DETERMINATION BY SERVICE ACQUISITION EXECUTIVE WHEN PROGRAM OR SUBPROGRAM IS A PROCUREMENT PROGRAM.**—When a unit cost report is submitted to the service acquisition executive designated by the Secretary concerned under this chapter with respect to a major defense acquisition program or any designated major subprogram under the program that is a procurement program, the service acquisition executive, in addition to the determination under subsection (a), shall determine whether the procurement unit cost for the program or subprogram has increased by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program or subprogram.

(c) **DETERMINATION OF BREACH BY SECRETARY CONCERNED; NOTIFICATION TO CONGRESS.**—

(1) **IN GENERAL.**—If, based upon the service acquisition executive's determination, the Secretary concerned determines that the current program acquisition unit cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold or that the procurement unit cost has increased by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold, the Secretary shall notify Congress in writing of such determination and of the increase with respect to the program or subprogram concerned.

(2) **TIME FOR SUBMISSION OF NOTIFICATION TO CONGRESS.**—In the case of a determination based on a quarterly report submitted in accordance with section 4372 of this title, the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with section 4373 of this title, the Secretary shall submit the notification to Congress within 45 days after the date of that report.

(3) **INCLUSION OF DATE OF DETERMINATION.**—The Secretary shall include in the notification the date on which the determination was made.

(Added and amended Pub. L. 116-283, div. A, title XVIII, § 1850(a), (g), Jan. 1, 2021, 134 Stat. 4265, 4267.)

### Editorial Notes

#### CODIFICATION

The text of subsec. (d) of section 2433 of this title, which was transferred to this section and amended by Pub. L. 116-283, § 1850(g)(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)(4), Oct. 19, 1984, 98 Stat. 2608; Pub. L. 99-145, title XIII, § 1303(a)(2), Nov. 8,

1985, 99 Stat. 738; renumbered § 2433, Pub. L. 99-433, title I, § 101(a)(5), Oct. 1, 1986, 100 Stat. 995; 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)(4), Nov. 29, 1989, 103 Stat. 1491; Pub. L. 102-484, div. A, title VIII, § 817(d)(4), Oct. 23, 1992, 106 Stat. 2457; Pub. L. 103-355, title III, §§ 3002(a)(2)(B), 3003(a)(2)(B), Oct. 13, 1994, 108 Stat. 3328, 3329; Pub. L. 105-85, div. A, title VIII, § 833(c), Nov. 18, 1997, 111 Stat. 1843; Pub. L. 109-163, div. A, title VIII, § 802(b)(2), Jan. 6, 2006, 119 Stat. 3368; Pub. L. 110-417, [div. A], title VIII, § 811(c)(4), Oct. 14, 2008, 122 Stat. 4523.

#### AMENDMENTS

2021—Pub. L. 116-283, § 1850(g)(1), transferred subsec. (d) of section 2433 of this title to this section, struck out subsec. designation, and redesignated pars. (1) to (3) as subsecs. (a) to (c), respectively.

Subsec. (a). Pub. L. 116-283, § 1850(g)(2), inserted heading and substituted “under this chapter” for “under this section”.

Subsec. (b). Pub. L. 116-283, § 1850(g)(3), inserted heading and substituted “under this chapter” for “under this section” and “subsection (a)” for “paragraph (1)”.

Subsec. (c). Pub. L. 116-283, § 1850(g)(4)(B), which directed amendment of subsec. (c) by designating second sentence as par. (2) and fourth sentence as par. (3), was executed by designating second and third sentences as par. (2) and fourth sentence as par. (3) to reflect the probable intent of Congress.

Pub. L. 116-283, § 1850(g)(4)(A), inserted subsec. heading, designated first sentence as par. (1) and inserted par. heading.

Subsec. (c)(2). Pub. L. 116-283, § 1850(g)(4)(C), inserted heading and substituted “section 4372 of this title” for “subsection (b)” and “section 4373 of this title” for “subsection (c)”.

Subsec. (c)(3). Pub. L. 116-283, § 1850(g)(4)(D), inserted heading.

### 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.

### § 4375. Breach of significant cost growth threshold or critical cost growth threshold: required action

(a) **BREACH OF SIGNIFICANT COST GROWTH THRESHOLD; SUBMISSION OF A SELECTED ACQUISITION REPORT.**—

(1) **GENERAL RULE.**—Except as provided in paragraph (2), whenever the Secretary concerned determines under section 4374 of this title that the program acquisition unit cost or the procurement unit cost of a major defense acquisition program or designated major subprogram has increased by a percentage equal to or greater than the significant cost growth threshold for the program or subprogram, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 4351(e) of this title and shall be submitted in accordance with section 4351(f) of this title.