THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

DEC 0 4 2009

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Directive-Type Memorandum (DTM) 09-027 – Implementation of the Weapon Systems Acquisition Reform Act of 2009

References: (a) Public Law 111-23, "Weapon Systems Acquisition Reform Act of 2009," May 22, 2009
(b) DoD Instruction 5000.02, "Operation of the Defense Acquisition System," December 8, 2008
(c) Defense Federal Acquisition Regulation Supplement, August 17, 1998
(d) Defense Acquisition Guidebook
(e) Sections 2366a, 2366b, 2432, 2433a, and 2445c(f) of title 10, United States Code

Purpose. This DTM implements and institutionalizes selected requirements of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111-23) (Reference (a)). The law established a number of requirements that directly impact the operation of the Defense Acquisition System and the duties of key officials that support it.

- This DTM amends the Acquisition Policy in DoD Instruction 5000.02 (Reference (b)), the Defense Federal Acquisition Regulation Supplement (DFARS) (Reference (c)), and the associated business practices contained in the Defense Acquisition Guidebook (Reference (d)).

- This DTM is effective immediately and shall be incorporated into References (b), (c), and (d) within 180 days.

Applicability. This DTM applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

Procedures. See Attachments 1 through 4 for a detailed explanation of the procedural changes.

Releasability. UNLIMITED. This DTM is approved for public release and is available on the Internet from the DoD Issuances Web Site at http://www.dtic.mil/whs/directives.

Ashton B. Carter
Under Secretary of Defense for Acquisition, Technology and Logistics

Attachments:
As stated

ATTACHMENT 1

DoD ACQUISITION POLICY AMENDMENTS

1. ANALYSIS OF ALTERNATIVES (AoA) STUDY GUIDANCE

a. Per section 201 of Reference (a), the OSD Director of Cost Assessment and Program Evaluation (DCAPE) leads the development of study guidance for the AoA for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council (JROC) is the validation authority. In developing the guidance, the DCAPE solicits the advice of other DoD officials and ensures that the guidance requires, at a minimum:

(1) Full consideration of possible trade-offs among cost, schedule, and performance objectives for each alternative considered.

(2) An assessment of whether or not the joint military requirement can be met in a manner that is consistent with the cost and schedule objectives recommended by the JROC.

b. The Milestone Decision Authority (MDA) shall direct initiation of the AoA in the acquisition decision memorandum (ADM) resulting from the Materiel Development Decision and provide the AoA Study Guidance developed by the DCAPE, as an attachment to the ADM.

c. Policy impact: The MDA directs initiation of the AoA, but no longer approves the AoA Study Guidance, which is now approved by the DCAPE.

2. ACQUISITION STRATEGIES TO ENSURE COMPETITION

a. Program acquisition strategies for Major Defense Acquisition Programs (MDAPs) shall describe the measures taken to ensure competition, or the option of competition, at both the prime and subcontract level throughout the program life cycle. Measures may include, if cost-effective: competitive prototyping; dual-sourcing; unbundling of contracts; funding of next-generation prototypes or subsystems; use of modular, open architectures to enable competition for upgrades; use of build-to-print approaches to enable production through multiple sources; acquisition of complete technical data packages; periodic competition for subsystem upgrades; licensing of additional suppliers; and periodic system or program reviews to address long-term

competitive effects of program decisions. Additionally, program acquisition strategies shall document the rationale for the selection of the planned subcontract tier or tiers and indicate that prime contractors are to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of major weapon systems.

b. Policy impact: A more detailed discussion of competition strategy is required in the acquisition strategy and/or plan for all MDAPs. When planning for competition, PMs will, consistent with current policy, provide small business the maximum practical opportunity to participate.

3. COMPETITION AND CONSIDERATIONS FOR THE OPERATION AND SUSTAINMENT OF MAJOR WEAPONS SYSTEMS

a. Program acquisition strategies shall describe the plan for identifying and/or selecting the source of repair of the major weapon system. Whenever a decision for source of repair results in a plan to award a contract for performance of maintenance and sustainment of a major weapon system, the MDA will ensure that, to the maximum extent practicable and consistent with statutory requirements, the maintenance and sustainment contract is competitively awarded and gives full consideration to all sources (including sources that partner or subcontract with public or private sector repair activities).

b. Policy impact: Requires more detailed discussion of maintenance and sustainment strategy and associated contracting approaches in the acquisition strategy and/or plan. This requirement is applicable to both MDAPs and Major Weapon Systems (ACAT II programs).

4. COMPETITIVE PROTOTYPING. The technology development strategy (TDS) for each MDAP shall provide for prototypes of the system or, if a system prototype is not feasible, for prototypes of critical subsystems before Milestone (MS) B approval. Information technology initiatives shall prototype subsets of overall functionality, with the intention of reducing enterprise architecture risks, prioritizing functionality, and facilitating process re-design.

a. The MDA may waive this requirement if:

(1) The cost of producing competitive prototypes exceeds the expected life-cycle benefits (in constant dollars) of producing the prototypes, including the benefits of improved performance and increased technological and design maturity that may be achieved through competitive prototyping; or

(2) The DoD would be unable to meet critical national security objectives without such a waiver.

b. If the competitive prototyping requirement is waived, the MDA shall require the program to produce a prototype before MS B approval if the expected life-cycle benefits (in constant dollars) of producing the prototype exceed the cost of the prototype and the production of the prototype remains consistent with national security objectives (e.g., when the initial operational capability must be fielded).

c. If an MDA approves a competitive prototyping waiver for a MDAP, the MDA shall notify the congressional defense committees and the Comptroller General in writing no later than 30 days after the waiver is authorized and include the rationale for the waiver and the plan, if any, for producing a prototype.

d. Policy impact: Unless waived under the conditions described, competitive prototyping is now a statutory requirement for MDAPs.

5. COST ESTIMATION. Per section 101 of Reference (a), the DCAPE provides policies and procedures for the conduct of all DoD cost estimates (and issues guidance relating to the full consideration of life-cycle management and sustainability costs) and reviews DoD Component cost estimates and cost analyses conducted in connection with MDAPs and major automated information systems (MAIS).

a. The DCAPE conducts independent cost estimates (ICEs) and cost analyses for MDAPs for which the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) is the MDA in advance of:

(1) Any decision to enter low rate initial production (LRIP), or full rate production (FRP).

(2) Any certification pursuant to sections 2366a, 2366b, or 2433a of title 10, United States Code (U.S.C.) (Reference (e)).

(3) At any other time considered appropriate by the DCAPE or upon the request of the USD(AT&L).

b. The DCAPE, conducts independent cost estimates (ICEs) and cost analyses for MAIS programs for which the USD(AT&L) is the MDA in advance of:

(1) Any report pursuant to section 2445c(f) of Reference (e).

(2) At any other time considered appropriate by the DCAPE or upon the request of the USD(AT&L).

c. To facilitate the review of cost estimates, the DCAPE receives the results of all cost estimates and cost analyses and associated studies conducted by the DoD Components for MDAPs and MAIS programs and has timely access to any records and data in the Department of Defense (including the records and data of each Military Department and Defense Agency, to include classified, unclassified, and proprietary information) the DCAPE considers necessary to review cost analyses and execute the responsibilities described in paragraph 5.a. of this Attachment.

d. The DCAPE participates in the discussion of any discrepancies related to MDAP and MAIS cost estimates, comments on deficiencies regarding the methodology or the execution of the estimates, concurs with the choice of the cost estimate used to support the acquisition program baseline (APB) or any of the cost estimates identified in paragraph 5.a. of this Attachment, and participates in the consideration of any decision to request authorization of a multi-year procurement contract for a MDAP.

e. The DCAPE and the Secretary of the Military Department concerned or the head of the Defense Agency concerned (as applicable) state the confidence level used in establishing the cost estimate for MDAP and MAIS programs, the rationale for selecting the confidence level, and, if the confidence level is less than 80 percent, the justification for selecting the lower confidence level. The confidence level statement shall be included in the ADM approving the APB, and in any other cost estimates for MDAPs or MAIS programs prepared in association with the estimates identified in paragraph 5.a. of this Attachment. For MDAPs, the confidence level statement shall also be included in the next selected acquisition report (SAR) prepared in compliance with section 2432 of Reference (e), and for MAIS, in the next quarterly report prepared in compliance with section 2445c of Reference (e).

f. Policy impact: In addition to the current requirements stated in Reference (b), an ICE is now also required for MDAPs when the USD(AT&L) is the MDA in advance of MS A certification, FRP decision, and in support of indicated certifications and reports. An ICE will be required for a MAIS program only when the USD(AT&L) is the MDA only if there has been a critical change.

6. DEVELOPMENTAL TEST AND EVALUATION (DT&E)

a. The DDT&E (within the Office of the USD(AT&L)) shall review and approve the DT&E plan in the test and evaluation strategy (TES) and the test and evaluation

master plan (TEMP) for MDAPs and programs on the OSD DT&E Oversight List, and shall monitor and review the DT&E activities of MDAPs. The DDT&E shall have access to all DoD Component records and data including classified, unclassified, competition sensitive, and proprietary information that the Director considers necessary to carry out these duties.

b. Policy impact: The DDT&E (instead of the USD(AT&L)) now reviews and approves developmental test portion of the TES and TEMP.

7. SYSTEMS ENGINEERING

a. The Director of Systems Engineering (DSE) (within the Office of the USD(AT&L)) shall:

(1) Review and approve the systems engineering plan (SEP) for MDAPs. The title "SEP" will be applied to the document referred to in section 102 of Reference (a) as the "systems engineering master plan;"

(2) Have access to any DoD component records or data relating to systems engineering and development planning (including classified, unclassified, competition sensitive, and proprietary information) necessary to carry out assigned duties.

b. Policy impact: DSE (instead of the Deputy Under Secretary of Defense for Acquisition and Technology) shall review and approve SEPs for all MDAPs.

8. PERFORMANCE ASSESSMENTS AND ROOT CAUSE ANALYSIS (PARCA)

a. Per section 103 of Reference (a), the senior official for PARCA shall:

(1) Conduct performance assessments for MDAPs periodically or when requested by the Secretary of Defense, the USD(AT&L), the Secretary of a Military Department, or the head of a Defense Agency. Performance assessments shall evaluate the cost, schedule, and performance of the program, relative to current metrics, performance requirements, and baseline parameters. The assessments shall determine the extent to which the level of program cost, schedule, and performance relative to established metrics is likely to result in the timely delivery of a level of capability to the warfighter. The capability should be consistent with the level of resources to be expended and provide superior value to alternative approaches that may be available to meet the same requirement.

(2) Conduct root cause analyses for MDAPs as required by section 2433a of Reference (e), or when requested by the Secretary of Defense, the USD(AT&L), the Secretary of a Military Department, or the head of a Defense Agency. Root cause analysis shall consider the underlying cause or causes for shortcomings in cost, schedule, and performance including the role, if any, of unrealistic performance expectations; unrealistic baseline estimates for cost and schedule; immature technologies or excessive manufacturing or integration risk; unanticipated design, engineering, manufacturing, or integration issues arising during program performance; changes in procurement quantities; inadequate program funding or funding instability; poor performance by government or contractor personnel responsible for program management; or any other matters.

(3) Shall advise acquisition officials on performance issues regarding a MDAP that may arise:

(a) Prior to certification pursuant to section 2433a of Reference (e).

(b) Prior to entry into full-rate production.

(c) In the course of consideration of any decision to request authorization of a multiyear procurement contract.

(4) Shall work with the DCAPE and other DoD officials in the conduct of performance assessments and root cause analyses.

b. Policy impact: The senior official for PARCA is a newly established position to execute specified responsibilities required by Reference (a).

9. <u>ASSESSMENT OF MDAP TECHNOLOGIES</u>

a. The Director of Defense Research and Engineering (DDR&E):

(1) Shall independently review, assess, and report on the technological maturity of MDAP technologies in support of MS B reviews, associated statutory certifications, and at other times designated by the USD(AT&L).

(2) Has been charged with the responsibility to develop knowledge-based standards against which to measure the technological maturity and integration risk of critical technologies at key stages in the acquisition process for the purposes of conducting the required reviews and assessments of MDAPs.

b. Policy impact: The DDR&E shall independently review, assess, and report the maturity of MDAP technologies prior to MS B certification. In addition, the DDR&E is responsible for developing standards that will be used to measure and assess the maturity of critical technologies and integration risk in MDAPs.

10. PRELIMINARY DESIGN REVIEWS (PDRs)

a. PDRs before MS B are mandatory for all MDAPs and will be reflected in the TDS to be approved by the MDA at MS A. Post-PDR assessments will be conducted in association with MS B preparations and will be formally considered by the MDA at the MS B certification review.

b. PDRs before MS B for other than MDAPs will be approved by the MDA when consistent with TDS or Acquisition Strategy objectives. When the PDR is conducted before MS B, a post-PDR assessment will be conducted in association with the MS B review and formally considered by the MDA at the MS B review. If the PDR is conducted after MS B, the MDA will conduct a post-PDR assessment at a time reflected in the approved acquisition strategy.

c. Policy impact: PDR before MS B is now a statutory requirement for MDAPs. The post-PDR assessment will be conducted during the MS B review, and prior to the section 2366b of Reference (e) certification.

11. CERTIFICATION IN ACCORDANCE WITH SECTIONS 2366a AND 2366b OF REFERENCE (E)

a. The MDA for a MDAP will fulfill all statutory certification requirements. Detailed policy for MS A certification is included in Attachment 2, and policy for MS B certification is included in Attachment 3.

b. Policy impact: The MS A and MS B certification requirements have changed. These changes are detailed in Attachments 2 and 3.

12. CRITICAL COST GROWTH. Policy impact: The impacts of a critical cost growth and the certification requirements (section 2433a of Reference (e)) have changed. See Attachment 4.

13. REVISED MDAP DEFINITION

a. A MDAP is a DoD acquisition program that is not a highly sensitive classified program and:

(1) That is designated by the USD(AT&L) as a MDAP; or

(2) That is estimated to require an eventual total expenditure for research, development, test, and evaluation, INCLUDING ALL PLANNED INCREMENTS, of more than $365 million (based on fiscal year 2000 constant dollars) or an eventual total expenditure for procurement, INCLUDING ALL PLANNED INCREMENTS, of more than $2.19 billion (based on fiscal year 2000 constant dollars).

b. Policy impact: The revised definition may result in a change in Milestone Decision Authority (MDA).

ATTACHMENT 2

MS A CERTIFICATION REQUIREMENTS

1. Reference (a) amended section 2366a of Reference (e). This policy supersedes all previous USD(AT&L)-issued policies addressing MS A certification requirements.

2. The MDA for a MDAP shall sign a memorandum with the subject "Milestone A Program Certification," prior to signing the ADM to approve MS A. This signature authority may not be delegated. A MDAP may not be initiated prior to MS B approval without a MS A certification memorandum. This certification memorandum shall be prepared "for the record," and shall include the statements in the sample memorandum in Figure 1, without modification.

3. In addition to the certification, the MDA shall include the following statement in the ADM: "I have reviewed the program and have made the certifications required by section 2366a of title 10, United States Code. At any time prior to MS B approval, the PM shall notify me immediately if the projected cost of the program exceeds the cost estimate for the program at the time of MS A certification by at least 25 percent or the PM determines that the period of time required for the delivery of an initial operational capability is likely to exceed the schedule objective provided at the time of MS A certification by more that 25 percent."

4. All ongoing MDAPs that were initiated prior to May 22, 2009, and will not have received either a MS A certification (in accordance with section 2366a of Reference (e)) or a MS B certification (in accordance with section 2366b of Reference (e)) prior to May 22, 2010, shall receive a MS A certification no later than May 22, 2010.

5. The Program Manager (PM) for a MDAP that has received MS A certification shall immediately notify the MDA if:

a. The projected cost of the program, at any time prior to MS B approval, exceeds the cost estimate for the program submitted at the time of the certification by at least 25 percent; or

b. The PM determines that the period of time required for the delivery of an initial operational capability is likely to exceed the schedule objective submitted at the time of the certification by more than 25 percent.

6. Upon receipt of such notification, the MDA, in consultation with the JROC on matters related to program requirements and military needs, shall determine whether the level of resources required to develop and procure the program remains consistent with the priority level assigned by the JROC. The MDA may withdraw the certification concerned or rescind MS A approval if the MDA determines that such action is in the interest of national defense.

7. Not later than 30 days after the MDA receives such notification from the PM, the MDA shall submit to the congressional defense committees a report that:

a. Identifies the root causes of the cost or schedule growth in accordance with applicable policies, procedures, and guidance.

b. Identifies appropriate acquisition performance measures for the remainder of the development program.

c. Includes one of the following:

(1) A written certification (with supporting explanation) that:

(a) The program is essential to national security.

(b) There are no alternatives to the program that will provide acceptable military capability at less cost.

(c) New estimates of the development cost or schedule, as appropriate, are reasonable.

(d) The management structure for the program is adequate to manage and control program development cost and schedule.

(2) A plan for terminating the development of the program or withdrawal of MS A approval if the MDA determines that such action is in the interest of national defense.

Figure 1. Sample Required Statement for Milestone Decision Authority Certification Memorandum Prior to Milestone A Approval

MEMORANDUM FOR THE RECORD

SUBJECT: Milestone A Certification for _____ Program

As required by section 2366a of title 10, United States Code, I have consulted with the Joint Requirements Oversight Council (JROC) on matters related to program requirements and military needs for the *(name of program)* and certify that:

(1) the program fulfills an approved initial capabilities document;

(2) the program is being executed by an entity with a relevant core competency as identified by the Secretary of Defense;

(3) an analysis of alternatives has been performed consistent with the study guidance developed by the Director of Cost Assessment and Program Evaluation;

(4) a cost estimate for the program has been submitted, with the concurrence of the Director of Cost Assessment and Program Evaluation, and the level of resources required to develop and procure the program is consistent with the priority level assigned by the JROC; and.

(5) [*only include if the system duplicates a capability already provided by an existing system*] the duplication of capability provided by this system and (name of existing system) is necessary and appropriate.

ATTACHMENT 3

MS B CERTIFICATION REQUIREMENTS

1. Reference (a) amended section 2366b of (Reference (e). This policy supersedes all previous USD(AT&L)-issued policies addressing MS B certification requirements.

2. The MDA for a MDAP shall sign a Milestone B Program Certification memorandum prior to signing the ADM to approve MS B. This signature authority shall not be delegated. The certification memorandum shall be prepared for the record, and shall include the statements in the sample memorandum in Figure 2, without modification. If the program is initiated at a later decision point (e.g., MS C), a similar memorandum shall be prepared, as a matter of policy. The certification memorandum shall be submitted to the congressional defense committees with the first SAR for the program after completion of the certification.

3. The MDA may, at the time of certification pursuant to section 2366b of Reference (e) or at the time that the MDA withdraws a certification or rescinds MS B approval, waive the applicability of one or more components of sections (1) and (2) of the certification requirement to a MDAP (see Figure 2), if the MDA determines that, but for such a waiver, the Department of Defense would be unable to meet critical national security objectives (the items contained in section (3) of the section 2366b of Reference (e) certification requirements cannot be waived). This authority may not be delegated. Whenever the MDA makes such a determination and authorizes such a waiver:

a. The waiver, the determination, and the reasons for the determination shall be submitted in writing to the congressional defense committees within 30 days after the waiver is authorized.

b. The MDA shall review the program not less often than annually to determine the extent to which the program currently satisfies the certification components until such time as the MDA determines that the program satisfies all of the certification components.

c. Any budget request, budget justification material, budget display, reprogramming request, SAR, or other budget documentation or performance report submitted by the Secretary of Defense to the President regarding a MDAP receiving a waiver to certification shall prominently and clearly indicate that such program has not

fully satisfied the certification requirements for MS B, until such time that the MDA makes a determination that the program has satisfied all such certification requirements.

4. In addition to the certification, the MDA will include the following statement in the ADM: "I have reviewed the program and the business case analysis and have made the certifications required, or executed a waiver of the applicability of one or more of the components of the certification requirement as authorized by section 2366b of title 10, United States Code. The PM shall notify me immediately of any changes to the program that alter the substantive basis for the certification relating to any component of such certification, or otherwise cause the program to deviate significantly from the material provided to me in support of such certification."

5. For any MDAP that received a MS B approval prior to January 6, 2006, and has not yet received a MS C approval, the MDA, not later than February 16, 2010, shall determine whether or not such program satisfies the MS B certification requirements set forth at section 2366b of Reference (e), as amended by Reference (a). This determination will be documented in a for the record certification memorandum and shall include the statements in the sample memorandum in Figure 2, without modification. For any program determined not to meet all of the current MS B certification components, the MDA shall review the program not less often than annually to determine the extent to which the program currently satisfies the certification components, until such time as the MDA determines that the program satisfies all of the certification components.

6. The PM for a MDAP that has received MS B certification shall immediately notify the MDA of any changes to the program that:

a. Alter the substantive basis for the certification of the MDA relating to any component of such certification.

b. Otherwise cause the program to deviate significantly from any material provided to the MDA in support of such certification.

7. Upon receipt of such information, the MDA may rescind the MS B approval, if the MDA determines that such approval is no longer valid. A summary of the information that the PM provided to the MDA and a description of the actions taken as a result of such information shall be submitted with the first SAR submitted after the MDA has received the PM's information.

Figure 2. Sample Required Statement for Milestone Decision Authority Certification Memorandum Prior to Milestone B Approval

MEMORANDUM FOR THE RECORD

SUBJECT: Milestone B Certification for _____ Program

As required by section 2366b of title 10, United States Code,

(1) I have received a business case analysis for the (name of program) and certify on the basis of the analysis that:

(A) the program is affordable when considering the ability of the Department of Defense to accomplish the program's mission using alternative systems;

(B) appropriate trade-offs among cost, schedule, and performance objectives have been made to ensure that the program is affordable when considering the per unit cost and the total acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;

(C) reasonable cost and schedule estimates have been developed to execute, with the concurrence of the Director of Cost Assessment and Program Evaluation, the product development and production plan under the program;

(D) funding is available to execute the product development and production plan under the program, through the period covered by the future-years defense program submitted during the fiscal year in which the certification is made, consistent with the estimates described in paragraph (C) for the program; and

(2) I have received the results of the preliminary design review and conducted a formal post-preliminary design review assessment, and certify on the basis of such assessment that the program demonstrates a high likelihood of accomplishing its intended mission; and

(3) I further certify that:

(A) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;

(B) the Department of Defense has completed an analysis of alternatives with respect to the program;

(C) the Joint Requirements Oversight Council has accomplished its duties with respect to the program pursuant to section 181(b) of title 10, United States Code, including an analysis of the operational requirements for the program;

(D) the technology in the program has been demonstrated in a relevant environment, as determined by the Milestone Decision Authority on the basis of an independent review and assessment by the Director of Defense Research and Engineering; and

(E) the program complies with all relevant policies, regulations, and directives of the Department of Defense.

ATTACHMENT 4

CRITICAL COST GROWTH CERTIFICATION REQUIREMENTS

1. Reference (a) added Section 2433a of Reference (e). This policy supersedes all previous USD(AT&L)-issued policies addressing actions that must be taken following critical cost growth of a MDAP or designated subprogram.

2. The PM shall notify the DoD component acquisition executive (CAE) immediately, whenever there is a reasonable cause to believe that the current estimate of either the program acquisition unit cost (PAUC) or average procurement unit cost (APUC) of a MDAP or designated subprogram (in base-year dollars) has increased by 25 percent (or more) over the PAUC or APUC objective of the currently approved APB estimate, or 50 percent (or more) over the PAUC or APUC of the original APB estimate.

3. If the CAE determines that there is an increase in the current estimate of the PAUC or APUC of at least 25 percent over the PAUC or APUC objective of the currently approved APB, or 50 percent over the PAUC or APUC of the original APB, the CAE shall inform the USD(AT&L) and the cognizant Head of the DoD Component. If the cognizant Head of the DoD Component subsequently determines that there is, in fact, an increase in the current estimate of the PAUC or APUC of at least 25 percent over the currently approved APB, or 50 percent over the PAUC or APUC of the original APB, the Head of the DoD Component shall notify Congress, in writing, of the determination of critical cost growth and the increase with respect to the program or subprogram concerned. The notification shall be not later than 45 days after the end of the quarter, in the case of a quarterly report; or not later than 45 days after the date of the report, in the case of an out-of-cycle report based on critical change occurring between quarters. In either case, notification shall include the date that the Head of the DoD Component made the determination. In addition, the Head of the DoD Component shall submit an SAR for either the fiscal year quarter ending on or after the determination date, or for the fiscal year quarter that immediately precedes the fiscal year quarter ending on or after the determination date. This SAR shall contain the additional critical cost growth-related information.

4. Additionally, the USD(AT&L), after consultation with the JROC regarding program requirements, shall determine the root cause or causes of the critical cost growth in accordance with applicable statutory requirements and DoD policies, procedures, and

guidance based upon the root cause analysis conducted by the senior official for PARCA; and in consultation with the DCAPE, shall carry out an assessment of:

a. The projected cost of completing the program if current requirements are not modified.

b. The projected cost of completing the program based on reasonable modification of such requirements.

c. The rough order of magnitude of the costs of any reasonable alternative system or capability.

d. The need to reduce funding for other programs due to the growth in cost of the program.

5. After conducting the reassessment, the USD(AT&L) shall terminate the program unless the USD(AT&L) submits a written certification to Congress before the end of the 60-day period beginning on the day the SAR containing the unit cost information is required to be submitted to Congress. The certification must state:

a. The continuation of the program is essential to the national security.

b. There are no alternatives to the program that will provide acceptable capability to meet the joint military requirement (as defined in section 181(g)((1) of Reference (e)) at less cost.

c. The new estimates of the PAUC or APUC have been determined by the DCAPE, to be reasonable.

d. The program is a higher priority than programs whose funding must be reduced to accommodate the growth in cost of the program.

e. The management structure for the program is adequate to manage and control PAUC or APUC.

6. The written certification shall be accompanied by a report presenting the root cause analysis and assessment and the basis for each determination made in accordance with the five certification criteria listed in paragraphs 5.a. through 5.e. of this attachment, and supporting documentation.

7. If the USD(AT&L) elects NOT to terminate a MDAP that has experienced critical cost growth, the Secretary of Defense shall:

a. Restructure the program in a manner that addresses the root cause or causes of the critical cost growth, as identified by the actions described above, and ensures that the program has an appropriate management structure as set forth in the written certification;

b. Rescind the most recent milestone approval for the program or designated subprograms and withdraw any associated certification(s) pursuant to section 2366a or 2366b of Reference (e).

c. Require a new milestone approval for the program or designated subprograms before taking any contract action to enter a new contract, exercise an option under an existing contract, or otherwise extend the scope of an existing contract under the program, except to the extent determined necessary by the MDA, on a non-delegable basis, to ensure that the program can be restructured as intended by the Secretary of Defense without unnecessarily wasting resources.

d. Include in the report a description of all funding changes made as a result of the growth in cost of the program, including reductions made in funding for other programs to accommodate such cost growth. (The report specified here is the first SAR for the program submitted after the President submits a budget in the calendar year following the year in which the program was restructured.)

8. Additionally, for each MDAP that has exceeded the critical cost thresholds, but has not been terminated, the senior official for PARCA shall conduct semi-annual reviews until 1 year after the date a new milestone approval is received. The senior official for PARCA, shall report the results of the semi-annual reviews to the USD(AT&L) and summarize the results in the Director's next annual report.

9. If a MDAP is terminated after experiencing a critical cost breach, the USD(AT&L) shall submit to Congress a written report with the following information:

a. An explanation of the reasons for terminating the program.

b. The alternatives considered to address any problems in the program.

c. The course the Department of Defense plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program.