

tion, and approval of independent technical risk assessments.

(Added Pub. L. 114-328, div. A, title VIII, § 807(a)(1), Dec. 23, 2016, 130 Stat. 2261, § 2448b; amended Pub. L. 116-92, div. A, title IX, § 902(73), Dec. 20, 2019, 133 Stat. 1552; renumbered § 4272 and amended Pub. L. 116-283, div. A, title XVIII, § 1847(e)(2), Jan. 1, 2021, 134 Stat. 4256; Pub. L. 118-159, div. A, title VIII, § 806(b)(1), Dec. 23, 2024, 138 Stat. 1974.)

### Editorial Notes

#### AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159 struck out dash after “risk assessments” and par. (2) designation before “before any decision” and struck out par. (1) which read as follows: “before any decision to grant Milestone A approval for the program pursuant to section 4251 of this title, that identifies critical technologies and manufacturing processes that need to be matured; and”.

2021—Pub. L. 116-283, § 1847(e)(2), renumbered section 2448b of this title as this section.

Subsec. (a)(1). Pub. L. 116-283, § 1847(e)(2)(A), substituted “section 4251” for “section 2366a”.

Subsec. (a)(2). Pub. L. 116-283, § 1847(e)(2)(B), substituted “section 4252” for “section 2366b”.

2019—Pub. L. 116-92 added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) IN GENERAL.—With respect to a major defense acquisition program, the Secretary of Defense shall ensure that an independent technical risk assessment is conducted—

“(1) before any decision to grant Milestone A approval for the program pursuant to section 2366a of this title, that identifies critical technologies and manufacturing processes that need to be matured; and

“(2) before any decision to grant Milestone B approval for the program pursuant to section 2366b of this title, any decision to enter into low-rate initial production or full-rate production, or at any other time considered appropriate by the Secretary, that includes the identification of any critical technologies or manufacturing processes that have not been successfully demonstrated in a relevant environment.

“(b) CATEGORIZATION OF TECHNICAL RISK LEVELS.—The Secretary shall issue guidance and a framework for categorizing the degree of technical and manufacturing risk in a major defense acquisition program.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2021, 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

Section applicable with respect to major defense acquisition programs that reach Milestone A after Oct. 1, 2017, see section 807(a)(2) of Pub. L. 114-328, set out as a note under section 4271 of this title.

### § 4273. Performance assessments and root cause analyses

(a) DESIGNATION OF SENIOR OFFICIAL RESPONSIBILITY FOR PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES.—

(1) IN GENERAL.—The Secretary of Defense shall designate a senior official in the Office of

the Secretary of Defense as the principal official of the Department of Defense responsible for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(2) NO PROGRAM EXECUTION RESPONSIBILITY.—The Secretary shall ensure that the senior official designated under paragraph (1) is not responsible for program execution.

(3) STAFF AND RESOURCES.—The Secretary shall assign to the senior official designated under paragraph (1) appropriate staff and resources necessary to carry out the senior official’s function under this section.

(b) RESPONSIBILITIES.—The senior official designated under subsection (a) shall be responsible for the following:

(1) Carrying out performance assessments of major defense acquisition programs in accordance with the requirements of subsection (c) periodically or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Secretary of a military department, or the head of a Defense Agency.

(2) Conducting root cause analyses for major defense acquisition programs in accordance with the requirements of subsection (d) when required by section 4376(a)(1) of this title, or when requested by the Secretary of Defense, the Under Secretary of Defense for Acquisition and Sustainment, the Secretary of a military department, or the head of a Defense Agency.

(3) Issuing policies, procedures, and guidance governing the conduct of performance assessments and root cause analyses by the military departments and the Defense Agencies.

(4) Evaluating the utility of performance metrics used to measure the cost, schedule, and performance of major defense acquisition programs, and making such recommendations to the Secretary of Defense as the official considers appropriate to improve such metrics.

(5) Advising acquisition officials on performance issues regarding a major defense acquisition program that may arise—

(A) before certification under sections 4376 and 4377 of this title;

(B) before entry into full-rate production; or

(C) in the course of consideration of any decision to request authorization of a multiyear procurement contract for the program.

(c) PERFORMANCE ASSESSMENTS.—For purposes of this section, a performance assessment with respect to a major defense acquisition program is an evaluation of the following:

(1) The cost, schedule, and performance of the program, relative to current metrics, including performance requirements and baseline descriptions.

(2) The extent to which the level of program cost, schedule, and performance predicted relative to such metrics is likely to result in the timely delivery of a level of capability to the warfighter that is consistent with the level of resources to be expended and provides superior value to alternative approaches that may be available to meet the same military requirement.

(d) **ROOT CAUSE ANALYSES.**—For purposes of this section and sections 4376 and 4377 of this title, a root cause analysis with respect to a major defense acquisition program is an assessment of the underlying cause or causes of shortcomings in cost, schedule, or performance of the program, including the role, if any, of—

- (1) unrealistic performance expectations;
- (2) unrealistic baseline estimates for cost or schedule;
- (3) immature technologies or excessive manufacturing or integration risk;
- (4) unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance;
- (5) changes in procurement quantities;
- (6) inadequate program funding or funding instability;
- (7) poor performance by government or contractor personnel responsible for program management; or
- (8) any other matters.

(e) **SUPPORT OF APPLICABLE CAPABILITIES AND EXPERTISE.**—The Secretary of Defense shall ensure that the senior official designated under subsection (a) has the support of other Department of Defense officials with relevant capabilities and expertise needed to carry out the requirements of this section.

(Added and amended Pub. L. 111-383, div. A, title IX, §901(d), (k)(1)(F), Jan. 7, 2011, 124 Stat. 4321, 4325, §2438; Pub. L. 112-239, div. A, title X, §1076(f)(27), Jan. 2, 2013, 126 Stat. 1953; Pub. L. 114-92, div. A, title X, §1077(b), Nov. 25, 2015, 129 Stat. 998; Pub. L. 116-92, div. A, title IX, §902(72), Dec. 20, 2019, 133 Stat. 1551; renumbered § 4273 and amended Pub. L. 116-283, div. A, title XVIII, §1847(e)(3), Jan. 1, 2021, 134 Stat. 4256; Pub. L. 117-81, div. A, title XVII, §1701(b)(16)(B), Dec. 27, 2021, 135 Stat. 2134; Pub. L. 118-31, div. A, title XVIII, §1801(a)(34), Dec. 22, 2023, 137 Stat. 685; Pub. L. 118-159, div. A, title XVII, §1701(a)(44), Dec. 23, 2024, 138 Stat. 2206.)

#### Editorial Notes

##### CODIFICATION

Section 103 of Pub. L. 111-23, formerly set out as a note under section 2430 of this title, which was transferred to chapter 144 of this title, renumbered as section 2438, and amended by Pub. L. 111-383, §901(d), (k)(1)(F), and subsequently renumbered as this section and amended by Pub. L. 116-283, §1847(e)(3), was based on Pub. L. 111-23, title I, §103, May 22, 2009, 123 Stat. 1715.

##### AMENDMENTS

2024—Subsec. (d). Pub. L. 118-159 substituted “4376” for “4736”.

2023—Subsec. (b)(5)(A). Pub. L. 118-31 substituted “sections 4376” for “sections 4736”.

2021—Pub. L. 116-283, §1847(e)(3), renumbered section 2438 of this title as this section.

Subsec. (b)(2). Pub. L. 116-283, §1847(e)(3)(A), as amended by Pub. L. 117-81, §1701(b)(16)(B), substituted “section 4376(a)(1)” for “section 2433a(a)(1)”.

Subsec. (b)(5)(A). Pub. L. 116-283, §1847(e)(3)(B), substituted “sections 4736 and 4377” for “section 2433a”.

Subsec. (d). Pub. L. 116-283, §1847(e)(3)(B), substituted “sections 4736 and 4377” for “section 2433a” in introductory provisions.

2019—Subsec. (b)(1), (2). Pub. L. 116-92 substituted “Under Secretary of Defense for Acquisition and

Sustainment” for “Under Secretary of Defense for Acquisition, Technology and Logistics”.

2015—Subsec. (f). Pub. L. 114-92 struck out subsec. (f) which related to annual report.

2013—Subsec. (a)(3). Pub. L. 112-239 inserted “the senior” before “official’s”.

2011—Pub. L. 111-383, §901(k)(1)(F), substituted “Performance assessments and root cause analyses” for “PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSES FOR MAJOR DEFENSE ACQUISITION PROGRAMS” in section catchline.

Pub. L. 111-383, §901(d), transferred section 103 of Pub. L. 111-23 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (b)(2). Pub. L. 111-383, §901(d)(1), substituted “section 2433a(a)(1) of this title” for “section 2433a(a)(1) of title 10, United States Code (as added by section 206(a) of this Act)”.

Subsec. (b)(5)(A). Pub. L. 111-383, §901(d)(2), substituted “before” for “prior to” and “section 2433a of this title” for “section 2433a of title 10, United States Code (as so added)”.

Subsec. (b)(5)(B). Pub. L. 111-383, §901(d)(2)(B), substituted “before” for “prior to”.

Subsec. (d). Pub. L. 111-383, §901(d)(3), substituted “section 2433a of this title” for “section 2433a of title 10, United States Code (as so added)” in introductory provisions.

Subsec. (f). Pub. L. 111-383, §901(d)(4), struck out “beginning in 2010,” after “each year,”.

#### 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.

##### EFFECTIVE DATE

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

#### [§ 4274. Omitted]

#### Editorial Notes

##### CODIFICATION

Pub. L. 116-283, div. A, title XVIII, §1847(e)(4), (5), Jan. 1, 2021, 134 Stat. 4256, 4257, enacted this section, transferred subsec. (b) of section 2547 of this title to this section, and made additional amendments, which were all to become effective Jan. 1, 2022. Subsequently, Pub. L. 117-81, div. A, title XVII, §1701(r)(1)(B), Dec. 27, 2021, 135 Stat. 2149, repealed section 1847(e)(4), (5) of Pub. L. 116-283, effective as if included therein, thereby omitting this section and eliminating the amendments before they took effect.

#### SUBCHAPTER V—CONTRACTORS

Sec.

4291.

[Reserved].

4292.

Contracts: limitations on lead system integrators.

4293.

Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States.