

tion and risk reduction pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

(2) The term “Milestone B approval” has the meaning provided in section 4172(e)(7) of this title.

(3) The term “milestone decision authority”, with respect to a major defense acquisition program or major system, means the official within the Department of Defense designated with the overall responsibility and authority for acquisition decisions for the program or system, including authority to approve entry of the program or system into the next phase of the acquisition process.

(4) The term “management capacity”, with respect to a major defense acquisition program or major system, means the capacity to manage the program or system through the use of highly qualified organizations and personnel with appropriate experience, knowledge, and skills.

(5) The term “significant change to the cost”, with respect to a major defense acquisition program or major system, means a significant cost growth threshold, as that term is defined in section 4371(a)(2) of this title.

(6) The term “critical change to the cost”, with respect to a major defense acquisition program or major system, means a critical cost growth threshold, as that term is defined in section 4371(a)(3) of this title.

(7) The term “significant change to the schedule”, with respect to a major defense acquisition program or major system, means any schedule delay greater than six months in a reported event.

(Added Pub. L. 114–92, div. A, title VIII, § 821(a)(1), Nov. 25, 2015, 129 Stat. 897, § 2431a; amended Pub. L. 114–328, div. A, title VIII, § 848, Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115–91, div. A, title X, § 1081(a)(39), Dec. 12, 2017, 131 Stat. 1596; Pub. L. 116–92, div. A, title IX, § 902(70), Dec. 20, 2019, 133 Stat. 1551; renumbered § 4211 and amended Pub. L. 116–283, div. A, title XVIII, § 1847(b)(1), (2), Jan. 1, 2021, 134 Stat. 4253; Pub. L. 117–81, div. A, title XVII, § 1701(s)(1), Dec. 27, 2021, 135 Stat. 2149; Pub. L. 118–159, div. A, title XVII, § 1701(a)(39), Dec. 23, 2024, 138 Stat. 2205.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–159, § 1701(a)(39)(B), struck out “, each major automated information system,” after “defense acquisition program”.

Subsec. (c)(1). Pub. L. 118–159, § 1701(a)(39)(A), struck out “, major automated information system,” after “defense acquisition program” in introductory provisions.

Subsec. (c)(2)(H). Pub. L. 118–159, § 1701(a)(39)(C), substituted “section 3501 of this title” for “sections 3501 through 3511 of this title”.

Subsecs. (d), (e). Pub. L. 118–159, § 1701(a)(39)(A), struck out “, major automated information system,” after “defense acquisition program” wherever appearing.

2021—Pub. L. 116–283, § 1847(b)(1)(A), renumbered section 2431a of this title as this section.

Subsec. (c)(2)(B). Pub. L. 116–283, § 1847(b)(2), formerly § 1847(b)(2)(B), as redesignated and amended by Pub. L. 117–81, § 1701(s)(1), substituted “section 4820 of this title” for “section 2440 of this title”.

Subsec. (c)(2)(D). Pub. L. 116–283, § 1847(b)(1)(B)(i)(I), substituted “section 4324” for “section 2337”.

Subsec. (c)(2)(F). Pub. L. 116–283, § 1847(b)(1)(B)(i)(II), substituted “sections 3771 through 3775” for “section 2320”.

Subsec. (c)(2)(H). Pub. L. 116–283, § 1847(b)(1)(B)(i)(III), substituted “sections 3501 through 3511” for “section 2306b”.

Subsec. (c)(3). Pub. L. 116–283, § 1847(b)(2)(A), which directed the transfer of section 2440 of this title to subsec. (c)(3) of this section and substitution of “section 4811” for “section 2501” in text, was repealed by Pub. L. 117–81, § 1701(s)(1)(A).

Subsec. (e). Pub. L. 116–283, § 1847(b)(1)(C), which directed amendment of subsec. (e) by striking pars. (1) and (2) and redesignating pars. (3) to (10) as (1) to (8), respectively, was executed by striking pars. (1) and (2) and redesignating former pars. (3) to (9) as (1) to (7), respectively, to reflect the probable intent of Congress, as no par. (10) had been enacted. Prior to amendment, pars. (1) and (2) defined “major defense acquisition program” and “major system”, respectively.

Subsec. (e)(4). Pub. L. 116–283, § 1847(b)(1)(B)(ii)(I), substituted “section 4172(e)(7)” for “section 2366(e)(7)”.

Subsec. (e)(7). Pub. L. 116–283, § 1847(b)(1)(B)(ii)(II), substituted “section 4371(a)(2)” for “section 2433(a)(4)”.

Subsec. (e)(8). Pub. L. 116–283, § 1847(b)(1)(B)(ii)(III), substituted “section 4371(a)(3)” for “section 2433(a)(5)”.

2019—Subsec. (b). Pub. L. 116–92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics” in introductory provisions.

2017—Subsec. (d)(1). Pub. L. 115–91 inserted “(1)” before “The milestone”.

2016—Subsec. (b). Pub. L. 114–328, § 848(1), in introductory provisions, inserted “, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program,” after “the Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Subsec. (c)(1). Pub. L. 114–328, § 848(2)(A), in introductory provisions, inserted “, or the milestone decision authority, when the milestone decision authority is the service acquisition executive of the military department that is managing the program,” after “the Under Secretary”.

Subsec. (c)(2)(C). Pub. L. 114–328, § 848(2)(B), struck out “, in accordance with section 2431b of this title” before period at end.

Subsec. (d). Pub. L. 114–328, § 848(3), substituted “The” for “(1) Subject to the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the” and, in par. (2), inserted “because of a change described in paragraph (1)(F)” after “for a program or system”.

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.

§ 4212. Risk management and mitigation in major defense acquisition programs and major systems

(a) REQUIREMENT.—The Secretary of Defense shall ensure that the initial acquisition strategy (required under section 4211 of this title) approved by the milestone decision authority and any subsequent revisions include the following:

(1) A comprehensive approach for managing and mitigating risk (including technical, cost, and schedule risk) during each of the following periods or when determined appropriate by the milestone decision authority:

(A) The period preceding engineering manufacturing development, or its equivalent.

(B) The period preceding initial production.

(C) The period preceding full-rate production.

(2) An identification of the major sources of risk in each of the periods listed in paragraph (1) to improve programmatic decisionmaking and appropriately minimize and manage program concurrency.

(b) **APPROACH TO MANAGE AND MITIGATE RISKS.**—The comprehensive approach to manage and mitigate risk included in the acquisition strategy for purposes of subsection (a)(1) shall, at a minimum, include consideration of risk mitigation techniques such as the following:

(1) Prototyping (including prototyping at the system, subsystem, or component level and competitive prototyping, where appropriate) and, if prototyping at either the system, subsystem, or component level is not used, an explanation of why it is not appropriate.

(2) Modeling and simulation, the areas that modeling and simulation will assess, and identification of the need for development of any new modeling and simulation tools in order to support the comprehensive strategy.

(3) Technology demonstrations and decision points for disciplined transition of planned technologies into programs or the selection of alternative technologies.

(4) Multiple design approaches.

(5) Alternative designs, including any designs that meet requirements but do so with reduced performance.

(6) Phasing of program activities or related technology development efforts in order to address high-risk areas as early as feasible.

(7) Manufacturability and industrial base availability.

(8) Independent risk element assessments by outside subject matter experts.

(9) Schedule and funding margins for identified risks.

(c) **PREFERENCE FOR PROTOTYPING.**—To the maximum extent practicable and consistent with the economical use of available financial resources, the milestone decision authority for each major defense acquisition program shall ensure that the acquisition strategy for the program provides for—

(1) the production of competitive prototypes at the system or subsystem level before Milestone B approval; or

(2) if the production of competitive prototypes is not practicable, the production of single prototypes at the system or subsystem level.

(d) **CONCURRENCY DEFINED.**—In this section, the term “concurrency” means, with respect to an acquisition strategy, the combination or overlap of program phases or activities.

(Added Pub. L. 114-92, div. A, title VIII, §822(a)(1), Nov. 25, 2015, 129 Stat. 900, §2431b; amended Pub. L. 114-328, div. A, title X, §1081(a)(7), Dec. 23, 2016, 130 Stat. 2417; renumbered §4212 and amended Pub. L. 116-283, div. A, title XVIII, §1847(b)(3), Jan. 1, 2021, 134 Stat. 4254.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1847(b)(3), renumbered section 2431b of this title as this section.

Subsec. (a). Pub. L. 116-283, §1847(b)(3)(A), substituted “section 4211” for “section 2431a”.

Subsec. (d). Pub. L. 116-283, §1847(b)(3)(B), substituted “Concurrency Defined” for “Definitions” in subsec. heading, struck out par. (1) designation and heading, substituted “In this section, the term” for “The term”, and struck out par. (2) which defined “major defense acquisition program” and “major system”.

2016—Subsec. (d). Pub. L. 114-328 amended subsec. (d) generally. Prior to amendment, subsec. (d) defined terms “major defense acquisition program” and “major system”.

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.

§ 4214. Baseline description

(a) **BASELINE DESCRIPTION REQUIREMENT.**—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program and for each designated major subprogram under the program under the jurisdiction of such Secretary.

(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the “Baseline Estimate” in sections 4371 through 4375 of this title), schedule, performance, supportability, and any other factor of such major defense acquisition program or designated major subprogram.

(b) **FUNDING LIMIT.**—No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program or any designated major subprogram under the program may be obligated after the program or subprogram enters system development and demonstration without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Sustainment.

(c) **SCHEDULE.**—A baseline description for a major defense acquisition program or any designated major subprogram under the program shall be prepared under this section—

(1) before the program or subprogram enters system development and demonstration;

(2) before the program or subprogram enters production and deployment; and

(3) before the program or subprogram enters full rate production.

(d) **ORIGINAL BASELINE ESTIMATE.**—(1) In this subpart, the term “original Baseline Estimate”,