

- Sec.  
4204. Milestone decision authority.  
4205. Weapon systems for which procurement funding requested in budget: development and procurement schedules.

### Editorial Notes

#### PRIOR PROVISIONS

A prior chapter 321 “RESEARCH AND DEVELOPMENT GENERALLY”, consisting of reserved section 4201, was repealed by Pub. L. 116-283, div. A, title XVIII, § 1841(a)(1)(A), Jan. 1, 2021, 134 Stat. 4242.

### Statutory Notes and Related Subsidiaries

#### ENHANCED DOMESTIC CONTENT REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Pub. L. 118-31, div. A, title VIII, § 835, Dec. 22, 2023, 137 Stat. 338, provided that:

“(a) ASSESSMENT REQUIRED.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report assessing the domestic source content of procurements carried out in connection with a major defense acquisition program.

“(2) INFORMATION REPOSITORY.—The Secretary of Defense shall establish an information repository for the collection and analysis of information related to domestic source content for products the Secretary deems critical, where such information can be used for continuous data analysis and program management activities.

“(b) ENHANCED DOMESTIC CONTENT REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of chapter 83 of title 41, United States Code, manufactured articles, materials, or supplies procured in connection with a major defense acquisition program are manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States if the cost of such component articles, materials, or supplies—

“(A) supplied not later than the date of the enactment of this Act, exceeds 60 percent of cost of the manufactured articles, materials, or supplies procured;

“(B) supplied during the period beginning January 1, 2024, and ending December 31, 2028, exceeds 65 percent of the cost of the manufactured articles, materials, or supplies; and

“(C) supplied on or after January 1, 2029, exceeds 75 percent of the cost of the manufactured articles, materials, or supplies.

“(2) EXCLUSION FOR CERTAIN MANUFACTURED ARTICLES.—Paragraph (1) shall not apply to manufactured articles that consist wholly or predominantly of iron, steel, or a combination of iron and steel.

“(3) RULEMAKING TO CREATE A FALLBACK THRESHOLD.—

“(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue rules to determine the treatment of the lowest price offered for a foreign end product for which 55 percent or more of the component articles, materials, or supplies of such foreign end product are manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States if—

“(i) the application of paragraph (1) results in an unreasonable cost; or

“(ii) no offers are submitted to supply manufactured articles, materials, or supplies manufactured substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States.

“(B) TERMINATION.—Rules issued under this paragraph shall cease to have force or effect on January 1, 2031.

“(4) APPLICABILITY.—The requirements of this subsection—

“(A) shall apply to contracts entered into on or after the date of the enactment of this Act [Dec. 22, 2023];

“(B) shall not apply to articles manufactured in countries that have executed a reciprocal defense procurement memorandum of understanding with the United States entered into pursuant to section 4851 of title 10, United States Code; and

“(C) shall not apply to a country that is a member of the national technology and industrial base (as defined by section 4801 of title 10, United States Code).

“(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—The term ‘major defense acquisition program’ has the meaning given in section 4201 of title 10, United States Code.”

#### PENALTY FOR COST OVERRUNS

Pub. L. 114-92, div. A, title VIII, § 828, Nov. 25, 2015, 129 Stat. 910, as amended by Pub. L. 115-91, div. A, title VIII, § 825, Dec. 12, 2017, 131 Stat. 1466; Pub. L. 115-232, div. A, title X, § 1081(d), Aug. 13, 2018, 132 Stat. 1986; Pub. L. 116-92, div. A, title VIII, § 805(a), (b)(2), Dec. 20, 2019, 133 Stat. 1485, which required the Secretary of each military department to pay a penalty for cost overruns on the covered major defense acquisition programs of the military department for fiscal years 2018 and 2019, was repealed by Pub. L. 118-159, div. A, title VIII, § 811(a)(1)(D), Dec. 23, 2024, 138 Stat. 1979.

[Pub. L. 115-91, div. A, title VIII, § 825(b), Dec. 12, 2017, 131 Stat. 1466, which provided that the requirements of section 828 of Pub. L. 114-92, as in effect on the day before Dec. 12, 2017, would continue to apply with respect to fiscal years beginning on or before Oct. 1, 2016, was repealed by Pub. L. 116-92, div. A, title VIII, § 805(b)(1), Dec. 20, 2019, 133 Stat. 1485.]

### § 4201. Major defense acquisition programs: definition; exceptions

(a) DEFINITION.—Except as provided under subsection (b), in this part, the term “major defense acquisition program” means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

(1) that is designated by the Secretary of Defense as a major defense acquisition program; or

(2) in the case of a program that is not a program for the acquisition of an automated information system (either a product or a service), that is estimated by the Secretary of Defense to require—

(A) an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars); or

(B) an eventual total expenditure for procurement, including all planned increments or spirals, of more than \$1,800,000,000 (based on fiscal year 1990 constant dollars).

(b) EXCEPTIONS.—In this part, the term “major defense acquisition program” does not include the following:

(1) An acquisition program or project that is carried out using the rapid fielding or rapid prototyping acquisition pathway under section 3602 of this title.

(2) An acquisition program for a defense business system (as defined in section 2222(i)(1)

of this title) carried out using the acquisition guidance issued pursuant to section 883(e) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 2223a note).<sup>1</sup>

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1846(b), (c), Jan. 1, 2021, 134 Stat. 4248; Pub. L. 118-159, div. A, title VIII, §804(c)(2), Dec. 23, 2024, 138 Stat. 1968.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 883(e) of the National Defense Authorization Act for Fiscal Year 2016, referred to in subsec. (b)(2), is section 883(e) of Pub. L. 114-92, which is set out as a note preceding section 4571 of this title.

##### CODIFICATION

The text of subsec. (a) of section 2430 of this title, which was transferred to this section and amended by Pub. L. 116-283, §1846(c)(1), was based on Pub. L. 100-26, §7(b)(2)(A), Apr. 21, 1987, 101 Stat. 279; Pub. L. 102-484, div. A, title VIII, §817(b)(1), (2), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 111-23, title II, §206(b)(1), May 22, 2009, 123 Stat. 1728; Pub. L. 114-328, div. A, title VIII, §847(a), Dec. 23, 2016, 130 Stat. 2292; Pub. L. 115-91, div. A, title VIII, §831, Dec. 12, 2017, 131 Stat. 1467.

##### AMENDMENTS

2024—Subsec. (b)(1). Pub. L. 118-159, which directed substitution of “section 3602 of this title” for “section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 3201 note prec.)”, was executed by making the substitution for “section 804 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 2302 note)” to reflect the probable intent of Congress.

2021—Pub. L. 116-283, §1846(c)(1), transferred subsec. (a) of section 2430 of this title to this section, struck out par. (1) designation, inserted subsec. (a) heading, substituted “under subsection (b), in this part” for “under paragraph (2), in this chapter”, redesignated par. (2) as subsec. (b) and subpars. (A) and (B) of subsecs. (a) and (b) as pars. (1) and (2) of subsecs. (a) and (b), respectively, inserted subsec. (b) heading, and substituted “In this part” for “In this chapter” in introductory provisions of subsec. (b).

Subsec. (a)(2). Pub. L. 116-283, §1846(c)(2), substituted “to require—” for “to require”, inserted subpar. (A) designation before “an eventual total expenditure for research” and subpar. (B) designation before “an eventual total expenditure for procurement” and substituted “dollars; or” for “dollars or”.

Subsec. (b). Pub. L. 116-283, §1846(c)(3), in introductory provisions, substituted “include the following:” for “include—”, in par. (1), substituted “An” for “an” and period at end for “; or” and in par. (2), substituted “An” for “an”.

#### 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.

#### § 4202. Authority to increase definitional threshold amounts: major defense acquisition programs; major systems

(a) ADJUSTMENTS TO THRESHOLDS FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) AUTHORITY.—The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in section 4201(a)(2) of this title on the basis of Department of Defense escalation rates.

(2) MATTERS TO BE CONSIDERED.—For purposes of section 4201(a)(2) of this title, the Secretary shall consider, as applicable, the following:

(A) The estimated level of resources required to fulfill the relevant joint military requirement, as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

(B) The cost estimate referred to in section 4251(a)(6) of this title.

(C) The cost estimate referred to in section 4252(a)(1)(C) of this title.

(D) The cost estimate within a baseline description as required by section 4214 of this title.

(b) ADJUSTMENT AUTHORITY FOR MAJOR SYSTEMS.—

(1) AUTHORITY.—The Secretary of Defense may adjust the amounts and the base fiscal year provided in section 3041(c)(1) of this title on the basis of Department of Defense escalation rates.

(2) ROUNDING.—An amount, as adjusted under paragraph (1), that is not evenly divisible by \$5,000,000 shall be rounded to the nearest multiple of \$5,000,000. In the case of an amount that is evenly divisible by \$2,500,000 but not evenly divisible by \$5,000,000, the amount shall be rounded to the next higher multiple of \$5,000,000.

(c) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—An adjustment under subsection (a) or (b) shall be effective after the Secretary transmits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the adjustment.

(Added and amended Pub. L. 116-283, div. A, title XVIII, §1846(b), (d), (e), Jan. 1, 2021, 134 Stat. 4248, 4249.)

#### Editorial Notes

##### CODIFICATION

The text of subsecs. (b) and (c) of section 2430 of this title, which was transferred to this section, redesignated as pars. (1) and (2) of subsec. (a), respectively, and amended by Pub. L. 116-283, §1846(d)(1), (2)(A), was based on Pub. L. 102-484, div. A, title VIII, §817(b)(3), Oct. 23, 1992, 106 Stat. 2455; Pub. L. 104-106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 111-23, title II, §206(b)(2), May 22, 2009, 123 Stat. 1728; Pub. L. 113-291, div. A, title X, §1071(f)(18), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115-91, div. A, title X, §1081(a)(38), Dec. 12, 2017, 131 Stat. 1596.

The text of subsec. (c) of section 2302d of this title, which was transferred to this section and redesignated as subsecs. (b) and (c) by Pub. L. 116-283, §1846(e)(1), was based on Pub. L. 104-201, div. A, title VIII, §805(a)(2), Sept. 23, 1996, 110 Stat. 2605; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.

##### AMENDMENTS

2021—Subsec. (a). Pub. L. 116-283, §1846(d)(2)(A), (B), inserted subsec. heading and par. (1) designation and

<sup>1</sup> See References in Text note below.