

Jan. 1, 2021, 134 Stat. 4251; Pub. L. 117–81, div. A, title XVII, § 1701(o)(6)(B)(ii), Dec. 27, 2021, 135 Stat. 2147.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, § 1846(g)(2), substituted “this subpart” for “this chapter” wherever appearing.

Pub. L. 116–283, § 1846(g), renumbered section 2430a of this title as this section.

Subsec. (d). Pub. L. 116–283, § 1846(g)(1), as amended by Pub. L. 117–81, § 1701(o)(6)(B)(ii), substituted “section 4351(a)” for “section 2432(a)” in introductory provisions.

2016—Subsec. (a)(1)(B). Pub. L. 114–328, which directed substitution of “major defense acquisition program requires the delivery of two or more increments or blocks” for “major defense acquisition program to purchase satellites requires the delivery of satellites in two or more increments or blocks” in par. (1)(B), was executed by making the substitution in par. (1)(B) of subsec. (a), to reflect the probable intent of Congress.

2011—Subsec. (a)(1). Pub. L. 112–81 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 111–383 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted “(other than as provided in paragraph (2))” before semicolon in subpar. (A), and added par. (2).

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 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.

§ 4204. Milestone decision authority

(a) SERVICE ACQUISITION EXECUTIVE.—The milestone decision authority for a major defense acquisition program reaching Milestone A after October 1, 2016, shall be the service acquisition executive of the military department that is managing the program, unless the Secretary of Defense designates, under subsection (b), another official to serve as the milestone decision authority.

(b) DESIGNATION OF ALTERNATE MILESTONE DECISION AUTHORITY.—The Secretary of Defense may designate an alternate milestone decision authority for a program with respect to which any of the following applies:

(1) Subject to subsection (f), the Secretary determines that the program is addressing a joint requirement.

(2) The Secretary determines that the program is best managed by a Defense Agency.

(3) The program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under sections 4371 through 4375 of this title.

(4) The program is critical to a major interagency requirement or technology development effort, or has significant international partner involvement.

(5) The Secretary determines that an alternate official serving as the milestone decision

authority will best provide for the program to achieve desired cost, schedule, and performance outcomes.

(c) REVERSION TO SERVICE ACQUISITION EXECUTIVE.—

(1) After designating an alternate milestone decision authority under subsection (b) for a program, the Secretary of Defense may revert the position of milestone decision authority for the program back to the service acquisition executive upon request of the Secretary of the military department concerned. A decision on the request shall be made within 180 days after receipt of the request from the Secretary of the military department concerned.

(2) If the Secretary of Defense denies the request for reversion of the milestone decision authority back to the service acquisition executive, the Secretary shall report to the congressional defense committees on the basis of the Secretary’s decision that an alternate official serving as milestone decision authority will best provide for the program to achieve desired cost, schedule, and performance outcomes. No such reversion is authorized after a program has incurred a unit cost increase greater than the significant cost threshold or critical cost threshold under sections 4371 through 4375 of this title, except in exceptional circumstances.

(d) CERTIFICATIONS RELATING TO PROGRAM REQUIREMENTS AND FUNDING.—For each major defense acquisition program, the Secretary of the military department concerned and the Chief of the armed force concerned shall, in each Selected Acquisition Report required under section 4351 of this title—

(1) certify that program requirements are stable and funding is adequate to meet cost, schedule, and performance objectives for the program; and

(2) identify and report to the congressional defense committees on any increased risk to the program since the last report.

(e) DOCUMENTATION AND OVERSIGHT.—The Secretary of Defense shall review the acquisition oversight process for major defense acquisition programs and shall—

(1) limit outside requirements for documentation to an absolute minimum on those programs where the service acquisition executive of the military department that is managing the program is the milestone decision authority; and

(2) ensure that any policies, procedures, and activities related to oversight efforts conducted outside of the military departments with regard to major defense acquisition programs shall be implemented in a manner that does not unnecessarily increase program costs or impede program schedules.

(Added and amended Pub. L. 116–283, div. A, title XVIII, § 1846(b), (f)(1)–(7), Jan. 1, 2021, 134 Stat. 4248, 4250, 4251; Pub. L. 117–81, div. A, title XVII, § 1701(b)(15)(A), (o)(6)(B)(i), Dec. 27, 2021, 135 Stat. 2134, 2147; Pub. L. 118–159, div. A, title VIII, § 811(c), Dec. 23, 2024, 138 Stat. 1979.)

Editorial Notes

CODIFICATION

The text of subsec. (d) of section 2430 of this title, which was transferred to this section, redesignated as subsecs. (a) to (f) and amended by Pub. L. 116-283, § 1846(f)(1), (5)(B), was based on Pub. L. 114-92, div. A, title VIII, § 825(a), Nov. 25, 2015, 129 Stat. 907; Pub. L. 114-328, div. A, title VIII, § 807(b), Dec. 23, 2016, 130 Stat. 2261.

AMENDMENTS

2024—Subsec. (f). Pub. L. 118-159 struck out subsec. (f). Text read as follows: “The authority of the Secretary of Defense to designate an alternative milestone decision authority for a program with respect to which the Secretary determines that the program is addressing a joint requirement, as set forth in subsection (b)(1), shall apply only for a major defense acquisition program that reaches Milestone A after October 1, 2016, and before October 1, 2019.”

2021—Pub. L. 116-283, § 1846(f)(1), transferred subsec. (d) of section 2430 of this title to this section, struck out subsec. designation, and redesignated pars. (1) to (5) as subsecs. (a) to (d), and (f), respectively.

Subsec. (a). Pub. L. 116-283, § 1846(f)(2), inserted subsec. heading and substituted “under subsection (b)” for “under paragraph (2)”.

Subsec. (b). Pub. L. 116-283, § 1846(f)(3)(A)–(C), inserted subsec. heading, substituted “to which any of the following applies:” for “to which—” in introductory provisions, and redesignated subpars. (A) to (E) as pars. (1) to (5), respectively.

Subsec. (b)(1). Pub. L. 116-283, § 1846(f)(3)(D), (G), substituted “Subject to subsection (f)” for “subject to paragraph (5)” and period for semicolon at end.

Subsec. (b)(2). Pub. L. 116-283, § 1846(f)(3)(F), (G), substituted “The Secretary” for “the Secretary” and period for semicolon at end.

Subsec. (b)(3). Pub. L. 116-283, § 1846(f)(3)(E)–(G), substituted “The program” for “the program”, “sections 4371 through 4375” for “section 2433” and period for semicolon at end.

Subsec. (b)(4). Pub. L. 116-283, § 1846(f)(3)(F), (H), substituted “The program” for “the program” and period at end for “; or”.

Subsec. (b)(5). Pub. L. 116-283, § 1846(f)(3)(F), substituted “The Secretary” for “the Secretary”.

Subsec. (c). Pub. L. 116-283, § 1846(f)(4), inserted subsec. heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, realigned margins, and substituted “under subsection (b)” for “under paragraph (2)” in par. (1) and “sections 4371 through 4375” for “section 2433” in par. (2).

Subsec. (d). Pub. L. 116-283, § 1846(f)(5), as amended by Pub. L. 117-81, § 1701(o)(6)(B)(i), inserted subsec. heading, struck out subpar. (A) designation before “For each”, substituted “under section 4351 of this title—” for “under section 2432 of this title.”, inserted par. (1) designation before “certify that”, substituted “the program; and” for “the program and”, inserted par. (2) designation before “identify and report”, and redesignated subpar. (B) as subsec. (e).

Subsec. (e). Pub. L. 116-283, § 1846(f)(6), as amended by Pub. L. 117-81, § 1701(b)(15)(A), inserted subsec. heading, substituted “programs and shall—” for “programs and shall”, inserted par. (1) designation before “limit outside requirements”, substituted “decision authority; and” for “decision authority and”, and inserted par. (2) designation before “ensure that”.

Pub. L. 116-283, § 1846(f)(5)(B), redesignated subpar. (B) of subsec. (d) as subsec. (e).

Subsec. (f). Pub. L. 116-283, § 1846(f)(7), inserted subsec. heading and substituted “in subsection (b)(1)” for “in paragraph (2)(A)”.

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 note preceding section 3001 of this title.

§ 4205. Weapon systems for which procurement funding requested in budget: development and procurement schedules

(a) The Secretary of Defense shall submit to Congress each calendar year, not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, budget justification documents regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of this title, and for which any funds for procurement are requested in that budget. The documents shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual documents required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) Any documents required to be submitted under subsection (a) shall include detailed and summarized information with respect to each weapon system covered and shall specifically include each of the following:

(1) The development schedule, including estimated annual costs until development is completed.

(2) The planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed.

(3) To the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the documents, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

(B) In this paragraph:

(i) The term “most efficient production rate” means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

(ii) The term “minimum sustaining rate” means the production rate for each budget