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113TH CONGRESS
2^D SESSION

H. R. 4228

[Report No. 113–436]

To require the Department of Homeland Security to improve discipline, accountability, and transparency in acquisition program management.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2014

Mr. DUNCAN of South Carolina (for himself, Mr. McCAUL, Mr. BARBER, and Mr. DAINES) introduced the following bill; which was referred to the Committee on Homeland Security

MAY 6, 2014

Additional sponsors: Mr. HUDSON, Ms. JACKSON LEE, Mr. O’ROURKE, Mr. PEARCE, Mrs. LUMMIS, Mr. FARENTHOLD, Mr. MATHESON, Mr. POMPEO, Mr. YOUNG of Indiana, Mr. CARTER, and Mr. BARLETTA

MAY 6, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 13, 2014]

A BILL

To require the Department of Homeland Security to improve discipline, accountability, and transparency in acquisition program management.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “DHS Acquisition Ac-*
 5 *countability and Efficiency Act”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Findings.

Sec. 4. Definitions.

TITLE I—ACQUISITION AUTHORITIES

Sec. 101. Acquisition authorities for Under Secretary for Management.

Sec. 102. Acquisition authorities for Chief Financial Officer.

Sec. 103. Acquisition authorities for Chief Information Officer.

Sec. 104. Chief Procurement Officer.

Sec. 105. Requirements to ensure greater accountability for acquisition programs.

TITLE II—ACQUISITION PROGRAM MANAGEMENT DISCIPLINE

Sec. 201. Acquisition Review Board.

Sec. 202. Requirements to reduce duplication in acquisition programs.

*Sec. 203. Government Accountability Office review of Board and of requirements
to reduce duplication in acquisition programs.*

Sec. 204. Excluded Party List System waivers.

Sec. 205. Inspector General oversight of suspension and debarment.

**TITLE III—ACQUISITION PROGRAM MANAGEMENT ACCOUNTABILITY
AND TRANSPARENCY**

*Sec. 301. Congressional notification and other requirements for major acquisition
program breach.*

Sec. 302. Multiyear acquisition strategy.

Sec. 303. Acquisition reports.

*Sec. 304. Government Accountability Office review of multiyear acquisition strat-
egy.*

Sec. 305. Office of Inspector General report.

8 **SEC. 3. FINDINGS.**

9 *Congress finds the following:*

10 *(1) The Department of Homeland Security does*
 11 *not consistently implement its policies and Govern-*

1 *ment and private sector best practices for acquisitions*
2 *and procurement.*

3 *(2) It is difficult to determine the cost of the De-*
4 *partment's major acquisition programs because the*
5 *Department has not provided consistent, comparable*
6 *updates on an annual basis. As of January 2014, the*
7 *Department identified over 80 major acquisition pro-*
8 *grams costing over \$300,000,000, and, based on 2011,*
9 *estimates it plans to spend about \$170,000,000,000 in*
10 *the future on major acquisition programs.*

11 *(3) Since 2005, the Government Accountability*
12 *Office has placed Department acquisition manage-*
13 *ment activities on its "High-Risk List", which identi-*
14 *fies Government operations that have greater suscepti-*
15 *bility to fraud, waste, abuse, and mismanagement or*
16 *greater need for transformation to address economy,*
17 *efficiency, or effectiveness challenges.*

18 *(4) While the Department has taken actions to*
19 *address some high-risk acquisition program manage-*
20 *ment issues, many programs continue to experience*
21 *challenges with funding instability, workforce short-*
22 *falls, reliable cost estimates, realistic schedules,*
23 *agreed-upon baseline objectives, and consistent and re-*
24 *liable data needed to accurately measure program*
25 *performance.*

1 (5) *Of the 77 Department major acquisition pro-*
2 *grams in 2011, the Government Accountability Office*
3 *identified 42 programs that experienced cost growth,*
4 *schedule slips, or both. The Department reported that*
5 *the magnitude of the cost growth for 16 of the 42 pro-*
6 *grams, which increased from almost \$20,000,000,000*
7 *to over \$50,000,000,000 in 2011, had an aggregate in-*
8 *crease of 166 percent.*

9 (6) *In 2012, the Government Accountability Of-*
10 *fice found that only 20 of 63 programs had Depart-*
11 *ment-approved acquisition program baselines. The*
12 *Government Accountability Office also reported that*
13 *the Department planned to spend more than \$105 bil-*
14 *lion on programs lacking acquisition program base-*
15 *lines.*

16 **SEC. 4. DEFINITIONS.**

17 (a) *IN GENERAL.—In this Act:*

18 (1) *SECRETARY.—The term “Secretary” means*
19 *the Secretary of Homeland Security.*

20 (2) *DEPARTMENT.—The term “Department”*
21 *means the Department of Homeland Security.*

22 (3) *CONGRESSIONAL HOMELAND SECURITY COM-*
23 *MITTEES.—The term “congressional homeland secu-*
24 *rity committees” means—*

1 (A) *the Committee on Homeland Security of*
2 *the House of Representatives and the Committee*
3 *on Homeland Security and Governmental Af-*
4 *fairs of the Senate; and*

5 (B) *the Committee on Appropriations of the*
6 *House of Representatives and of the Senate.*

7 (b) *ADDITIONAL DEFINITIONS.—In this Act:*

8 (1) *ACQUISITION.—The term “acquisition” has*
9 *the meaning provided in section 131 of title 41,*
10 *United States Code.*

11 (2) *BEST PRACTICES.—The term “best prac-*
12 *tices”, with respect to acquisition, means a knowl-*
13 *edge-based approach to capability development that*
14 *includes identifying and validating needs; assessing*
15 *alternatives to select the most appropriate solution;*
16 *clearly establishing well-defined requirements; devel-*
17 *oping realistic cost assessments and schedules; secur-*
18 *ing stable funding that matches resources to require-*
19 *ments; demonstrating technology, design, and manu-*
20 *facturing maturity; using milestones and exit criteria*
21 *or specific accomplishments that demonstrate*
22 *progress; adopting and executing standardized proc-*
23 *esses with known success across programs; estab-*
24 *lishing an adequate workforce that is qualified and*
25 *sufficient to perform necessary functions; and inte-*

1 *grating these capabilities into the Department’s mis-*
2 *sion and business operations.*

3 *(c) AMENDMENTS TO DEFINITIONS IN HOMELAND SE-*
4 *URITY ACT OF 2002.—Section 2 of the Homeland Security*
5 *Act of 2002 is amended—*

6 *(1) by striking “In this Act,” and inserting “(a)*
7 *IN GENERAL.—In this Act,”;*

8 *(2) in paragraph (2)—*

9 *(A) by inserting “(A)” after “(2)”;* and

10 *(B) by adding at the end the following new*
11 *subparagraph:*

12 *“(B) The term ‘congressional homeland security*
13 *committees’ means—*

14 *“(i) the Committee on Homeland Security*
15 *of the House of Representatives and the Com-*
16 *mittee on Homeland Security and Governmental*
17 *Affairs of the Senate; and*

18 *“(ii) the Committee on Appropriations of*
19 *the House of Representatives and of the Senate,*
20 *where appropriate.”;* and

21 *(3) by adding at the end the following new sub-*
22 *section:*

23 *“(b) ACQUISITION-RELATED DEFINITIONS.—In this*
24 *Act, the following definitions apply:*

1 “(1) *ACQUISITION*.—The term ‘acquisition’ has
2 the meaning provided in section 131 of title 41,
3 United States Code.

4 “(2) *ACQUISITION DECISION AUTHORITY*.—The
5 term ‘acquisition decision authority’ means the au-
6 thority, held by the Secretary acting through the Dep-
7 uty Secretary or Under Secretary for Management—

8 “(A) to ensure compliance with Federal
9 law, the Federal Acquisition Regulation, and De-
10 partment acquisition management directives;

11 “(B) to review (including approving, halt-
12 ing, modifying, or cancelling) an acquisition
13 program through the life cycle of the program;

14 “(C) to ensure that program managers have
15 the resources necessary to successfully execute an
16 approved acquisition program; and

17 “(D) to ensure good program management
18 of cost, schedule, risk, and system performance of
19 the acquisition, including assessing acquisition
20 program baseline breaches and directing any
21 corrective action for such breaches.

22 “(3) *ACQUISITION DECISION EVENT*.—The term
23 ‘acquisition decision event’, with respect to an invest-
24 ment or acquisition program, means a predetermined
25 point within the acquisition phases of the investment

1 *or acquisition program at which the investment or*
2 *acquisition program will undergo a review prior to*
3 *commencement of the next phase.*

4 “(4) *ACQUISITION DECISION MEMORANDUM.—*
5 *The term ‘acquisition decision memorandum’, with*
6 *respect to an acquisition, means the official acquisi-*
7 *tion decision event record that includes a documented*
8 *record of decisions, exit criteria, and assigned actions*
9 *for the acquisition as determined by the person exer-*
10 *cising acquisition decision authority for the acquisi-*
11 *tion.*

12 “(5) *ACQUISITION PROGRAM BASELINE.—The*
13 *term ‘acquisition program baseline’, with respect to*
14 *an acquisition program, means a summary of the*
15 *cost, schedule, and performance parameters, expressed*
16 *in standard, measurable, quantitative terms, which*
17 *must be met in order to accomplish the goals of the*
18 *program.*

19 “(6) *CAPABILITY DEVELOPMENT PLAN.—The*
20 *term ‘capability development plan’, with respect to a*
21 *proposed acquisition, means the document that the*
22 *Acquisition Review Board approves for the first ac-*
23 *quisition decision event related to validating the need*
24 *of a proposed acquisition.*

1 “(7) *COMPONENT ACQUISITION EXECUTIVE.*—*The*
2 *term ‘Component Acquisition Executive’ means the*
3 *senior acquisition official within a Component who is*
4 *designated in writing by the Under Secretary for*
5 *Management, in consultation with the Component*
6 *head, with authority and responsibility for leading a*
7 *process and staff to provide acquisition and program*
8 *management oversight, policy, and guidance to ensure*
9 *that statutory, regulatory, and higher level policy re-*
10 *quirements are fulfilled, including compliance with*
11 *Federal law, the Federal Acquisition Regulation, and*
12 *Department acquisition management directives estab-*
13 *lished by the Under Secretary for Management.*

14 “(8) *LIFE CYCLE COST.*—*The term ‘life cycle*
15 *cost’, with respect to an acquisition program, means*
16 *all costs associated with research, development, pro-*
17 *urement, operation, integrated logistics support, and*
18 *disposal under the program, including supporting in-*
19 *frastructure that plans, manages, and executes the*
20 *program over its full life, and costs of common sup-*
21 *port items incurred as a result of the program.*

22 “(9) *MAJOR ACQUISITION PROGRAM.*—*The term*
23 *‘major acquisition program’ means a Department ac-*
24 *quisition program that is estimated by the Secretary*
25 *to require an eventual total expenditure of at least*

1 \$300,000,000 (based on fiscal year 2014 constant dol-
2 lars) over its life cycle cost.”.

3 **TITLE I—ACQUISITION**
4 **AUTHORITIES**

5 **SEC. 101. ACQUISITION AUTHORITIES FOR UNDER SEC-**
6 **RETARY FOR MANAGEMENT.**

7 Section 701 of the Homeland Security Act of 2002 (6
8 U.S.C. 341) is amended—

9 (1) in subsection (a)(2), by striking “Procure-
10 ment” and inserting “Acquisition and procurement”;
11 and

12 (2) by adding at the end the following:

13 “(d) *ACQUISITION AND RELATED RESPONSIBIL-*
14 *ITIES.*—

15 “(1) *IN GENERAL.*—Notwithstanding section
16 1702(b) of title 41, United States Code, the Under
17 Secretary for Management is the Chief Acquisition
18 Officer of the Department. As Chief Acquisition Offi-
19 cer, the Under Secretary shall have the authority and
20 perform the functions as specified in section 1702(b)
21 of such title, and perform all other functions and re-
22 sponsibilities delegated by the Secretary or described
23 in this subsection.

24 “(2) *DUTIES AND RESPONSIBILITIES.*—In addi-
25 tion to the authority and functions specified in sec-

1 *tion 1702(b) of title 41, United States Code, the du-*
2 *ties and responsibilities of the Under Secretary for*
3 *Management related to acquisition include the fol-*
4 *lowing:*

5 *“(A) Advising the Secretary regarding ac-*
6 *quisition management activities, taking into ac-*
7 *count risks of failure to achieve cost, schedule, or*
8 *performance parameters, to ensure that the De-*
9 *partment achieves its mission through the adop-*
10 *tion of widely accepted program management*
11 *best practices and standards.*

12 *“(B) Exercising the acquisition decision au-*
13 *thority to approve, halt, modify (including the*
14 *rescission of approvals of program milestones),*
15 *or cancel major acquisition programs, unless the*
16 *Under Secretary delegates the authority to a*
17 *Component Acquisition Executive pursuant to*
18 *paragraph (3).*

19 *“(C) Establishing policies for acquisition*
20 *that implement an approach that takes into ac-*
21 *count risks of failure to achieve cost, schedule, or*
22 *performance parameters that all Components of*
23 *the Department shall comply with, including*
24 *outlining relevant authorities for program man-*
25 *agers to effectively manage acquisition programs.*

1 “(D) Ensuring that each major acquisition
2 program has a Department-approved acquisition
3 program baseline.

4 “(E) Ensuring that the heads of Compo-
5 nents and Component Acquisition Executives
6 comply with Federal law, the Federal Acquisi-
7 tion Regulation, and Department acquisition
8 management directives.

9 “(F) Ensuring that grants and financial
10 assistance are provided only to individuals and
11 organizations that are not suspended or
12 debarred.

13 “(G) Distributing guidance throughout the
14 Department to ensure that contractors involved
15 in acquisitions, particularly companies that ac-
16 cess the Department’s information systems and
17 technologies, adhere to internal cybersecurity
18 policies established by the Department of Home-
19 land Security.

20 “(3) DELEGATION OF ACQUISITION DECISION AU-
21 THORITY.—

22 “(A) LEVEL 3 ACQUISITIONS.—The Under
23 Secretary for Management may delegate acquisi-
24 tion decision authority in writing to the relevant
25 Component Acquisition Executive for an acquisi-

1 *tion program that has a life cycle cost estimate*
2 *of less than \$300,000,000.*

3 *“(B) LEVEL 2 ACQUISITIONS.—The Under*
4 *Secretary for Management may delegate acquisi-*
5 *tion decision authority in writing to the relevant*
6 *Component Acquisition Executive for a major*
7 *acquisition program that has a life cycle cost es-*
8 *timate of at least \$300,000,000 but not more*
9 *than \$1,000,000,000 if all of the following re-*
10 *quirements are met:*

11 *“(i) The Component concerned pos-*
12 *sesses working policies, processes, and proce-*
13 *dures that are consistent with Department-*
14 *level acquisition policy.*

15 *“(ii) The Component Acquisition Exec-*
16 *utive has adequate, experienced, dedicated*
17 *program management professional staff*
18 *commensurate with the size of the delegated*
19 *portfolio.*

20 *“(iii) Each major acquisition program*
21 *concerned has written documentation show-*
22 *ing that it has a Department-approved ac-*
23 *quisition program baseline and it is meet-*
24 *ing agreed-upon cost, schedule, and per-*
25 *formance thresholds.*

1 “(4) *EXCLUDED PARTIES LIST SYSTEM CON-*
2 *SULTATION.*—*The Under Secretary for Management*
3 *shall require that all Department contracting and*
4 *procurement officials consult the Excluded Parties*
5 *List System (or successor system) as maintained by*
6 *the General Services Administration prior to award-*
7 *ing a contract or grant or entering into other trans-*
8 *actions to ascertain whether the selected contractor is*
9 *excluded from receiving Federal contracts, certain*
10 *subcontracts, and certain types of Federal financial*
11 *and non-financial assistance and benefits.*

12 “(5) *RELATIONSHIP TO UNDER SECRETARY FOR*
13 *SCIENCE AND TECHNOLOGY.*—*Nothing in this sub-*
14 *section shall diminish the authority granted to the*
15 *Under Secretary for Science and Technology under*
16 *this Act. The Under Secretary for Management and*
17 *the Under Secretary for Science and Technology shall*
18 *cooperate in matters related to the coordination of ac-*
19 *quisitions across the Department so that investments*
20 *of the Directorate of Science and Technology can sup-*
21 *port current and future requirements of the Compo-*
22 *nents.*”.

1 **SEC. 102. ACQUISITION AUTHORITIES FOR CHIEF FINAN-**
2 **CIAL OFFICER.**

3 *Section 702 of the Homeland Security Act of 2002 (6*
4 *U.S.C. 342) is amended by adding at the end of subsection*
5 *(b)(2) the following new subparagraph:*

6 *“(J) Notwithstanding section 902 of title*
7 *31, United States Code, provide leadership over*
8 *financial management policy and programs for*
9 *the Department as they relate to the Depart-*
10 *ment’s acquisitions programs, in consultation*
11 *with the Under Secretary for Management.”.*

12 **SEC. 103. ACQUISITION AUTHORITIES FOR CHIEF INFORMA-**
13 **TION OFFICER.**

14 *Section 703 of the Homeland Security Act of 2002 (6*
15 *U.S.C. 343) is amended by adding at the end the following*
16 *new subsection:*

17 “(c) *ACQUISITION RESPONSIBILITIES.—Notwith-*
18 *standing section 11315 of title 40, United States Code, the*
19 *acquisition responsibilities of the Chief Information Officer,*
20 *in consultation with the Under Secretary for Management,*
21 *shall include the following:*

22 “(1) *Serve as the lead technical authority for in-*
23 *formation technology programs and establish depart-*
24 *mental information technology priorities, policies,*
25 *processes, standards, guidelines, and procedures.*

1 “(2) *Oversee the management of the Homeland*
2 *Security Enterprise Architecture and ensure that, be-*
3 *fore each acquisition decision event, approved infor-*
4 *mation technology acquisitions comply with depart-*
5 *mental information technology management processes,*
6 *technical requirements, and the Homeland Security*
7 *Enterprise Architecture, and in any case in which in-*
8 *formation technology acquisitions do not comply with*
9 *Departmental management directives, make rec-*
10 *ommendations to the Acquisition Review Board re-*
11 *garding such noncompliance.*

12 “(3) *Be responsible for providing recommenda-*
13 *tions to the Acquisition Review Board established in*
14 *section 836 of this Act on information technology pro-*
15 *grams, and be responsible for developing information*
16 *technology acquisition strategic guidance.”.*

17 **SEC. 104. CHIEF PROCUREMENT OFFICER.**

18 “(a) *IN GENERAL.*—*Title VII of the Homeland Security*
19 *Act of 2002 (6 U.S.C. 341 et seq.) is amended by adding*
20 *at the end the following new section:*

21 **“SEC. 708. CHIEF PROCUREMENT OFFICER.**

22 “(a) *IN GENERAL.*—*There is a Chief Procurement Of-*
23 *ficer of the Department, who shall report directly to the*
24 *Under Secretary for Management. The Chief Procurement*
25 *Officer is the senior procurement executive for purposes of*

1 *section 1702(c) of title 41, United States Code, and shall*
2 *perform procurement functions as specified in such section.*
3 *The Chief Procurement Officer also shall perform other*
4 *functions and responsibilities set forth in this section and*
5 *as may be assigned by the Under Secretary for Manage-*
6 *ment.*

7 “(b) *RESPONSIBILITIES.—The Chief Procurement Offi-*
8 *cer shall—*

9 “(1) *exercise leadership and authority to the ex-*
10 *tent delegated by the Under Secretary for Manage-*
11 *ment over the Department procurement function;*

12 “(2) *issue acquisition regulations and policies;*

13 “(3) *account for the integrity, performance, and*
14 *oversight of Department procurement and contracting*
15 *functions and be responsible for ensuring that a pro-*
16 *curement’s contracting strategy and plans are con-*
17 *sistent with the intent and direction of the Acquisi-*
18 *tion Review Board established in section 836 of this*
19 *Act;*

20 “(4) *serve as the Department’s business advisor*
21 *and main liaison to industry on procurement-related*
22 *issues by providing advice on industry engagement,*
23 *acquisition policy, oversight of the procurement func-*
24 *tion, and development of the acquisition workforce;*

1 “(5) oversee a centralized certification and train-
2 ing program, in consultation with the Under Sec-
3 retary for Management, for the entire Department ac-
4 quisition workforce while using, to the greatest extent
5 practicable, best practices and acquisitions training
6 opportunities already in existence within the Federal
7 Government, the private sector, or universities and
8 colleges, as appropriate, and including training on
9 how best to identify actions that warrant referrals for
10 suspension or debarment;

11 “(6) delegate or retain contracting authority, as
12 appropriate, except as provided in section 701(d)(3)
13 of this Act;

14 “(7) participate in the selection, and periodic
15 performance review, of the head of each contracting
16 activity within the Department;

17 “(8) collect baseline data and establish perform-
18 ance measures on the impact of strategic sourcing ini-
19 tiatives on the private sector, including, in par-
20 ticular, small businesses; and

21 “(9) ensure that a fair proportion (as defined
22 pursuant to the Small Business Act (15 U.S.C. 631
23 et seq.)) of Federal contract and subcontract dollars
24 are awarded to small businesses, maximize opportuni-
25 ties for small business participation, and ensure, to

1 *the extent practicable, small businesses that achieve*
 2 *qualified vendor status for security-related tech-*
 3 *nologies are provided an opportunity to compete for*
 4 *contracts for such technology.”.*

5 **(b) CLERICAL AMENDMENT.**—*The table of contents in*
 6 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*
 7 *101 et seq.) is amended by adding after the item relating*
 8 *to section 707 the following new item:*

 “Sec. 708. Chief Procurement Officer.”.

9 **SEC. 105. REQUIREMENTS TO ENSURE GREATER ACCOUNT-**
 10 **ABILITY FOR ACQUISITION PROGRAMS.**

11 **(a) IN GENERAL.**—*Title VII of the Homeland Security*
 12 *Act of 2002 (6 U.S.C. 341 et seq.) is further amended by*
 13 *adding at the end the following new section:*

14 **“SEC. 709. REQUIREMENTS TO ENSURE GREATER ACCOUNT-**
 15 **ABILITY FOR ACQUISITION PROGRAMS.**

16 **“(a) REQUIREMENT TO ESTABLISH MECHANISM.**—
 17 *Within the Management Directorate, the Under Secretary*
 18 *for Management shall establish a mechanism to prioritize*
 19 *improving the accountability, standardization, and trans-*
 20 *parency of major acquisition programs of the Department*
 21 *in order to increase opportunities for effectiveness and effi-*
 22 *ciencies and to serve as the central oversight function of*
 23 *all Department acquisition programs.*

24 **“(b) RESPONSIBILITIES OF EXECUTIVE DIRECTOR.**—
 25 *The Under Secretary for Management shall designate an*

1 *Executive Director to oversee the requirement under sub-*
2 *section (a). The Executive Director shall report directly to*
3 *the Under Secretary and shall carry out the following re-*
4 *sponsibilities:*

5 “(1) *Monitor the performance of Department ac-*
6 *quisition programs regularly between acquisition de-*
7 *cision events to identify problems with cost, perform-*
8 *ance, or schedule that Components may need to ad-*
9 *dress to prevent cost overruns, performance issues, or*
10 *schedule delays.*

11 “(2) *Assist the Chief Acquisition Officer in man-*
12 *aging the Department’s acquisition portfolio.*

13 “(3) *Conduct oversight of individual acquisition*
14 *programs to implement Department acquisition pro-*
15 *gram policy, procedures, and guidance with a pri-*
16 *ority on ensuring the data it collects and maintains*
17 *from its Components is accurate and reliable.*

18 “(4) *Serve as the focal point within the Depart-*
19 *ment for policy, process, and procedure regarding life*
20 *cycle cost estimating and analysis.*

21 “(5) *Serve as the focal point and coordinator for*
22 *the acquisition life cycle review process and as the ex-*
23 *ecutive secretariat for the Acquisition Review Board*
24 *established under section 836 of this Act.*

1 “(6) Advise the persons having acquisition deci-
2 sion authority in making acquisition decisions con-
3 sistent with all applicable laws and in establishing
4 clear lines of authority, accountability, and responsi-
5 bility for acquisition decisionmaking within the De-
6 partment.

7 “(7) Engage in the strategic planning and per-
8 formance evaluation process required under section
9 306 of title 5, United States Code, and sections
10 1105(a)(28), 1115, 1116, and 9703 of title 31, United
11 States Code, by supporting the Chief Procurement Of-
12 ficer in developing strategies and specific plans for
13 hiring, training, and professional development in
14 order to rectify any deficiency within the Depart-
15 ment’s acquisition workforce.

16 “(8) Oversee the Component Acquisition Execu-
17 tive structure to ensure it has sufficient capabilities
18 and complies with Department policies.

19 “(9) Develop standardized certification stand-
20 ards in consultation with the Component Acquisition
21 Executives for all acquisition program managers.

22 “(10) In the event that a program manager’s
23 certification or actions need review for purposes of
24 promotion or removal, provide input, in consultation
25 with the relevant Component Acquisition Executive,

1 *into the relevant program manager’s performance*
2 *evaluation, and report positive or negative experi-*
3 *ences to the relevant certifying authority.*

4 “(11) *Provide technical support and assistance*
5 *to Department acquisitions and acquisition personnel*
6 *in conjunction with the Chief Procurement Officer.*

7 “(12) *Prepare the Department’s Comprehensive*
8 *Acquisition Status Report, as required by the Depart-*
9 *ment of Homeland Security Appropriations Act, 2013*
10 *(division D of Public Law 113–6; 127 Stat. 343) and*
11 *section 840 of this Act, and make such report avail-*
12 *able to congressional homeland security committees.*

13 “(13) *Prepare the Department’s Quarterly Pro-*
14 *gram Accountability Report as required by section*
15 *840 of this Act, and make such report available to the*
16 *congressional homeland security committees.*

17 “(c) *RESPONSIBILITIES OF COMPONENTS.—Each head*
18 *of a Component shall comply with Federal law, the Federal*
19 *Acquisition Regulation, and Department acquisition man-*
20 *agement directives established by the Under Secretary for*
21 *Management. For each major acquisition program, each*
22 *head of a Component shall—*

23 “(1) *establish a complete life cycle cost estimate*
24 *with supporting documentation, including an acquisi-*
25 *tion program baseline;*

1 “(2) verify each life cycle cost estimate against
2 independent cost estimates, and reconcile any dif-
3 ferences;

4 “(3) complete a cost-benefit analysis with sup-
5 porting documentation;

6 “(4) develop and maintain a schedule that is
7 consistent with scheduling best practices as identified
8 by the Comptroller General of the United States, in-
9 cluding, in appropriate cases, an integrated master
10 schedule; and

11 “(5) ensure that all acquisition program infor-
12 mation provided by the Component is complete, accu-
13 rate, timely, and valid.”.

14 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
15 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*
16 *101 et seq.) is further amended by adding after the item*
17 *relating to section 708 the following new item:*

*“Sec. 709. Requirements to ensure greater accountability for acquisition pro-
grams.”.*

18 **TITLE II—ACQUISITION PRO-**
19 **GRAM MANAGEMENT DIS-**
20 **CIPLINE**

21 **SEC. 201. ACQUISITION REVIEW BOARD.**

22 (a) *IN GENERAL.*—*Subtitle D of title VIII of the*
23 *Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is*
24 *amended by adding at the end the following new section:*

1 **“SEC. 836. ACQUISITION REVIEW BOARD.**

2 “(a) *IN GENERAL.*—*The Secretary shall establish an*
3 *Acquisition Review Board (in this section referred to as the*
4 *‘Board’)* *to strengthen accountability and uniformity with-*
5 *in the Department acquisition review process, review major*
6 *acquisition programs, and review the use of best practices.*

7 “(b) *COMPOSITION.*—*The Deputy Secretary or Under*
8 *Secretary for Management shall serve as chair of the Board.*
9 *The Secretary shall also ensure participation by other rel-*
10 *evant Department officials, including at least two Compo-*
11 *nent heads or their designees, as permanent members of the*
12 *Board.*

13 “(c) *MEETINGS.*—*The Board shall meet every time a*
14 *major acquisition program needs authorization to proceed*
15 *from acquisition decision events through the acquisition life*
16 *cycle and to consider any major acquisition program in*
17 *breach as necessary. The Board may also be convened for*
18 *non-major acquisitions that are deemed high-risk by the Ex-*
19 *ecutive Director referred to in section 709(b) of this Act.*
20 *The Board shall also meet regularly for purposes of ensur-*
21 *ing all acquisitions processes proceed in a timely fashion*
22 *to achieve mission readiness.*

23 “(d) *RESPONSIBILITIES.*—*The responsibilities of the*
24 *Board are as follows:*

25 “(1) *Determine whether a proposed acquisition*
26 *has met the requirements of key phases of the acquisi-*

1 *tion life cycle framework and is able to proceed to the*
2 *next phase and eventual full production and deploy-*
3 *ment.*

4 *“(2) Oversee executable business strategy, re-*
5 *sources, management, accountability, and alignment*
6 *to strategic initiatives.*

7 *“(3) Support the person with acquisition deci-*
8 *sion authority for an acquisition in determining the*
9 *appropriate direction for the acquisition at key acqui-*
10 *sition decision events.*

11 *“(4) Conduct systematic reviews of acquisitions*
12 *to ensure that they are progressing in compliance*
13 *with the approved documents for their current acqui-*
14 *sition phase.*

15 *“(5) Validate the acquisition documents of each*
16 *major acquisition program, including the acquisition*
17 *program baseline, to ensure the reliability of under-*
18 *lying data.*

19 *“(6) Ensure that practices are adopted and im-*
20 *plemented to require consideration of trade-offs*
21 *among cost, schedule, and performance objectives as*
22 *part of the process for developing requirements for*
23 *major acquisition programs prior to the initiation of*
24 *the capability development plan, second acquisition*

1 *decision event, including, at a minimum, the fol-*
2 *lowing practices:*

3 *“(A) Department officials responsible for*
4 *acquisition, budget, and cost estimating func-*
5 *tions are provided with the appropriate oppor-*
6 *tunity to develop estimates and raise cost and*
7 *schedule matters before performance objectives*
8 *are established for capabilities when feasible.*

9 *“(B) Full consideration of possible trade-*
10 *offs among cost, schedule, and performance objec-*
11 *tives for each alternative is considered.*

12 *“(e) ACQUISITION PROGRAM BASELINE REPORT RE-*
13 *QUIREMENT.—If the person exercising acquisition decision*
14 *authority over a major acquisition program approves the*
15 *program to proceed beyond the acquisition decision event*
16 *requiring a capability development plan before it has a De-*
17 *partment-approved acquisition program baseline, then the*
18 *Under Secretary for Management shall create and approve*
19 *an acquisition program baseline report on the decision, and*
20 *the Secretary shall—*

21 *“(1) within seven days after an acquisition deci-*
22 *sion memorandum is signed, notify in writing the*
23 *congressional homeland security committees of such*
24 *decision; and*

1 *retary for Management, shall establish Department-wide*
2 *policies to integrate all phases of the investment life cycle*
3 *and help the Department identify, validate, and prioritize*
4 *standards for common Component requirements for major*
5 *acquisition program requirements in order to increase op-*
6 *portunities for effectiveness and efficiencies. The policies*
7 *shall also include strategic alternatives for developing and*
8 *facilitating a Department Component-driven requirements*
9 *process that includes oversight of a development test and*
10 *evaluation capability; identification of priority gaps and*
11 *overlaps in Department capability needs; and provision of*
12 *feasible technical alternatives, including innovative com-*
13 *mercially available alternatives, to meet capability needs.*

14 “(b) *MECHANISMS TO CARRY OUT REQUIREMENT.—*
15 *The Deputy Secretary, in consultation with the Under Sec-*
16 *retary for Management, shall coordinate the actions nec-*
17 *essary to carry out subsection (a), using such mechanisms*
18 *as considered necessary by the Secretary to help the Depart-*
19 *ment reduce duplication and inefficiency for all Depart-*
20 *ment investments, including major acquisition programs.*

21 “(c) *COORDINATION.—In coordinating the actions nec-*
22 *essary to carry out subsection (a), the Deputy Secretary*
23 *shall consult with the Under Secretary for Management,*
24 *Component Acquisition Executives, and any other Depart-*
25 *ment officials, including the Under Secretary for Science*

1 *and Technology or his designee, with specific knowledge of*
2 *Department or Component acquisition capabilities to pre-*
3 *vent unnecessary duplication of requirements.*

4 “(d) *ADVISORS.*—*The Deputy Secretary, in consulta-*
5 *tion with the Under Secretary for Management, shall seek*
6 *and consider input within legal and ethical boundaries*
7 *from members of Federal, State, local, and tribal govern-*
8 *ments, nonprofit organizations, and the private sector, as*
9 *appropriate, on matters within their authority and exper-*
10 *tise in carrying out the Department’s mission.*

11 “(e) *MEETINGS.*—*The Deputy Secretary, in consulta-*
12 *tion with the Under Secretary for Management, shall meet*
13 *at least quarterly and communicate with Components often*
14 *to ensure that Components do not overlap or duplicate*
15 *spending or priorities on major investments and acquisi-*
16 *tion programs within their areas of responsibility.*

17 “(f) *RESPONSIBILITIES.*—*In carrying out this section,*
18 *the responsibilities of the Deputy Secretary are as follows:*

19 “(1) *To review and validate the requirements*
20 *documents of major investments and acquisition pro-*
21 *grams prior to acquisition decision events of the in-*
22 *vestments or programs.*

23 “(2) *To ensure the requirements and scope of a*
24 *major investment or acquisition program are stable,*

1 *measurable, achievable, at an acceptable risk level,*
2 *and match the resources planned to be available.*

3 *“(3) Before any entity of the Department issues*
4 *a solicitation for a new contract, coordinate with*
5 *other Department entities as appropriate to prevent*
6 *duplication and inefficiency and—*

7 *“(A) to implement portfolio reviews to iden-*
8 *tify common mission requirements and cross-*
9 *cutting opportunities among Components to har-*
10 *monize investments and requirements and pre-*
11 *vent overlap and duplication among Compo-*
12 *nents; and*

13 *“(B) to the extent practicable, to stand-*
14 *ardize equipment purchases, streamline the ac-*
15 *quisition process, improve efficiencies, and con-*
16 *duct best practices for strategic sourcing.*

17 *“(4) To ensure program managers of major in-*
18 *vestments and acquisition programs conduct analyses,*
19 *giving particular attention to factors such as cost,*
20 *schedule, risk, performance, and operational efficiency*
21 *in order to determine that programs work as intended*
22 *within cost and budget expectations.*

23 *“(5) To propose schedules for delivery of the*
24 *operational capability needed to meet each Depart-*
25 *ment investment and major acquisition program.*

1 “(g) *BEST PRACTICES DEFINED.*—*In this section, the*
 2 *term ‘best practices’ has the meaning provided in section*
 3 *4(b) of the DHS Acquisition Accountability and Efficiency*
 4 *Act.’”.*

5 (b) *CLERICAL AMENDMENT.*—*The table of contents in*
 6 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*
 7 *101 et seq.) is further amended by adding after the item*
 8 *relating to section 836 the following new item:*

“*Sec. 837. Requirements to reduce duplication in acquisition programs.*”.

9 **SEC. 203. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
 10 **OF BOARD AND OF REQUIREMENTS TO RE-**
 11 **DUCE DUPLICATION IN ACQUISITION PRO-**
 12 **GRAMS.**

13 (a) *REVIEW REQUIRED.*—*The Comptroller General of*
 14 *the United States shall conduct a review of the effectiveness*
 15 *of the Acquisition Review Board established under section*
 16 *836 of the Homeland Security Act of 2002 (as added by*
 17 *section 201) and the requirements to reduce duplication in*
 18 *acquisition programs established under section 837 of such*
 19 *Act (as added by section 202) in improving the Depart-*
 20 *ment’s acquisition management process.*

21 (b) *SCOPE OF REPORT.*—*The review shall include the*
 22 *following:*

23 (1) *An assessment of the effectiveness of the De-*
 24 *partment in increasing program management over-*
 25 *sight, best practices and standards, and discipline*

1 *among the Components of the Department, including*
2 *in working together and in preventing overlap and*
3 *duplication.*

4 (2) *An assessment of the effectiveness of the De-*
5 *partment in instilling program management dis-*
6 *cipline.*

7 (3) *A statement of how regularly each major ac-*
8 *quisition program is reviewed by the Board, how*
9 *often the Board stops major acquisition programs*
10 *from moving forward in the phases of the acquisition*
11 *life cycle process, and the number of major acquisi-*
12 *tion programs that have been halted because of prob-*
13 *lems with operational effectiveness, schedule delays, or*
14 *cost overruns.*

15 (c) *REPORT REQUIRED.—The Comptroller General*
16 *shall submit to the congressional homeland security com-*
17 *mittees a report on the review required by this section not*
18 *later than one year after the date of the enactment of this*
19 *Act. The report shall be submitted in unclassified form but*
20 *may include a classified annex.*

21 **SEC. 204. EXCLUDED PARTY LIST SYSTEM WAIVERS.**

22 *The Secretary of Homeland Security shall provide no-*
23 *tification to the congressional homeland security committees*
24 *within five days after the issuance of a waiver by the Sec-*
25 *retary of Federal requirements that an agency not engage*

1 *in business with a contractor in the Excluded Party List*
2 *System (or successor system) as maintained by the General*
3 *Services Administration and an explanation for a finding*
4 *by the Secretary that a compelling reason exists for this*
5 *action.*

6 **SEC. 205. INSPECTOR GENERAL OVERSIGHT OF SUSPEN-**
7 **SION AND DEBARMENT.**

8 *The Inspector General of the Department of Homeland*
9 *Security—*

10 *(1) may audit decisions about grant and pro-*
11 *urement awards to identify instances where a con-*
12 *tract or grant was improperly awarded to a sus-*
13 *pended or debarred entity and whether corrective ac-*
14 *tions were taken to prevent recurrence; and*

15 *(2) shall review the suspension and debarment*
16 *program throughout the Department of Homeland Se-*
17 *curity to assess whether suspension and debarment*
18 *criteria are consistently applied throughout the De-*
19 *partment and whether disparities exist in the appli-*
20 *cation of such criteria, particularly with respect to*
21 *business size and categories.*

1 **TITLE III—ACQUISITION PRO-**
2 **GRAM MANAGEMENT AC-**
3 **COUNTABILITY AND TRANS-**
4 **PARENCY**

5 **SEC. 301. CONGRESSIONAL NOTIFICATION AND OTHER RE-**
6 **QUIREMENTS FOR MAJOR ACQUISITION PRO-**
7 **GRAM BREACH.**

8 (a) *IN GENERAL.*—Subtitle D of title VIII of the
9 *Homeland Security Act of 2002 (6 U.S.C. 391 et seq.)* is
10 *further amended by adding at the end the following new*
11 *section:*

12 **“SEC. 838. CONGRESSIONAL NOTIFICATION AND OTHER RE-**
13 **QUIREMENTS FOR MAJOR ACQUISITION PRO-**
14 **GRAM BREACH.**

15 “(a) *BREACH DEFINED.*—The term ‘breach’, with re-
16 *spect to a major acquisition program, means a failure to*
17 *meet any cost, schedule, or performance parameter specified*
18 *in the acquisition program baseline.*

19 “(b) *REQUIREMENTS WITHIN DEPARTMENT IF*
20 *BREACH OCCURS.*—

21 “(1) *NOTIFICATIONS.*—

22 “(A) *NOTIFICATION OF POTENTIAL*
23 *BREACH.*—*If a major acquisition program has a*
24 *potential for a future breach, as determined by*
25 *the program manager for that program, the pro-*

1 *gram manager shall notify the person exercising*
2 *acquisition decision authority for the program.*

3 “(B) *NOTIFICATION OF ACTUAL BREACH.*—
4 *If an actual breach occurs in a major acquisi-*
5 *tion program, the program manager for that*
6 *program shall notify the head of the Component*
7 *concerned, the Component Acquisition Executive*
8 *for the program, the Executive Director referred*
9 *to in section 709(b) of this Act, the Under Sec-*
10 *retary for Management, and the Deputy Sec-*
11 *retary.*

12 “(C) *NOTIFICATION TO SECRETARY.*—*If a*
13 *major acquisition program has an actual breach*
14 *with a cost overrun greater than 20 percent or*
15 *a schedule delay greater than 12 months from the*
16 *costs or schedule set forth in the acquisition pro-*
17 *gram baseline for the program, the Secretary*
18 *and the Inspector General of the Department*
19 *shall be notified not later than five business days*
20 *after the actual breach is identified.*

21 “(2) *REMEDIATION PLAN AND ROOT CAUSE ANAL-*
22 *YSIS.*—

23 “(A) *IN GENERAL.*—*In the case of an actual*
24 *breach with a cost overrun greater than 15 per-*
25 *cent or a schedule delay greater than 180 days*

1 *from the costs or schedule set forth in the acqui-*
2 *sition program baseline, a remediation plan and*
3 *root cause analysis is required, and the Under*
4 *Secretary for Management or his designee shall*
5 *establish a date for submission within the De-*
6 *partment of a breach remediation plan and root*
7 *cause analysis in accordance with this sub-*
8 *section.*

9 “(B) *REMEDIATION PLAN.*—*The remedi-*
10 *ation plan required under this subsection shall*
11 *be submitted in writing to the head of the Com-*
12 *ponent concerned, the Executive Director referred*
13 *to in section 709(b) of this Act, and the Under*
14 *Secretary for Management. The plan shall—*

15 “(i) *explain the circumstances of the*
16 *breach;*

17 “(ii) *provide prior cost estimating in-*
18 *formation;*

19 “(iii) *propose corrective action to con-*
20 *trol cost growth, schedule delays, or per-*
21 *formance issues;*

22 “(iv) *in coordination with Component*
23 *Acquisition Executive, discuss all options*
24 *considered, including the estimated impact*
25 *on cost, schedule, or performance of the pro-*

1 *gram if no changes are made to current re-*
2 *quirements, the estimated cost of the pro-*
3 *gram if requirements are modified, and the*
4 *extent to which funding from other pro-*
5 *grams will need to be reduced to cover the*
6 *cost growth of the program; and*

7 “(v) *explain the rationale for why the*
8 *proposed corrective action is recommended.*

9 “(C) *ROOT CAUSE ANALYSIS.—The root*
10 *cause analysis required under this subsection*
11 *shall determine the underlying cause or causes of*
12 *shortcomings in cost, schedule, or performance of*
13 *the program, including the role, if any, of the*
14 *following:*

15 “(i) *Unrealistic performance expecta-*
16 *tions.*

17 “(ii) *Unrealistic baseline estimates for*
18 *cost or schedule or changes in program re-*
19 *quirements.*

20 “(iii) *Immature technologies or exces-*
21 *sive manufacturing or integration risk.*

22 “(iv) *Unanticipated design, engineer-*
23 *ing, manufacturing, or technology integra-*
24 *tion issues arising during program per-*
25 *formance.*

1 “(v) *Changes in procurement quan-*
2 *tities.*

3 “(vi) *Inadequate program funding or*
4 *changes in planned out-year funding from*
5 *one five-year funding plan to the next five-*
6 *year funding plan as outlined in the Future*
7 *Years Homeland Security Program required*
8 *under section 874 of this Act.*

9 “(vii) *Legislative, legal, or regulatory*
10 *changes.*

11 “(viii) *Inadequate program manage-*
12 *ment personnel, including lack of training,*
13 *credentials, certifications, or use of best*
14 *practices.*

15 “(3) *CORRECTION OF BREACH.—The Under Sec-*
16 *retary for Management or his designee shall establish*
17 *a date for submission within the Department of a*
18 *program of corrective action that ensures that one of*
19 *the following actions has occurred:*

20 “(A) *The breach has been corrected and the*
21 *program is again in compliance with the origi-*
22 *nal acquisition program baseline parameters.*

23 “(B) *A revised acquisition program baseline*
24 *has been approved.*

1 “(C) *The program has been halted or can-*
2 *celled.*

3 “(c) *REQUIREMENTS RELATING TO CONGRESSIONAL*
4 *NOTIFICATION IF BREACH OCCURS.—*

5 “(1) *NOTIFICATION TO CONGRESS.—If a notifica-*
6 *tion is made under subsection (b)(1)(B) for a breach*
7 *in a major acquisition program with a cost overrun*
8 *greater than 15 percent or a schedule delay greater*
9 *than 180 days from the costs or schedule set forth in*
10 *the acquisition program baseline, or with an antici-*
11 *ipated failure for any key performance threshold or*
12 *parameter specified in the acquisition program base-*
13 *line, the Under Secretary for Management shall no-*
14 *tify the congressional homeland security committees of*
15 *the breach in the next quarterly Comprehensive Ac-*
16 *quisition Status Report after the Under Secretary for*
17 *Management receives the notification from the pro-*
18 *gram manager under subsection (b)(1)(B).*

19 “(2) *SUBSTANTIAL VARIANCES IN COSTS OR*
20 *SCHEDULE.—If a likely cost overrun is greater than*
21 *20 percent or a likely delay is greater than 12 months*
22 *from the costs and schedule set forth in the acquisi-*
23 *tion program baseline for a major acquisition pro-*
24 *gram, the Under Secretary for Management shall in-*

1 *clude in the notification required in (c)(1) a written*
2 *certification, with supporting explanation, that—*

3 *“(A) the acquisition is essential to the ac-*
4 *complishment of the Department’s mission;*

5 *“(B) there are no alternatives to such capa-*
6 *bility or asset that will provide equal or greater*
7 *capability in both a more cost-effective and time-*
8 *ly manner;*

9 *“(C) the new acquisition schedule and esti-*
10 *mates for total acquisition cost are reasonable;*
11 *and*

12 *“(D) the management structure for the ac-*
13 *quisition program is adequate to manage and*
14 *control performance, cost, and schedule.*

15 *“(3) SUBMISSIONS TO CONGRESS.—Not later*
16 *than 30 calendar days after submission to such com-*
17 *mittees of a breach notification under paragraph (1)*
18 *of this section for a major acquisition program, the*
19 *Under Secretary for Management shall submit to such*
20 *committees the following:*

21 *“(A) A copy of the remediation plan and*
22 *the root cause analysis prepared under sub-*
23 *section (b)(2) for the program.*

24 *“(B) A statement describing the corrective*
25 *action or actions that have occurred pursuant to*

1 *subsection (b)(3) for the program, with a jus-*
2 *tification for the action or actions.*

3 *“(d) ADDITIONAL ACTIONS IF BREACH OCCURS.—*

4 *“(1) PROHIBITION ON OBLIGATION OF FUNDS.—*
5 *During the 90-day period following submission under*
6 *subsection (c)(3) of a remediation plan, root cause*
7 *analysis, and statement of corrective actions with re-*
8 *spect to a major acquisition program, the Under Sec-*
9 *retary for Management shall submit a certification*
10 *described in paragraph (2) of this subsection to the*
11 *congressional homeland security committees. If the*
12 *Under Secretary for Management does not submit*
13 *such certification by the end of such 90-day period,*
14 *then funds appropriated to the major acquisition pro-*
15 *gram shall not be obligated until the Under Secretary*
16 *for Management submits such certification.*

17 *“(2) CERTIFICATION.—For purposes of para-*
18 *graph (1), the certification described in this para-*
19 *graph is a certification that—*

20 *“(A) the Department has adjusted or re-*
21 *structured the program in a manner that ad-*
22 *dresses the root cause or causes of the cost growth*
23 *in the program; and*

24 *“(B) the Department has conducted a thor-*
25 *ough review of the breached program’s acquisi-*

1 *tion decision event approvals and the current ac-*
 2 *quisition decision event approval for the*
 3 *breached program has been adjusted as necessary*
 4 *to account for the restructured program.”.*

5 *(b) CLERICAL AMENDMENT.—The table of contents in*
 6 *section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.*
 7 *101 et seq.) is further amended by adding after the item*
 8 *relating to section 837 the following new item:*

“Sec. 838. Congressional notification and other requirements for major acquisition program breach.”.

9 **SEC. 302. MULTIYEAR ACQUISITION STRATEGY.**

10 *(a) IN GENERAL.—*

11 *(1) AMENDMENT.—Subtitle D of title VIII of the*
 12 *Homeland Security Act of 2002 (6 U.S.C. 391 et seq.)*
 13 *is further amended by adding at the end the following*
 14 *new section:*

15 **“SEC. 839. MULTIYEAR ACQUISITION STRATEGY.**

16 *“(a) MULTIYEAR ACQUISITION STRATEGY RE-*
 17 *QUIRED.—Not later than one year after the date of the en-*
 18 *actment of this section, the Secretary shall submit to the*
 19 *appropriate homeland security committees a multiyear ac-*
 20 *quisition strategy to guide the overall direction of the acqui-*
 21 *sitions of the Department while allowing flexibility to deal*
 22 *with ever-changing threats and risks and to help industry*
 23 *better understand, plan, and align resources to meet the fu-*
 24 *ture acquisition needs of the Department. The strategy shall*

1 *be updated and included in each Future Years Homeland*
2 *Security Program required under section 874 of this Act.*

3 “(b) *CONSULTATION.*—*In developing the strategy, the*
4 *Secretary shall consult with others as the Secretary deems*
5 *appropriate, including headquarters, Components, employ-*
6 *ees in the field, and when appropriate, individuals from*
7 *industry and the academic community.*

8 “(c) *FORM OF STRATEGY.*—*The report shall be sub-*
9 *mitted in unclassified form but may include a classified*
10 *annex for any sensitive or classified information if nec-*
11 *essary. The Department also shall publish the plan in an*
12 *unclassified format that is publicly available.*

13 “(d) *CONTENTS OF STRATEGY.*—*The strategy shall in-*
14 *clude the following:*

15 “(1) *PRIORITIZED LIST.*—*A systematic and inte-*
16 *grated prioritized list developed by the Under Sec-*
17 *retary for Management or his designee in coordina-*
18 *tion with all of the Component Acquisition Executives*
19 *of Department major acquisition programs that De-*
20 *partment and Component acquisition investments*
21 *seek to address, that includes the expected security*
22 *and economic benefit of the program or system and*
23 *an analysis of how the security and economic benefit*
24 *derived from the program or system will be measured.*

1 “(2) *INVENTORY.*—A plan to develop a reliable
2 *Department-wide inventory of investments and real*
3 *property assets to help the Department plan, budget,*
4 *schedule, and acquire upgrades of its systems and*
5 *equipment and plan for the acquisition and manage-*
6 *ment of future systems and equipment.*

7 “(3) *FUNDING GAPS.*—A plan to address funding
8 *gaps between funding requirements for major acquisi-*
9 *tion programs and known available resources includ-*
10 *ing, to the maximum extent practicable, ways of*
11 *leveraging best practices to identify and eliminate*
12 *overpayment for items to prevent wasteful pur-*
13 *chasing, achieve the greatest level of efficiency and*
14 *cost savings by rationalizing purchases, aligning*
15 *pricing for similar items, and utilizing purchase tim-*
16 *ing and economies of scale.*

17 “(4) *IDENTIFICATION OF CAPABILITIES.*—An
18 *identification of test, evaluation, modeling, and sim-*
19 *ulation capabilities that will be required to support*
20 *the acquisition of the technologies to meet the needs of*
21 *the plan and ways to leverage to the greatest extent*
22 *possible the emerging technology trends and research*
23 *and development trends within the public and private*
24 *sectors and an identification of ways to ensure that*
25 *the appropriate technology is acquired and integrated*

1 *into the Department’s operating doctrine and pro-*
2 *cured in ways that improve mission performance.*

3 *“(5) FOCUS ON FLEXIBLE SOLUTIONS.—An as-*
4 *essment of ways the Department can improve its*
5 *ability to test and acquire innovative solutions to*
6 *allow needed incentives and protections for appro-*
7 *priate risk-taking in order to meet its acquisition*
8 *needs with resiliency, agility, and responsiveness to*
9 *assure the Nation’s homeland security and facilitate*
10 *trade.*

11 *“(6) FOCUS ON INCENTIVES TO SAVE TAXPAYER*
12 *DOLLARS.—An assessment of ways the Department*
13 *can develop incentives for program managers and*
14 *senior Department acquisition officials to prevent cost*
15 *overruns, avoid schedule delays, and achieve cost sav-*
16 *ings in major acquisition programs.*

17 *“(7) FOCUS ON ADDRESSING DELAYS AND BID*
18 *PROTESTS.—An assessment of ways the Department*
19 *can improve the acquisition process to minimize cost*
20 *overruns in requirements development, procurement*
21 *announcements, requests for proposals, evaluation of*
22 *proposals, protests of decisions and awards and*
23 *through the use of best practices as defined in section*
24 *4(b) of the DHS Acquisition Accountability and Effi-*

1 *ciency Act and lessons learned by the Department*
2 *and other Federal agencies.*

3 “(8) *FOCUS ON IMPROVING OUTREACH.—An*
4 *identification and assessment of ways to increase op-*
5 *portunities for communication and collaboration with*
6 *industry, small and disadvantaged businesses, intra-*
7 *government entities, university centers of excellence,*
8 *accredited certification and standards development*
9 *organizations, and national laboratories to ensure*
10 *that the Department understands the market for tech-*
11 *nologies, products, and innovation that is available to*
12 *meet its mission needs to inform the requirements-set-*
13 *ting process and before engaging in an acquisition,*
14 *including—*

15 “(A) *methods designed especially to engage*
16 *small and disadvantaged businesses and a cost-*
17 *benefit analysis of the tradeoffs that small and*
18 *disadvantaged businesses provide, barriers to*
19 *entry for small and disadvantaged businesses,*
20 *and unique requirements for small and dis-*
21 *advantaged businesses; and*

22 “(B) *within the Department Vendor Com-*
23 *munication Plan and Market Research Guide,*
24 *instructions for interaction by program man-*
25 *agers with such entities to prevent misinterpreta-*

1 *tion of acquisition regulations and to permit*
2 *freedom within legal and ethical boundaries for*
3 *program managers to interact with such busi-*
4 *nesses with transparency.*

5 *“(9) COMPETITION.—A plan regarding competi-*
6 *tion as described in subsection (e).*

7 *“(10) ACQUISITION WORKFORCE.—A plan re-*
8 *garding the Department acquisition workforce as de-*
9 *scribed in subsection (f).*

10 *“(11) FEASIBILITY OF WORKFORCE DEVELOP-*
11 *MENT FUND PILOT PROGRAM.—An assessment of the*
12 *feasibility of conducting a pilot program to establish*
13 *an acquisition workforce development fund as de-*
14 *scribed in subsection (g).*

15 *“(e) COMPETITION PLAN.—The strategy shall also in-*
16 *clude a plan (referred to in subsection (d)(9)) that shall*
17 *address actions to ensure competition, or the option of com-*
18 *petition, for major acquisition programs. The plan may in-*
19 *clude assessments of the following measures in appropriate*
20 *cases if such measures are cost effective:*

21 *“(1) Competitive prototyping.*

22 *“(2) Dual-sourcing.*

23 *“(3) Unbundling of contracts.*

24 *“(4) Funding of next-generation prototype sys-*
25 *tems or subsystems.*

1 “(5) *Use of modular, open architectures to enable*
2 *competition for upgrades.*

3 “(6) *Acquisition of complete technical data pack-*
4 *ages.*

5 “(7) *Periodic competitions for subsystem up-*
6 *grades.*

7 “(8) *Licensing of additional suppliers, including*
8 *small businesses.*

9 “(9) *Periodic system or program reviews to ad-*
10 *dress long-term competitive effects of program deci-*
11 *sions.*

12 “(f) *ACQUISITION WORKFORCE PLAN.—*

13 “(1) *ACQUISITION WORKFORCE.—The strategy*
14 *shall also include a plan (referred to in subsection*
15 *(d)(10)) to address Department acquisition workforce*
16 *accountability and talent management that identifies*
17 *the acquisition workforce needs of each Component*
18 *performing acquisition functions and develops options*
19 *for filling those needs with qualified individuals, in-*
20 *cluding a cost-benefit analysis of contracting for ac-*
21 *quisition assistance.*

22 “(2) *ADDITIONAL MATTERS COVERED.—The ac-*
23 *quisition workforce plan shall address ways to—*

24 “(A) *improve the recruitment, hiring, train-*
25 *ing, and retention of Department acquisition*

1 workforce personnel, including contracting offi-
2 cer's representatives, in order to retain highly
3 qualified individuals that have experience in the
4 acquisition life cycle, complex procurements, and
5 management of large programs;

6 “(B) empower program managers to have
7 the authority to manage their programs in an
8 accountable and transparent manner as they
9 work with the acquisition workforce;

10 “(C) prevent duplication within Depart-
11 ment acquisition workforce training and certifi-
12 cation requirements through leveraging already-
13 existing training within the Federal Govern-
14 ment, academic community, or private industry;

15 “(D) achieve integration and consistency
16 with Government-wide training and accredita-
17 tion standards, acquisition training tools, and
18 training facilities;

19 “(E) designate the acquisition positions
20 that will be necessary to support the Department
21 acquisition requirements, including in the fields
22 of—

23 “(i) program management;

24 “(ii) systems engineering;

1 “(iii) procurement, including con-
2 tracting;

3 “(iv) test and evaluation;

4 “(v) life cycle logistics;

5 “(vi) cost estimating and program fi-
6 nancial management; and

7 “(vii) additional disciplines appro-
8 priate to Department mission needs;

9 “(F) strengthen the performance of con-
10 tracting officer’s representatives (as defined in
11 Subpart 1.602-2 and Subpart 2.101 of the Fed-
12 eral Acquisition Regulation), including by—

13 “(i) assessing the extent to which con-
14 tracting officer’s representatives are cer-
15 tified and receive training that is appro-
16 priate;

17 “(ii) determining what training is
18 most effective with respect to the type and
19 complexity of assignment; and

20 “(iii) implementing actions to improve
21 training based on such assessment; and

22 “(G) identify ways to increase training for
23 relevant investigators and auditors to examine
24 fraud in major acquisition programs, including
25 identifying opportunities to leverage existing

1 *Government and private sector resources in co-*
2 *ordination with the Inspector General of the De-*
3 *partment.*

4 “(g) *FEASIBILITY OF WORKFORCE DEVELOPMENT*
5 *FUND PILOT PROGRAM.*—*The strategy shall also include an*
6 *assessment (referred to in subsection (d)(11)) of the feasi-*
7 *bility of conducting a pilot program to establish a Home-*
8 *land Security Acquisition Workforce Development Fund (in*
9 *this subsection referred to as the ‘Fund’) to ensure the De-*
10 *partment acquisition workforce has the capacity, in both*
11 *personnel and skills, needed to properly perform its mission*
12 *and ensure that the Department receives the best value for*
13 *the expenditure of public resources. The assessment shall ad-*
14 *dress the following:*

15 “(1) *Ways to fund the Fund, including the use*
16 *of direct appropriations, or the credit, transfer, or de-*
17 *posit of unobligated or unused funds from Depart-*
18 *ment Components into the Fund to remain available*
19 *for obligation in the fiscal year for which credited,*
20 *transferred, or deposited and to remain available for*
21 *successive fiscal years.*

22 “(2) *Ways to reward the Department acquisition*
23 *workforce and program managers for good program*
24 *management in controlling cost growth, limiting*
25 *schedule delays, and ensuring operational effectiveness*

1 *through providing a percentage of the savings or gen-*
2 *eral acquisition bonuses.*

3 “(3) *Guidance for the administration of the*
4 *Fund that includes provisions to do the following:*

5 “(A) *Describe the costs and benefits associ-*
6 *ated with the use of direct appropriations or*
7 *credit, transfer, or deposit of unobligated or un-*
8 *used funds to finance the Fund.*

9 “(B) *Describe the manner and timing for*
10 *applications for amounts in the Fund to be sub-*
11 *mitted.*

12 “(C) *Explain the evaluation criteria to be*
13 *used for approving or prioritizing applications*
14 *for amounts in the Fund in any fiscal year.*

15 “(D) *Explain the mechanism to report to*
16 *Congress on the implementation of the Fund on*
17 *an ongoing basis.*

18 “(E) *Detail measurable performance metrics*
19 *to determine if the Fund is meeting the objective*
20 *to improve the acquisition workforce and to*
21 *achieve cost savings in acquisition manage-*
22 *ment.”.*

23 (2) *CLERICAL AMENDMENT.—The table of con-*
24 *tents in section 1(b) of the Homeland Security Act of*
25 *2002 (6 U.S.C. 101 et seq.) is further amended by*

1 *adding after the item relating to section 838 the fol-*
2 *lowing new item:*

“Sec. 839. Multiyear acquisition strategy.”.

3 *(b) CONFORMING AMENDMENT TO FUTURE YEARS*
4 *HOMELAND SECURITY PROGRAM.—Section 874(b) of the*
5 *Homeland Security Act of 2002 (6 U.S.C. 454(b)) is*
6 *amended—*

7 *(1) by striking “and” at the end of paragraph*

8 *(2);*

9 *(2) by striking the period at the end of para-*
10 *graph (3) and inserting “; and”; and*

11 *(3) by adding at the end the following new para-*
12 *graph:*

13 *“(4) include the multiyear acquisition strategy*
14 *required under section 839 of this Act.”.*

15 **SEC. 303. ACQUISITION REPORTS.**

16 *(a) IN GENERAL.—Subtitle D of title VIII of the*
17 *Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is*
18 *further amended by adding at the end the following new*
19 *section:*

20 **“SEC. 840. ACQUISITION REPORTS.**

21 *“(a) COMPREHENSIVE ACQUISITION STATUS RE-*
22 *PORT.—*

23 *“(1) IN GENERAL.—The Under Secretary for*
24 *Management each year shall submit to the congres-*
25 *sional homeland security committees, at the same*

1 *time as the President’s budget is submitted for a fiscal*
2 *year under section 1105(a) of title 31, United States*
3 *Code, a comprehensive acquisition status report. The*
4 *report shall include the following:*

5 *“(A) The information required under the*
6 *heading ‘Office of the Under Secretary for Man-*
7 *agement’ under Title I of division D of the Con-*
8 *solidated Appropriations Act, 2012 (Public Law*
9 *112-74) (as required under the Department of*
10 *Homeland Security Appropriations Act, 2013*
11 *(Public Law 113–6).*

12 *“(B) A listing of programs that have been*
13 *cancelled, modified, paused, or referred to the*
14 *Under Secretary for Management or Deputy Sec-*
15 *retary for additional oversight or action by the*
16 *Board, Department Office of Inspector General,*
17 *or the Comptroller General.*

18 *“(C) A listing of established Executive*
19 *Steering Committees, which provide governance*
20 *of a program or related set of programs and*
21 *lower-tiered oversight, and support between ac-*
22 *quisition decision events and Component re-*
23 *views, including the mission and membership for*
24 *each.*

1 “(2) *INFORMATION FOR MAJOR ACQUISITION*
2 *PROGRAMS.—For each major acquisition program, the*
3 *report shall include the following:*

4 “(A) *A narrative description, including cur-*
5 *rent gaps and shortfalls, the capabilities to be*
6 *fielded, and the number of planned increments or*
7 *units.*

8 “(B) *Acquisition Review Board (or other*
9 *board designated to review the acquisition) sta-*
10 *tus of each acquisition, including the current ac-*
11 *quisition phase, the date of the last review, and*
12 *a listing of the required documents that have*
13 *been reviewed with the dates reviewed or ap-*
14 *proved.*

15 “(C) *The most current, approved acquisi-*
16 *tion program baseline (including project sched-*
17 *ules and events).*

18 “(D) *A comparison of the original acquisi-*
19 *tion program baseline, the current acquisition*
20 *program baseline, and the current estimate.*

21 “(E) *Whether or not an independent*
22 *verification and validation has been imple-*
23 *mented, with an explanation for the decision and*
24 *a summary of any findings.*

1 “(F) A rating of cost risk, schedule risk,
2 and technical risk associated with the program
3 (including narrative descriptions and mitigation
4 actions).

5 “(G) Contract status (including earned
6 value management data as applicable).

7 “(H) A lifecycle cost of the acquisition, and
8 time basis for the estimate.

9 “(3) UPDATES.—The Under Secretary shall sub-
10 mit quarterly updates to such report not later than
11 45 days after the completion of each quarter.

12 “(b) QUARTERLY PROGRAM ACCOUNTABILITY RE-
13 PORT.—The Under Secretary for Management shall prepare
14 a quarterly program accountability report to meet the De-
15 partment’s mandate to perform program health assessments
16 and improve program execution and governance. The report
17 shall be submitted to the congressional homeland security
18 committees.”.

19 (b) CLERICAL AMENDMENT.—The table of contents in
20 section 1(b) of the Homeland Security Act of 2002 (6 U.S.C.
21 101 et seq.) is further amended by adding after the item
22 relating to section 839 the following new item:

“Sec. 840. Acquisition reports.”.

1 **SEC. 304. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
2 **OF MULTIYEAR ACQUISITION STRATEGY.**

3 (a) *REVIEW REQUIRED.*—After submission to Congress
4 of the first multiyear acquisition strategy (pursuant to sec-
5 tion 839 of the Homeland Security Act of 2002) after the
6 date of the enactment of this Act, the Comptroller General
7 of the United States shall conduct a review of the plan with-
8 in 180 days to analyze the viability of the plan’s effective-
9 ness in the following:

10 (1) *Complying with the requirements in section*
11 *839 of the Homeland Security Act of 2002, as added*
12 *by section 302 of this Act.*

13 (2) *Establishing clear connections between De-*
14 *partment objectives and acquisition priorities.*

15 (3) *Demonstrating that Department acquisition*
16 *policy reflects program management best practices*
17 *and standards.*

18 (4) *Ensuring competition or the option of com-*
19 *petition for major acquisition programs.*

20 (5) *Considering potential cost savings through*
21 *using already-existing technologies when developing*
22 *acquisition program requirements.*

23 (6) *Preventing duplication within Department*
24 *acquisition workforce training requirements through*
25 *leveraging already-existing training within the Fed-*

1 *eral Government, academic community, or private in-*
2 *dustry.*

3 *(7) Providing incentives for program managers*
4 *to reduce acquisition and procurement costs through*
5 *the use of best practices and disciplined program*
6 *management.*

7 *(8) Assessing the feasibility of conducting a pilot*
8 *program to establish a Homeland Security Acquisi-*
9 *tion Workforce Development Fund.*

10 *(b) REPORT REQUIRED.—The Comptroller General*
11 *shall submit to the congressional homeland security com-*
12 *mittees a report on the review required by this section. The*
13 *report shall be submitted in unclassified form but may in-*
14 *clude a classified annex.*

15 **SEC. 305. OFFICE OF INSPECTOR GENERAL REPORT.**

16 *(a) REVIEW REQUIRED.—No later than 2 years fol-*
17 *lowing the submission of the report submitted by the Comp-*
18 *troller General of the United States as required by section*
19 *304, the Department’s Inspector General shall conduct a re-*
20 *view of whether the Department has complied with the*
21 *multiyear acquisition strategy (pursuant to section 839 of*
22 *the Homeland Security Act of 2002) and adhered to the*
23 *strategies set forth in the plan. The review shall also con-*
24 *sider whether the Department has complied with the re-*
25 *quirements to provide the Acquisition Review Board with*

1 *a capability development plan for each major acquisition*
2 *program.*

3 **(b) REPORT REQUIRED.**—*The Inspector General shall*
4 *submit to the congressional homeland security committees*
5 *a report of the review required by this section. The report*
6 *shall be submitted in unclassified form but may include a*
7 *classified annex.*

Union Calendar No. 324

113TH CONGRESS
2^D SESSION

H. R. 4228

[Report No. 113-436]

A BILL

To require the Department of Homeland Security to improve discipline, accountability, and transparency in acquisition program management.

MAY 6, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed