

103^D CONGRESS
1ST SESSION

S. 1598

To amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Mr. ROTH (for himself, Mr. COHEN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

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 “Department of Defense
5 Acquisition Management Reform Act of 1993”.

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.

**TITLE I—REORGANIZATION AND REFORM OF THE
DEFENSE ACQUISITION SYSTEM**

Subtitle A—Streamlining and Improvement of Acquisition Management

- Sec. 101. Reorganization of acquisition authority.
- Sec. 102. Phase funding and review of defense acquisition programs.
- Sec. 103. Joint foreign products development.

Subtitle B—Transfer of Functions

- Sec. 121. Transfers.
- Sec. 122. Savings provisions.

TITLE II—ACQUISITION MANAGEMENT POLICIES

- Sec. 201. Acquisition performance goals.
- Sec. 202. Implementation of defense acquisition workforce amendments.
- Sec. 203. Enhanced encouragement of excellence in the defense acquisition workforce.
- Sec. 204. Program management stability.

TITLE III—CONTRACT FORMATION AND ADMINISTRATION

Subtitle A—Performance Based Contracting

- Sec. 301. Use of incentive contracts.
- Sec. 302. Progress payments.
- Sec. 303. Preference for certified contractors.
- Sec. 304. Consideration of past performance and eligibility certification.

Subtitle B—Efficient Contracting Process

- Sec. 311. Simplified acquisition threshold.
- Sec. 312. Procurement notice for certain contracts not in excess of the simplified acquisition threshold.
- Sec. 313. Acquisition of commercial items and nondevelopmental items.
- Sec. 314. Specifications and standards.
- Sec. 315. Innovative procedures, techniques, and strategies.
- Sec. 316. Process oriented contract administration.

Subtitle C—Procurement Protests

- Sec. 321. Post-award debriefings.
- Sec. 322. Comptroller General remedies.

Subtitle D—Other Matters

- Sec. 331. Unification of procurement laws.

TITLE IV—CONFORMING AMENDMENTS

- Sec. 401. Modification of the responsibility of the Comptroller of the Department of Defense for defense acquisition budgets.
- Sec. 402. The defense acquisition work force.
- Sec. 403. Procurement procedures generally.
- Sec. 404. Research and development.
- Sec. 405. Miscellaneous procurement provisions.
- Sec. 406. Major defense acquisition programs.
- Sec. 407. Service specific acquisition authority.
- Sec. 408. Other laws.

TITLE V—EFFECTIVE DATES

Sec. 501. Effective dates.

1 **TITLE I—REORGANIZATION AND**
2 **REFORM OF THE DEFENSE**
3 **ACQUISITION SYSTEM**

4 **Subtitle A—Streamlining and Im-**
5 **provement of Acquisition Man-**
6 **agement**

7 **SEC. 101. REORGANIZATION OF ACQUISITION AUTHORITY.**

8 (a) UNDER SECRETARY OF DEFENSE FOR ACQUI-
9 TION.—Section 133(b) of title 10, United States Code, is
10 amended—

11 (1) by redesignating paragraphs (3) and (4) as
12 paragraphs (4) and (5), respectively; and

13 (2) by striking out paragraphs (1) and (2) and
14 inserting in lieu thereof the following:

15 “(1) prescribing policies for research, develop-
16 ment, and acquisition activities of the Department of
17 Defense;

18 “(2) planning, programming, and overseeing
19 the research, development, and acquisition activities
20 of the Department of Defense;

21 “(3) assisting in the preparation and integra-
22 tion of budgets for the research, development, and
23 acquisition activities of the Department of Defense,
24 including assisting in the planning, programming,

1 and budgeting system with respect to such activi-
2 ties;”.

3 (b) DEFENSE RESEARCH, DEVELOPMENT, AND AC-
4 QUISSION AGENCY.—(1) Part I of subtitle A of title 10,
5 United States Code, is amended by inserting after chapter
6 9 the following new chapter:

7 **“CHAPTER 10—DEFENSE RESEARCH, DE-**
8 **VELOPMENT, AND ACQUISITION AGEN-**
9 **CY**

“Sec.

“231. Establishment.

“232. Use of agency for all research, development, and acquisition activities.

“233. Duties.

“234. Program executive officers.

“235. Program managers.

“236. Functional analytical capability.

10 **“§ 231. Establishment**

11 “(a) AGENCY.—There is established a Defense Re-
12 search, Development, and Acquisition Agency in the De-
13 partment of Defense.

14 “(b) DIRECTOR.—(1) The head of the agency is the
15 Director of Defense Research, Development, and Acquisi-
16 tion who shall be appointed by the Under Secretary of De-
17 fense for Acquisition from among persons who are career
18 professional employees in the acquisition workforce of the
19 Department of Defense.

20 “(2) A member of the armed forces, while serving as
21 the Director, holds the grade of general or, in the case

1 of an officer of the Navy, admiral. A civilian, while serving
2 as the Director, holds an equivalent civilian grade.

3 “(c) CHIEF OF ENGINEERING AND ANALYSIS.—(1)
4 In the Defense Research, Development, and Acquisition
5 Agency there is a Chief of Engineering and Analysis who
6 shall be appointed by the Director from among the career
7 professional employees in the acquisition workforce of the
8 Department of Defense.

9 “(2) The Director shall evaluate the performance of
10 the Chief of Engineering and Analysis. The Director may
11 not delegate the performance of the evaluation responsibil-
12 ity.

13 “(3) The Chief of Engineering and Analysis shall be
14 the senior technical adviser for the Defense Research, De-
15 velopment, and Acquisition Agency.

16 **“§ 232. Use of agency for all research, development,
17 and acquisition activities**

18 “Subject to sections 3013(h), 5013(h), 8013(h) of
19 this title, the Director shall conduct the research, develop-
20 ment, and acquisition activities of the Department of De-
21 fense, including the activities of the research, development,
22 and engineering centers of the Department of Defense.

23 **“§ 233. Duties**

24 “The responsibilities of the Under Secretary of De-
25 fense for Acquisition that are to be performed by the De-

1 fense Research, Development, and Acquisition Agency in-
2 clude the following:

3 “(1) Planning, programming, and carrying out
4 the research, development, and acquisition activities
5 of the Department of Defense.

6 “(2) Advising the Secretary of Defense and the
7 Secretaries of the military departments regarding
8 the preparation and integration of the budgets for
9 the research, development, and acquisition activities
10 of the Department of Defense.

11 “(3) Identifying and informing operational com-
12 manders regarding alternative technology solutions
13 to fulfill emerging requirements.

14 “(4) Ensuring that the acquisition plan for
15 each acquisition program realistically reflects the
16 budget and related decisions made for that program.

17 “(5) Conducting research on management tech-
18 niques as well as on individual systems.

19 **“§ 234. Program executive officers**

20 “(a) SELECTION AND EVALUATION.—The program
21 executive officers of the Defense Research, Development,
22 and Acquisition Agency shall be selected and evaluated by
23 the Director.

24 “(b) DUTIES.—The duties of a program executive of-
25 ficer are as follows:

1 “(1) To manage acquisition programs assigned
2 to the program executive officer.

3 “(2) To manage related technical support re-
4 sources.

5 “(3) To establish and conduct integrated deci-
6 sion team meetings.

7 “(4) To provide technological advice (including
8 advice regarding costs, schedule, and performance
9 data relating to alternative technological approaches
10 for fulfilling emerging requirements) to users of pro-
11 gram products and to the officials within the De-
12 partment of Defense who plan, program, and budget
13 for the acquisition programs assigned to the pro-
14 gram executive officer.

15 “(c) ORGANIZATION OF PERSONNEL.—The program
16 executive officers shall be organized on the basis of unique
17 mission areas or, in the case of programs for systems spe-
18 cifically relating to certain classes of targets, on the basis
19 of target classes. No program executive officer may be or-
20 ganized with other program executive officers on both
21 bases. The Secretary of Defense shall identify the mission
22 areas or target classes on the basis of which program exec-
23 utive officers may be organized.

24 “(d) ACQUISITION LIFE-CYCLE MANAGEMENT.—The
25 responsibilities of a program executive officer for a weapon

1 acquisition program shall cover the entire life cycle of the
2 program.

3 “(e) USER AND OPERATOR INTERACTION.—(1) The
4 Chairman of the Joint Chiefs of Staff, in consultation with
5 the Under Secretary of Defense for Acquisition, shall pre-
6 scribe policies and procedures for the interaction of the
7 commanders of the unified and specified combatant com-
8 mands with program executive officers regarding the initi-
9 ation and conduct of weapon acquisition programs. The
10 policies and procedures shall include provisions for ena-
11 bling such commands to perform operational and accept-
12 ance testing of weapons acquired pursuant to such pro-
13 grams.

14 “(2) The Comptroller of the Department of Defense,
15 in consultation with the Under Secretary of Defense for
16 Acquisition and the Secretaries of the military depart-
17 ments, shall prescribe policies and procedures for the
18 interaction between the commanders of the unified and
19 specified combatant commands and the program executive
20 officers regarding funding for weapon acquisition pro-
21 grams.

22 **“§ 235. Program managers**

23 “(a) SELECTION AND EVALUATION.—Each program
24 manager of the Defense Research, Development, and Ac-
25 quisition Agency shall be selected and evaluated by the

1 Director and a program executive officer and shall report
2 directly to the program executive officer having primary
3 responsibility for the system being acquired under the pro-
4 gram.

5 “(b) DUTIES.—A program manager is responsible for
6 the routine management of a research, development, and
7 acquisition program, including the obtaining of necessary
8 logistical support and support services for that program.

9 “(c) RELATIONSHIP TO PROGRAM EXECUTIVE OFFI-
10 CERS.—The management functions of a program manager
11 should not duplicate the management functions of a pro-
12 gram executive officer.

13 **“§ 236. Functional analytical capability**

14 “(a) RESPONSIBILITY OF CHIEF OF ENGINEERING
15 AND ANALYSIS.—The Chief of Engineering and Analysis
16 shall be responsible for ensuring that each of the func-
17 tional analytical capabilities provided to the Director, ac-
18 quisition program executive officers, and acquisition pro-
19 gram managers in connection with acquisition programs
20 of the Department of Defense is the most advanced capa-
21 bility of its type.

22 “(b) FUNCTIONAL ANALYTICAL CAPABILITIES.—The
23 functional analytical capabilities referred to in subsection
24 (a) are as follows:

25 “(1) Cost and affordability analysis.

1 “(2) Logistics and support analysis.

2 “(3) Reliability and maintainability analysis.

3 “(4) Producibility analysis.

4 “(5) Environmental analysis.

5 “(6) Configuration management.

6 “(7) Warfighting and battlefield performance
7 and utility analysis.

8 “(8) System engineering.

9 “(9) Any other analytical capability that may
10 be necessary for ensuring the timeliness, perform-
11 ance, and affordability of acquisition programs.”.

12 (2) The tables of chapters at the beginning of subtitle
13 A of title 10, United States Code, and at the beginning
14 of part I of such subtitle, are amended by inserting after
15 the item relating to chapter 9 the following new item:

“10. Defense Research, Development, and Acquisition Agency 231”.

16 (c) LIMITATION OF PROCUREMENT AUTHORITY OF
17 MILITARY DEPARTMENTS.—(1) Section 3013 of title 10,
18 United States Code, is amended—

19 (A) in subsection (b)—

20 (i) by striking out “and subject to the pro-
21 visions of chapter 6” and inserting in lieu
22 thereof “, subject to the provisions of chapter
23 6, and subject to subsection (h),”; and

24 (ii) in paragraph (4), by striking out “(in-
25 cluding research and development)”; and

1 (B) by adding at the end the following new sub-
2 section:

3 “(h)(1) The Secretary of the Army shall be respon-
4 sible for procurements of property and services, and may
5 exercise authority to conduct such procurements, only to
6 the extent that the Secretary of Defense determines nec-
7 essary for the sustainment of operations of the Army. The
8 Secretary of Defense shall prescribe in regulations the ex-
9 tent of the responsibility and authority of the Secretary
10 of the Army for procurements of property and services.

11 “(2) In conducting a procurement in accordance with
12 paragraph (1), the Secretary of the Army shall be subject
13 to the same laws as are applicable to acquisitions con-
14 ducted by the Secretary of Defense.”.

15 (2) Section 5013 of title 10, United States Code, is
16 amended—

17 (A) in subsection (b)—

18 (i) by striking out “and subject to the pro-
19 visions of chapter 6” and inserting in lieu
20 thereof “, subject to the provisions of chapter
21 6, and subject to subsection (h),”; and

22 (ii) in paragraph (4), by striking out “(in-
23 cluding research and development)”; and

24 (B) by adding at the end the following new sub-
25 section:

1 “(h)(1) The Secretary of the Navy shall be respon-
2 sible for procurements of property and services, and may
3 exercise authority to conduct such procurements, only to
4 the extent that the Secretary of Defense determines nec-
5 essary for the sustainment of operations of the Navy. The
6 Secretary of Defense shall prescribe in regulations the ex-
7 tent of the responsibility and authority of the Secretary
8 of the Navy for procurements of property and services.

9 “(2) In conducting a procurement in accordance with
10 paragraph (1), the Secretary of the Navy shall be subject
11 to the same laws as are applicable to acquisitions con-
12 ducted by the Secretary of Defense.”.

13 (3) Section 8013 of title 10, United States Code, is
14 amended—

15 (A) in subsection (b)—

16 (i) by striking out “and subject to the pro-
17 visions of chapter 6” and inserting in lieu
18 thereof “, subject to the provisions of chapter
19 6, and subject to subsection (h),”; and

20 (ii) in paragraph (4), by striking out “(in-
21 cluding research and development)”; and

22 (B) by adding at the end the following new sub-
23 section:

24 “(h)(1) The Secretary of the Air Force shall be re-
25 sponsible for procurements of property and services, and

1 may exercise authority to conduct such procurements, only
2 to the extent that the Secretary of Defense determines
3 necessary for the sustainment of operations of the Air
4 Force. The Secretary of Defense shall prescribe in regula-
5 tions the extent of the responsibility and authority of the
6 Secretary of the Air Force for procurements of property
7 and services.

8 “(2) In conducting a procurement in accordance with
9 paragraph (1), the Secretary of the Air Force shall be sub-
10 ject to the same laws as are applicable to acquisitions con-
11 ducted by the Secretary of Defense.”.

12 (4) Section 2302(1) of title 10, United States Code,
13 is amended by striking out “the Secretary of the Army,
14 the Secretary of the Navy, the Secretary of the Air
15 Force,”.

16 **SEC. 102. PHASE FUNDING AND REVIEW OF DEFENSE AC-**
17 **QUISITION PROGRAMS.**

18 (a) IN GENERAL.—Chapter 131 of title 10, United
19 States Code, is amended by adding at the end the follow-
20 ing new section:

21 **“§ 2219. Results oriented acquisition program cycle**

22 “The Secretary of Defense shall define in regulations
23 a simplified acquisition program cycle that is results-ori-
24 ented and consists of the following phases:

1 “(1) The integrated decision team meeting
2 which—

3 “(A) may be requested by a potential user
4 of the system or component to be acquired, the
5 head of a laboratory, or a program office on
6 such bases as the emergence of a new military
7 requirement, cost savings opportunity, or new
8 technology opportunity;

9 “(B) shall be conducted by a program ex-
10 ecutive officer; and

11 “(C) shall usually be completed within 1 to
12 3 months.

13 “(2) The prototype development and testing
14 phase which—

15 “(A) shall include operational tests and
16 concerns relating to manufacturing operations
17 and life cycle support;

18 “(B) shall usually be completed within 6 to
19 36 months; and

20 “(C) shall produce sufficient numbers of
21 prototypes to assess operational utility.

22 “(3) Product integration, development, and
23 testing which—

1 “(A) includes full-scale development, oper-
2 ational testing, and integration of components;
3 and

4 “(B) shall usually be completed within 1 to
5 5 years.

6 “(4) Production, integration into existing sys-
7 tems, or production and integration into existing
8 systems.

9 **“§ 2220. Funding for results oriented acquisition pro-**
10 **gram cycle**

11 “(a) PROGRAM PHASE DETAILS TO BE SUBMITTED
12 TO CONGRESS.—Before initial funding is made available
13 for a phase of the acquisition program cycle of an acquisi-
14 tion program which requires Congressional Authorization
15 of appropriations, the Secretary of Defense shall submit
16 to Congress information about the objectives and plans for
17 the conduct of that phase and the funding requirements
18 for the entire phase. The Secretary shall include in such
19 information objective, quantifiable criteria for assessing
20 the extent to which the stated objectives and goals are
21 achieved.

22 “(b) FULL PHASE FUNDING.—(1) In authorizing ap-
23 propriations for an acquisition program that requires Con-
24 gressional Authorization, Congress shall provide in an Act
25 authorizing appropriations for the Department of Defense

1 an authorization of appropriations for a phase of the ac-
2 quisition program in a single amount that is sufficient for
3 carrying out that phase. Such an authorization of appro-
4 priations shall be stated in the Act as a specific item.

5 “(2) In each Act making appropriations for the De-
6 partment of Defense Congress shall specify the phase of
7 each such acquisition program of the department for
8 which an appropriation is made and the amount of the
9 appropriation for the phase of that program.

10 **“§ 2221. Major program decision**

11 “(a) SINGLE MAJOR DECISION POINT.—The acquisi-
12 tion program approval process within the Department of
13 Defense shall have one major decision point which shall
14 occur for an acquisition program before that program pro-
15 ceeds into product integration and development.

16 “(b) DETERMINATIONS AT DECISION POINT.—At the
17 major decision point for an acquisition program, the
18 Under Secretary of Defense for Acquisition in consultation
19 with the Vice Chairman Joint Chief of Staff shall—

20 “(1) review the program;

21 “(2) determine whether the program should
22 continue to be carried out beyond product integra-
23 tion and development; and

24 “(3) decide whether—

25 “(A) to commit to further development;

1 “(B) to require further prototyping; or

2 “(C) to terminate the program.

3 “(c) CONSIDERATIONS.—In the review of an acquisi-
4 tion program, the Under Secretary shall consider the po-
5 tential benefits, affordability, needs, and risks of the pro-
6 gram.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 131 of title 10, United States
9 Code, is amended by adding at the end the following new
10 items:

“2219. Results oriented acquisition program cycle.

“2220. Funding for results oriented acquisition program cycle.

“2221. Major program decision.”.

11 **SEC. 103. JOINT FOREIGN PRODUCTS DEVELOPMENT.**

12 Section 153 of title 10, United States Code, is
13 amended by adding at the end the following new sub-
14 section:

15 “(c) RECOMMENDATIONS FOR JOINT DEVELOPMENT
16 OF FOREIGN PRODUCTS.—The Chairman of the Joint
17 Chiefs of Staff, in consultation with the commanders of
18 the unified and specified combatant commands, shall make
19 recommendations to the Under Secretary of Defense for
20 Acquisition regarding the desirability of joint development
21 by the United States and one or more foreign countries
22 of systems proposed to be developed, or under develop-
23 ment, by such foreign country or foreign countries.”.

1 **Subtitle B—Transfer of Functions**

2 **SEC. 121. TRANSFERS.**

3 (a) MILITARY DEPARTMENTS.—Except as provided
4 in subsection (c), all research, development, and acqui-
5 sition functions of the Secretaries of the military depart-
6 ments are transferred to the Secretary of Defense.

7 (b) PROCUREMENT AGENCIES, COMMANDS, AND OF-
8 FICES.—Except as provided in subsection (c), there is
9 transferred to the Defense Research, Development, and
10 Acquisition Agency referred to in section 231(a) of title
11 10, United States Code (as added by section 101), all
12 functions of the following organizations:

13 (1) The Defense Logistics Agency.

14 (2) The Advanced Research Projects Agency.

15 (3) The following procurement commands of
16 the Army:

17 (A) The Army Materiel Command.

18 (B) The Army Information Systems Com-
19 mand.

20 (C) The Army Strategic Defense Com-
21 mand.

22 (4) The following procurement commands of
23 the Navy and Marine Corps:

24 (A) The Navy weapons systems commands.

1 (B) The Navy Strategic Systems Program
2 Office.

3 (C) The Marine Corps Research, Develop-
4 ment and Acquisition Command.

5 (5) The Air Force Materiel Command.

6 (6) Any successor organization to any agency,
7 command, or office named in paragraphs (1)
8 through (5).

9 (7) Each agency or command within the De-
10 partment of Defense not referred to in paragraphs
11 (1) through (6) that, on the day before the effective
12 date of this title, has as a primary mission or func-
13 tion the performance of a research, development, or
14 acquisition function of the Department of Defense.

15 (c) FUNCTIONS NOT TRANSFERRED.—(1) The fol-
16 lowing functions of the Secretaries of the military depart-
17 ments are not transferred to the Secretary of Defense:

18 (A) Functions that relate to planning, program-
19 ming, and budgeting.

20 (B) Functions to be performed by the Secretary
21 of a military department pursuant to section
22 3013(h), 5013(h), or 8013(h) of title 10, United
23 States Code, as added by section 101(c).

24 (2) To the extent prescribed by the Secretary of De-
25 fense, functions referred to in paragraph (1)(B) that are

1 performed by an organization referred to in subsection (b)
2 need not be transferred in accordance with that sub-
3 section.

4 (d) TERMINATION OF ORGANIZATION.—The Sec-
5 retary of Defense shall terminate each organization from
6 which all of its functions are transferred under subsection
7 (b).

8 **SEC. 122. SAVINGS PROVISIONS.**

9 (a) REGULATIONS, INSTRUMENTS, RIGHTS, AND
10 PRIVILEGES.—All rules, regulations, contracts, orders, de-
11 terminations, permits, certificates, licenses, grants, and
12 privileges—

13 (1) which have been issued, made, granted, or
14 allowed to become effective by the Secretary or other
15 officer or employee of a military department, the
16 head of a Defense Agency of the Department of De-
17 fense, or by a court of competent jurisdiction, in
18 connection with any research, development, or acqui-
19 sition activity of a military department or Defense
20 Agency, and

21 (2) which are in effect on the effective date of
22 this title,

23 shall continue in effect according to their terms until
24 modified, terminated, superseded, set aside, or revoked in
25 accordance with law by the Secretary of Defense, the

1 Under Secretary of Defense for Acquisition, or another
2 authorized official, by a court of competent jurisdiction,
3 or by operation of law.

4 (b) PROCEEDINGS AND APPLICATIONS.—(1)(A) The
5 provisions of this subtitle shall not affect any proceeding,
6 including any proceeding involving a claim or application,
7 in connection with any acquisition activity of a military
8 department or a Defense Agency of the Department of De-
9 fense that is pending before that military department or
10 Defense Agency on the effective date of this title.

11 (B) Orders may be issued in any such proceeding,
12 appeals may be taken therefrom, and payments may be
13 made pursuant to such orders, as if this Act had not been
14 enacted. An order issued in any such proceeding shall con-
15 tinue in effect until modified, terminated, superseded, or
16 revoked by the Secretary of Defense or the Under Sec-
17 retary of Defense for Acquisition, by a court of competent
18 jurisdiction, or by operation of law.

19 (C) Nothing in this paragraph prohibits the dis-
20 continuance or modification of any such proceeding under
21 the same terms and conditions and to the same extent that
22 such proceeding could have been discontinued or modified
23 if this Act had not been enacted.

24 (2) The Secretary of Defense may prescribe regula-
25 tions providing for the orderly transfer of proceedings con-

1 tinued under paragraph (1) to the Secretary of Defense
2 or to the Under Secretary of Defense for Acquisition.

3 **TITLE II—ACQUISITION**
4 **MANAGEMENT POLICIES**

5 **SEC. 201. ACQUISITION PERFORMANCE GOALS.**

6 (a) POLICY GOALS.—It is the policy of Congress that,
7 on and after January 1, 2000—

8 (1) the Department of Defense should achieve,
9 on average, 90 percent of the cost and schedule
10 goals established for the research and development
11 programs and acquisition programs of the Depart-
12 ment of Defense; and

13 (2) the average period necessary for converting
14 an emerging technology into initial operational capa-
15 bility for the Department of Defense should not ex-
16 ceed 8 years.

17 (b) IMPLEMENTATION.—Whenever it is necessary in
18 order to implement the policy set out in subsection (a)(1),
19 the Secretary of Defense should—

20 (1) identify and consider for termination re-
21 search and development programs and acquisition
22 programs of the Department of Defense that are not
23 achieving the cost, performance, and schedule goals
24 of the programs taking into consideration—

1 (A) the needs of the Department known as
2 of the time of the consideration of such pro-
3 grams for termination;

4 (B) the state of the technology or tech-
5 nologies relevant to the programs and to the
6 needs of the Department;

7 (C) the estimated costs and projected
8 schedules necessary for the completion of such
9 programs; and

10 (D) other pertinent information; and

11 (2) identify existing and potential research and
12 development programs and acquisition programs
13 that are suitable alternatives for programs consid-
14 ered for termination pursuant to paragraph (1).

15 (c) RESPONSIBILITY FOR DEPARTMENTAL OVER-
16 SIGHT OF COST, PERFORMANCE, AND SCHEDULE
17 GOALS.—(1) Chapter 131 of title 10, United States Code,
18 as amended by section 102(a), is further amended by add-
19 ing at the end the following new section:

20 **“§ 2222. Responsibility for departmental oversight of**
21 **cost, performance, and schedule goals of**
22 **acquisition programs**

23 “(a) COST GOALS.—The Comptroller of the Depart-
24 ment of Defense shall evaluate the cost goals proposed for

1 each phase of an acquisition program of the Department
2 of Defense.

3 “(b) PERFORMANCE AND SCHEDULE GOALS.—The
4 Joint Chiefs of Staff shall approve or define the perform-
5 ance and schedule goals for acquisition programs of the
6 Department of Defense. The Joint Chiefs of Staff shall
7 approve the performance goals for acquisition programs
8 on the basis of cost, schedule, performance, and risk.”.

9 (2) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 131 of title 10, United States
11 Code, as amended by section 102(b), is further amended
12 by adding at the end the following new item:

“2222. Responsibility for departmental oversight of cost, performance, and
schedule goals of acquisition programs.”.

13 (d) REPORT REQUIREMENT.—The Secretary of De-
14 fense shall include in the annual report submitted to Con-
15 gress pursuant to section 113(c) of title 10, United States
16 Code, an assessment of the progress made in implement-
17 ing the policies set out in subsection (a) and shall include
18 any actions taken or considered in accordance with sub-
19 section (b).

20 **SEC. 202. IMPLEMENTATION OF DEFENSE ACQUISITION**
21 **WORKFORCE AMENDMENTS.**

22 The Congress—

23 (1) urges the Secretary of Defense to expedite
24 the implementation of the provisions of chapter 87

1 of title 10, United States Code, relating to the ac-
2 quisition workforce of the Department of Defense;
3 and

4 (2) reemphasizes the importance of ensuring
5 that the acquisition workforce is educated and
6 trained in accordance with the standards set out in
7 the provisions of such chapter.

8 **SEC. 203. ENHANCED ENCOURAGEMENT OF EXCELLENCE**
9 **IN THE DEFENSE ACQUISITION WORKFORCE.**

10 (a) ENHANCED SYSTEM OF INCENTIVES AND AD-
11 VERSE ACTIONS.—(1) The Secretary shall review the in-
12 centives and personnel actions available to the Secretary
13 for encouraging excellence in the acquisition workforce of
14 the Department of Defense and, to the maximum extent
15 practicable, provide an enhanced system of incentives for
16 the encouragement of excellence in such workforce.

17 (2) The Secretary shall specifically consider whether
18 action should be taken under section 1736 of title 10,
19 United States Code (as added by subsection (b)), in the
20 case of acquisition program executive officers and acquisi-
21 tion program managers.

22 (3) The Secretary shall prescribe in regulations a sys-
23 tem of incentives for encouraging professional excellence
24 among the functional analysts (referred to in section 2286

1 of title 10, United States Code, as added by section 101)
2 in the acquisition workforce.

3 (b) ENHANCED GRADES OF CERTAIN ACQUISITION
4 MANAGERS.—(1) Subchapter III of chapter 87 of title 10,
5 United States Code, is amended—

6 (A) by redesignating sections 1736 and 1737 as
7 sections 1737 and 1738, respectively; and

8 (B) by inserting after section 1735 the follow-
9 ing new section 1736:

10 **“§ 1736. Grade of certain acquisition managers**

11 “(a) PROGRAM EXECUTIVE OFFICER.—(1)(A) Sub-
12 ject to subparagraph (B), the position of acquisition pro-
13 gram executive officer carries the grade of brigadier gen-
14 eral, rear admiral (lower half), major general, or rear ad-
15 miral, as the Secretary of Defense determines appropriate.

16 “(B) The President may designate a position of ac-
17 quisition program executive officer as a position of impor-
18 tance and responsibility to carry the grade of lieutenant
19 general or vice admiral under section 601(a) of this title.

20 “(C) The President or the Secretary of Defense may
21 designate a position of acquisition program executive offi-
22 cer to carry a grade above brigadier general or rear admi-
23 ral (lower half) only when the President or Secretary, as
24 the case may be, determines that the member serving in

1 that position has performed the duties of the position of
2 an acquisition program executive officer with distinction.

3 “(2) Notwithstanding any other provision of law
4 (other than a provision of law limiting the number of posi-
5 tions or personnel in a certain grade), the Secretary of
6 Defense may fix the civilian grade of a position of acquisi-
7 tion program executive officer at a civilian equivalent of
8 a grade referred to in paragraph (1). The Secretary shall
9 fix the civilian grade for the position of a particular em-
10 ployee at a grade above the civilian equivalent of brigadier
11 general or rear admiral (lower half) only if the Secretary
12 determines that the employee serving in that position has
13 performed the duties of the position of an acquisition pro-
14 gram executive officer with distinction.

15 “(b) ACQUISITION PROGRAM MANAGER.—(1)(A) The
16 position of acquisition program manager carries the grade
17 of colonel, brigadier general, or major general, or, in the
18 case of the Navy, captain, rear admiral (lower half), or
19 rear admiral, as the Secretary of Defense determines ap-
20 propriate.

21 “(B) The Secretary of Defense may designate a posi-
22 tion of acquisition program manager to carry a grade
23 above colonel or (in the case of the Navy) captain only
24 when the Secretary determines that the member serving

1 in that position has performed the duties of the position
2 of an acquisition program manager with distinction.

3 “(2) Notwithstanding any other provision of law
4 (other than a provision of law limiting the number of posi-
5 tions or personnel in a certain grade), the Secretary of
6 Defense may fix the civilian grade of the position of civil-
7 ian acquisition program manager at a civilian equivalent
8 of a grade referred to in paragraph (1). The Secretary
9 shall fix the civilian grade for the position of a particular
10 employee at a grade above the civilian equivalent of colonel
11 or (in the case of the Navy) captain only if the Secretary
12 determines that the employee serving in that position has
13 performed the duties of the position of an acquisition pro-
14 gram executive officer with distinction.”.

15 (2) The table of sections at the beginning of such sub-
16 chapter is amended by striking out the items relating to
17 sections 1736 and 1737 and inserting in lieu thereof the
18 following:

“1736. Grade of certain acquisition managers.

“1737. Applicability.

“1738. Definitions and general provisions.”.

19 (c) PAY FOR PERFORMANCE IN ACQUISITION POSI-
20 TIONS.—(1) Subchapter II of chapter 87 of title 10, Unit-
21 ed States Code, is amended—

22 (A) by redesignating sections 1725 as 1726;

23 and

1 (B) by inserting after section 1724 the follow-
2 ing new section 1725:

3 **“§ 1725. Pay for performance**

4 “(a) PAY RATES.—(1) The Secretary of Defense may
5 provide for the pay rate of an employee in an acquisition
6 position within the Department of Defense to be based,
7 to an appropriate extent, on specific criteria that relates
8 the pay rate of such employee to the employee’s contribu-
9 tion to the achievement of the policy goals set forth in
10 section 201 of the Department of Defense Acquisition
11 Management Reform Act of 1993.

12 “(2) A pay rate established pursuant to paragraph
13 (1) for an employee in a position referred to in that sub-
14 section may not exceed the lesser of—

15 “(A) the amount equal to 130 percent of the
16 maximum pay rate prescribed under law (other than
17 paragraph (1)) for the grade or other pay level of
18 that position; or

19 “(B) the rate of basic pay payable for level V
20 of the Executive Schedule.

21 “(b) RELATIONSHIP OF PERSONNEL BUDGET TO
22 ACHIEVEMENT OF GOALS.—The Secretary of Defense, in
23 approving or formulating the personnel budget of a mili-
24 tary department or Defense Agency for a fiscal year, shall
25 consider whether increased funding is appropriate on the

1 basis of the achievement by the military department or
2 Defense Agency of the schedule, performance, and cost
3 goals for acquisition programs of the Department of De-
4 fense referred to in section 201 of the Department of De-
5 fense Acquisition Management Reform Act of 1993.”.

6 (2) The table of sections at the beginning of such sub-
7 chapter is amended by striking out the item relating to
8 section 1725 and inserting in lieu thereof the following:

“1725. Pay for performance.

“1726. Office of Personnel Management approval.”.

9 **SEC. 204. PROGRAM MANAGEMENT STABILITY.**

10 (a) ASSIGNMENT PERIOD FOR PROGRAM MAN-
11 AGERS.—Section 1734 of title 10, United States Code, is
12 amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) by striking out “the major mile-
16 stone” in subparagraph (A) and all that
17 follows through the semicolon in such sub-
18 paragraph and inserting in lieu thereof “a
19 phase in the acquisition program cycle;”;
20 and

21 (ii) by striking out the second sen-
22 tence and inserting in lieu thereof the fol-
23 lowing:

1 “Except as provided in subsection (c), a person in the po-
2 sition of program manager or deputy program manager
3 may not be reassigned from such position before comple-
4 tion of a phase in the acquisition program cycle.”; and

5 (B) in paragraph (2)—

6 (i) in the first sentence, by striking
7 out “the first major milestone” and all
8 that follows in the first sentence and in-
9 serting in lieu thereof “a phase of the ac-
10 quisition program cycle.”; and

11 (ii) in the second sentence, by striking
12 out “Secretary concerned under subsection
13 (d)” and inserting in lieu thereof “Sec-
14 retary of Defense under subsection (c)”;
15 and

16 (2) by striking out subsection (c).

17 (b) WAIVER AUTHORITY.—Such section is further
18 amended by striking out subsection (d) and inserting in
19 lieu thereof the following:

20 “(c) WAIVER OF ASSIGNMENT PERIOD.—(1) With re-
21 spect to a person assigned to a critical acquisition position,
22 the Secretary of Defense may waive the prohibition on re-
23 assignment of that person (in subsection (a)(1) or (b)(1))
24 and the service obligation in an agreement executed by
25 that person (under subsection (a)(2) or (b)(2)), but only

1 in exceptional circumstances (specified in regulations pre-
2 scribed by the Secretary) in which a waiver is necessary.

3 “(2) The Director of Acquisition Education, Train-
4 ing, and Career Development shall maintain a written
5 record of the rationale for each waiver granted under this
6 subsection.”.

7 (c) CONFORMING AMENDMENTS AND DEFINITION.—
8 Such section is further amended—

9 (1) by redesignating subsection (e) as sub-
10 section (d) and—

11 (A) in paragraph (1) of such subsection,
12 by striking out “a program manager, after com-
13 pletion of a major program milestone, whichever
14 is longer” in the first sentence and inserting in
15 lieu thereof “a program manager or deputy pro-
16 gram manager, after completion of a phase of
17 the acquisition program cycle”; and

18 (B) in paragraph (2) of such subsection,
19 by striking out “of the department concerned”
20 in the first sentence;

21 (2) by redesignating subsection (f) as sub-
22 section (e); and

23 (3) by striking out subsections (g) and (h) and
24 inserting in lieu thereof the following:

1 “(f) In this section, the term ‘phase of an acquisition
2 program cycle’ shall have the meaning given such term
3 in the regulations prescribed pursuant to section 2219(b)
4 of this title.”.

5 **TITLE III—CONTRACT FORMA-**
6 **TION AND ADMINISTRATION**
7 **Subtitle A—Performance Based**
8 **Contracting**

9 **SEC. 301. USE OF INCENTIVE CONTRACTS.**

10 Section 2306(c) of title 10, United States Code, is
11 amended to read as follows:

12 “(c) The program executive officer of an acquisition
13 program may determine the type of contract to be used
14 when entering into a contract under the program. The
15 program executive officer shall use an incentive type con-
16 tract unless the program executive officer determines that
17 such a contract would inhibit achievement of acquisition
18 performance goals.”.

19 **SEC. 302. PROGRESS PAYMENTS.**

20 Section 2307 of title 10, United States Code, is
21 amended—

22 (1) by redesignating subsections (b), (c), (d),
23 and (e) as subsections (c), (d), (e), and (f), respec-
24 tively; and

1 (2) by inserting after subsection (a) the follow-
2 ing new subsection (b):

3 “(b) Payments under subsection (a) may be made on
4 any of the following bases:

5 “(1) Performance measured by statistical proc-
6 ess controls.

7 “(2) Event accomplishment.

8 “(3) Other quantifiable measures of results.”.

9 **SEC. 303. PREFERENCE FOR CERTIFIED CONTRACTORS.**

10 (a) PERFORMANCE CERTIFICATION SYSTEM.—Chap-
11 ter 137 of title 10, United States Code is amended by in-
12 serting after section 2319 the following new section:

13 **“§ 2319a. Contractor performance certification sys-
14 tem**

15 “(a) CERTIFICATION AUTHORIZED.—The Secretary
16 of Defense may establish a contractor certification system
17 for the procurement of particular property or services that
18 are procured by the Department of Defense on a repetitive
19 basis. Under the system, the Secretary shall use competi-
20 tive procedures to certify contractors as eligible for con-
21 tracts to furnish such property or services. The Secretary
22 shall award certifications on the basis of the relative effi-
23 ciency and effectiveness of the business practices, level of
24 quality, and demonstrated contract performance of the re-

1 sponding contractors with regard to the particular prop-
2 erty or services.

3 “(b) PROCUREMENT FROM CERTIFIED CONTRAC-
4 TORS.—The head of an agency within the Department of
5 Defense may enter into a contract for a procurement of
6 property or services referred to in subsection (a) on the
7 basis of a competition among contractors certified with re-
8 spect to such property or services pursuant to that sub-
9 section.

10 “(c) TERMINATION OF CERTIFICATION.—The Sec-
11 retary—

12 “(1) may provide for the termination of a cer-
13 tification awarded a contractor under this section
14 upon the expiration of a period specified by the Sec-
15 retary; and

16 “(2) may revoke a certification awarded a con-
17 tractor under this section upon a determination that
18 the quality of performance of the contractor does not
19 meet standards applied by the Secretary as of the
20 time of the revocation decision.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by inserting
23 after the item relating to section 2319 the following:

“2319a. Contractor performance certification system.”.

1 **SEC. 304. CONSIDERATION OF PAST PERFORMANCE AND**
2 **ELIGIBILITY CERTIFICATION.**

3 Section 2305 of title 10, United States Code, is
4 amended—

5 (1) in subsection (a)(2)(A)(i)—

6 (A) by striking out “(including price)” and
7 inserting in lieu thereof “(including price, past
8 contract performance of the offeror, and any
9 certification of the offeror under section 2319a
10 of this title)”; and

11 (B) by striking out “cost- or price-related
12 factors, and noncost- or nonprice-related fac-
13 tors” and inserting in lieu thereof the following:
14 “cost-related or price-related factors, past con-
15 tract performance of the offeror, any certifi-
16 cation of the offeror under section 2319a of this
17 title, and other noncost-related or price-related
18 factors”;

19 (2) in subsection (b)—

20 (A) in paragraph (3), by striking out “and
21 the other price-related factors included in the
22 solicitation” in the second sentence and insert-
23 ing in lieu thereof “, the other price-related fac-
24 tors included in the solicitation, the past con-
25 tract performance (if any) of the offerors, and

1 any certification of offerors under section
2 2319a of this title”; and

3 (B) in paragraph (4)(B), by striking out
4 “and the other factors included in the sollicita-
5 tion” in the first sentence and inserting in lieu
6 thereof “, the past contract performance (if
7 any) of the offerors, any certification of offerors
8 under section 2319a of this title, and the other
9 factors included in the solicitation”;

10 (3) in subsection (c)(1), by inserting “past per-
11 formance of the offerors, any certification of offerors
12 under section 2319a of this title,” after “(consider-
13 ing quality, price, delivery,”; and

14 (4) by adding at the end the following new sub-
15 section:

16 “(e) The Secretary of Defense shall maintain a con-
17 tractor performance data base. The Secretary shall include
18 in the data base information on the history of the perform-
19 ance of each contractor under Department of Defense con-
20 tracts and, for each such contract performed by the con-
21 tractor, a technical evaluation of the contractor’s perform-
22 ance prepared by the acquisition program manager re-
23 sponsible for the contract. The Secretary shall make infor-
24 mation in the data base available to acquisition program

1 executive officers and acquisition program managers of
2 the Department of Defense.”.

3 **Subtitle B—Efficient Contracting** 4 **Process**

5 **SEC. 311. SIMPLIFIED ACQUISITION THRESHOLD.**

6 (a) SIMPLIFIED CONTRACTING FOR CONTRACTS NOT
7 EXCEEDING \$100,000.—Section 2302(7) of title 10, Unit-
8 ed States Code, is amended to read as follows:

9 “(7) The term ‘simplified acquisition threshold’
10 means \$100,000.”.

11 (b) SIMPLIFIED ACQUISITION PROCEDURES.—Sec-
12 tion 2304(g) of title 10, United States Code, is amended—

13 (1) in paragraph (1), by striking out “small
14 purchases of property and services” and inserting in
15 lieu thereof “purchases of property and services not
16 in excess of the simplified acquisition threshold”;

17 (2) by striking out paragraph (2);

18 (3) by redesignating paragraphs (3) and (4) as
19 paragraphs (2) and (3), respectively;

20 (4) in paragraph (2), as so redesignated—

21 (A) by striking out “small purchase
22 threshold” and inserting in lieu thereof “sim-
23 plified acquisition threshold”; and

1 (B) by striking out “small purchase proce-
2 dures” and inserting in lieu thereof “simplified
3 procedures”; and

4 (5) in paragraph (3), as redesignated by para-
5 graph (3), by striking out “small purchase proce-
6 dures” and inserting in lieu thereof “simplified pro-
7 cedures”.

8 (c) RESERVATION FOR SMALL BUSINESSES.—Section
9 2304(g) of such title, as amended by subsection (b), is
10 further amended by adding at the end the following new
11 paragraph (4):

12 “(4) The Secretary of Defense shall reserve for small
13 businesses contracts that are awarded under procedures
14 authorized by paragraph (1) if there are at least two small
15 businesses that compete for such contracts. In using such
16 procedures, for awarding contracts to small businesses or
17 otherwise, the Secretary shall promote competition to the
18 maximum extent practicable.”.

19 (d) CONFORMING AMENDMENTS.—Title 10, United
20 States Code, is amended as follows:

21 (1) Section 2304(j)(3)(A) is amended by strik-
22 ing out “small purchase threshold” and inserting in
23 lieu thereof “simplified acquisition threshold”.

24 (2) Section 2305(a)(2) is amended by striking
25 out “small purchases)” in the matter above subpara-

1 graph (A) and inserting in lieu thereof “purchases
2 not in excess of the simplified acquisition thresh-
3 old)”.

4 (3) Section 2306(e)(2)(A) is amended by strik-
5 ing out “small purchase threshold” and inserting in
6 lieu thereof “simplified acquisition threshold”.

7 (4) Subsection (e) of section 2307, as redesign-
8 nated by section 302(c), is amended by striking out
9 paragraph (3) and inserting in lieu thereof the fol-
10 lowing:

11 “(3) This subsection applies to a contract for an
12 amount equal to or greater than the simplified acquisition
13 threshold.”.

14 (5) Section 2326(g)(1)(B) is amended by strik-
15 ing out “small purchase threshold” and inserting in
16 lieu thereof “simplified acquisition threshold”.

17 (6) Section 2393(d) is amended in the second
18 sentence by striking out “above the small purchase
19 amount established in section 2304(g) of this title”
20 and inserting in lieu thereof “in excess of the sim-
21 plified acquisition threshold (as defined in section
22 2302(7) of this title)”.

23 (7) Section 2397(a)(1) is amended by striking
24 out “small purchase threshold” and inserting in lieu
25 thereof “simplified acquisition threshold”.

1 (8) Section 2410i(b)(1) is amended by striking
2 out “small purchase threshold (as defined in section
3 4(11) of the Office of Federal Procurement Policy
4 Act (41 U.S.C. 403(11)))” and inserting in lieu
5 thereof “simplified acquisition threshold (as defined
6 in section 2302(7) of this title)”.

7 (e) DAVIS-BACON—(1) IN GENERAL.—The first sec-
8 tion of the Act of March 3, 1931 (40 U.S.C. 276a), com-
9 monly referred to as the “Davis-Bacon Act”, is amended
10 in subsection (a) by striking out “\$2,000” and inserting
11 in lieu thereof “the simplified acquisition threshold (as de-
12 fined in section 4(11) of the Office of Federal Procure-
13 ment Policy Act (41 U.S.C. 403(11)))”.

14 (2) RELATED REGULATIONS.—Section 2 of the Act
15 of June 13, 1934 (40 U.S.C. 276c) is amended—

16 (A) by inserting after “engaged” the following:
17 “under contracts in excess of the simplified acquisi-
18 tion threshold”; and

19 (B) by adding at the end the following: “In this
20 section, the term ‘simplified acquisition threshold’
21 has the meaning given such term in section 4(11) of
22 the Office of Federal Procurement Policy Act (41
23 U.S.C. 403(11)).”.

24 (f) SERVICE CONTRACT ACT.—(1) IN GENERAL.—
25 Section 2(a) of the Service Contract Act of 1965 (41

1 U.S.C. 351(a)) is amended by striking out “\$2,500” and
2 inserting in lieu thereof “the simplified acquisition thresh-
3 old”

4 (2) Section 8 of such Act (41 U.S.C. 357) is amended
5 by adding at the end the following:

6 “(e) The term ‘simplified acquisition threshold’ has
7 the meaning given such term in section 4(11) of the Office
8 of Federal Procurement Policy Act (41 U.S.C. 403(11)).”.

9 **SEC. 312. PROCUREMENT NOTICE FOR CERTAIN CON-**
10 **TRACTS NOT IN EXCESS OF THE SIMPLIFIED**
11 **ACQUISITION THRESHOLD.**

12 (a) DEPARTMENT OF DEFENSE PROCUREMENTS.—

13 (1) Chapter 137 of title 10, United States Code, is amend-
14 ed by inserting after section 2304 the following new sec-
15 tion:

16 **“§ 2304a. Procurement Notice**

17 “(a) IN GENERAL.—The Secretary of Defense shall
18 comply with the requirements of section 18 of the Office
19 of Federal Procurement Policy Act (41 U.S.C. 416) in
20 providing notice of procurements of the Department of
21 Defense.

22 “(b) OTHER NOTICE.—The Secretary of Defense
23 shall establish a system for providing widespread notice
24 of Department of Defense procurements not required to
25 be published in the Commerce Business Daily.”.

1 (2) The table of sections at the beginning of such
2 chapter is amended by inserting after the item relating
3 to section 2304 the following:

“2304a. Procurement Notice.”.

4 (b) AUTOMATED NOTICE AND OFFER SYSTEMS.—(1)
5 The Secretary of Defense may make available solicitations
6 and other notices of procurements by means of an auto-
7 mated system.

8 (2) The Secretary shall implement a system for auto-
9 mated submission of offers and quotes for acquisitions of
10 the Department of Defense. The system shall be accessible
11 to commercial offerors, regardless of size, at minimal cost
12 to the offerors and with minimal effort from the offerors.

13 **SEC. 313. ACQUISITION OF COMMERCIAL ITEMS AND**
14 **NONDEVELOPMENTAL ITEMS.**

15 (a) PREFERENCE.—Section 2325 of title 10, United
16 States Code, is amended to read as follows:

17 **“§ 2325. Acquisition of commercial items and**
18 **nondevelopmental items**

19 “(a) LIMITATION ON ACQUISITION OF UNIQUE
20 ITEMS.—The Secretary of Defense may develop and ac-
21 quire equipment or supplies other than commercial items
22 or nondevelopmental items to meet requirements of the
23 Department of Defense only if no such items are available
24 to meet such requirements.

1 “(b) FLEXIBLE ACQUISITION PROCEDURES.—(1)
2 Notwithstanding any other provision of this chapter or of
3 any other law, the Secretary may use flexible acquisition
4 procedures for the acquisition of commercial items and
5 nondevelopmental items.

6 “(2) The Secretary shall prescribe the flexible proce-
7 dures authorized for use in acquisitions referred to in
8 paragraph (1). Such procedures shall include—

9 “(A) procedures identical to the simplified pro-
10 cedures prescribed pursuant to section 2304(g) of
11 this title for acquisitions not in excess of the sim-
12 plified acquisition threshold;

13 “(B) procedures involving a request for
14 quotations and a brief evaluation period; and

15 “(C) any other procedures that the Secretary
16 considers appropriate.

17 “(c) DEFINING DEPARTMENTAL NEEDS.—The Sec-
18 retary of Defense shall ensure that, to the maximum ex-
19 tent practicable, requirements of the Department of De-
20 fense with respect to a procurement of equipment or sup-
21 plies—

22 “(1) are stated in terms of—

23 “(A) functions to be performed;

24 “(B) performance required; or

25 “(C) essential physical characteristics;

1 “(2) are defined so that commercial items or
2 other nondevelopmental items fulfill such require-
3 ments; and

4 “(3) are fulfilled through the procurement of
5 commercial items or other nondevelopmental items.

6 “(d) IMPLEMENTATION.—The Secretary shall ensure
7 that procurement officials in the Department of Defense,
8 to the maximum extent practicable—

9 “(1) acquire commercial items or other
10 nondevelopmental items to meet the needs of the de-
11 partment;

12 “(2) require prime contractors and subcontrac-
13 tors at all levels under the department contracts to
14 incorporate commercial items or other
15 nondevelopmental items as components of items sup-
16 plied to the Department of Defense;

17 “(3) modify requirements in appropriate cases
18 to ensure that the requirements can be met by com-
19 mercial items or other nondevelopmental items;

20 “(4) state specifications in terms that enable
21 and encourage bidders and offerors to supply com-
22 mercial items or other nondevelopmental items in re-
23 sponse to Department of Defense solicitations;

24 “(5) revise the department’s procurement poli-
25 cies, practices, and procedures not required by law

1 to reduce any impediments in those policies, prac-
2 tices, and procedures to the acquisition of commer-
3 cial items and other nondevelopmental items; and

4 “(6) require training of appropriate personnel
5 in the acquisition of commercial items and other
6 nondevelopmental items.

7 “(e) INAPPLICABILITY OF COST ACCOUNTING
8 STANDARDS.—Subsections (f) and (h) of section 26 of the
9 Office of Federal Procurement Policy Act (41 U.S.C. 422)
10 do not apply to—

11 “(1) acquisitions of commercial items; and

12 “(2) acquisitions of nondevelopmental items de-
13 scribed in subsection (f)(2)(C) of this section.

14 “(f) DEFINITIONS.—In this section:

15 “(1) The term ‘commercial item’ means—

16 “(A) property, other than real property,
17 that is regularly used by the general public or
18 by nongovernmental entities in the course of
19 normal business operations for purposes other
20 than governmental purposes and—

21 “(i) has been sold or licensed to the
22 general public;

23 “(ii) has not been sold or licensed to
24 the general public but has been offered for
25 sale or license to the general public; or

1 “(iii) is not yet available in the com-
2 mercial marketplace but will be made
3 available for commercial delivery within a
4 reasonable period;

5 “(B) any property that, before undergoing
6 minor modifications to meet Government re-
7 quirements or modifications customary for that
8 type of property in the commercial marketplace,
9 is a commercial item within the meaning of
10 subparagraph (A);

11 “(C) any combination of items meeting the
12 requirements of subparagraph (A) or (B) that
13 are of a type customarily combined and sold in
14 combination to the general public; and

15 “(D) installation services, maintenance
16 services, repair services, training services, and
17 other services if such services are procured for
18 support of an item referred to in subparagraph
19 (A), (B), or (C) and if the source of such serv-
20 ices—

21 “(i) offers such services to the general
22 public and the Federal Government con-
23 temporaneously under similar terms and
24 conditions; and

1 “(ii) offers to use the same work force
2 for providing the Federal Government with
3 such services as the source uses for provid-
4 ing such services to the general public.

5 “(2) The term ‘nondevelopmental item’
6 means—

7 “(A) any commercial item;

8 “(B) any previously developed item of sup-
9 ply that is in use by a department or agency of
10 the United States, a State or local government,
11 or a foreign government with which the United
12 States has a mutual defense cooperation agree-
13 ment;

14 “(C) any item of supply described in sub-
15 paragraph (A) or (B) that requires only minor
16 modification of the type normally available in
17 the commercial marketplace in order to meet
18 the requirements of the Department of Defense;
19 or

20 “(D) any item of supply currently being
21 produced that does not meet the requirements
22 of subparagraph (A), (B), or (C) solely because
23 the item—

24 “(i) is not yet in use; or

1 “(ii) is not yet available in the com-
2 mercial marketplace.”.

3 (b) CLERICAL AMENDMENT.—The item relating to
4 such section in the table of sections at the beginning of
5 chapter 137 of such title is amended to read as follows:

“2325. Acquisition of commercial items and nondevelopmental items.”.

6 **SEC. 314. SPECIFICATIONS AND STANDARDS.**

7 Section 2305(a)(1)(C) of title 10, United States
8 Code, is amended in the second sentence by striking out
9 “Subject to such needs, specification may” and inserting
10 in lieu thereof the following: “Normally, the specifications
11 shall be the specifications of commercial items or other
12 nondevelopmental items (as defined in section 2325 of this
13 title). When such items cannot meet bona fide needs of
14 the Department of Defense, specifications shall”.

15 **SEC. 315. INNOVATIVE PROCEDURES, TECHNIQUES, AND**
16 **STRATEGIES.**

17 The Secretary of Defense shall provide for use of in-
18 novative procedures, techniques, and strategies in acquisi-
19 tion programs of the Department of Defense in order to
20 reduce the time necessary for defining requests for propos-
21 als and quotes and for selection of sources under such ac-
22 quisition programs.

1 **SEC. 316. PROCESS ORIENTED CONTRACT ADMINISTRA-**
2 **TION.**

3 (a) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the Defense Logistics Agency should be com-
5 mended for testing of process-oriented contract adminis-
6 tration services and that the continued testing of total
7 quality management techniques by such agency should be
8 encouraged.

9 (b) REPORTING REQUIREMENT.—The Secretary of
10 Defense shall include in the annual report submitted to
11 Congress under section 113(c) of title 10, United States
12 Code, an assessment of the testing of process-oriented con-
13 tract administration services by the Defense Logistics
14 Agency. The assessment shall include, among other mat-
15 ters considered appropriate by the Secretary, a discussion
16 of the use of measures of performance and a discussion
17 of the overall effectiveness of the program.

18 **Subtitle C—Procurement Protests**

19 **SEC. 321. POST-AWARD DEBRIEFINGS.**

20 Section 2305(b) of title 10, United States Code, is
21 amended—

22 (1) by redesignating paragraph (5) as para-
23 graph (6); and

24 (2) by inserting after paragraph (4) the follow-
25 ing new paragraph (5):

1 “(5)(A) When a contract is awarded by an agency
2 on the basis of competitive proposals, an unsuccessful
3 offeror, upon written request received by the agency within
4 7 days after the date of contract award, shall be debriefed
5 and furnished the basis for the selection decision and con-
6 tract award. An employee of the agency shall debrief the
7 offeror within 7 days after receipt of the request by the
8 agency.

9 “(B) The debriefing shall provide the offeror with—

10 “(i) the agency’s evaluation of the significant
11 weak or deficient factors in the offeror’s offer;

12 “(ii) the overall evaluated cost of the offer of
13 the contractor awarded the contract and the overall
14 evaluated cost of the offer of the debriefed offeror;

15 “(iii) the overall ranking of all offers and the
16 total technical and cost scores of all offers;

17 “(iv) a summary of the rationale for the award;

18 “(v) in the case of a proposal that incorporates
19 equipment that is a commercial item, the make and
20 model of the item incorporated in the offer of the
21 contractor awarded the contract; and

22 “(vi) reasonable responses to questions posed by
23 the debriefed offeror as to whether source selection
24 procedures set forth in the solicitation, applicable

1 regulations, and other applicable authorities were
2 followed by the agency.

3 “(C) The debriefing may not include point-by-point
4 comparisons of the debriefed offeror’s offer with other of-
5 fers and may not disclose any information that is exempt
6 from disclosure under section 552 of title 5, including in-
7 formation relating to—

8 “(i) trade secrets;

9 “(ii) privileged or confidential manufacturing
10 processes and techniques; and

11 “(iii) commercial and financial information that
12 is privileged or confidential, including cost break-
13 downs, profit, indirect cost rates, and similar infor-
14 mation.

15 “(D) Each solicitation for competitive proposals shall
16 include a statement that information described in subpara-
17 graph (B) may be disclosed in post-award debriefings.

18 “(E) If, within one year after the date of the contract
19 award and as a result of a successful procurement protest
20 or otherwise, the agency seeks to fulfill the requirement
21 under the contract either on the basis of a new solicitation
22 of offers or on the basis of the best and final offers consid-
23 ered in the awarding of that contract, the agency shall
24 provide each such offeror with—

1 “(i) all information provided in debriefings
2 under this paragraph regarding the offer of the con-
3 tractor awarded the contract; and

4 “(ii) all comparable information with respect to
5 the original offerors.

6 “(F) The contracting officer shall include a summary
7 of the debriefing in the contract file.”.

8 **SEC. 322. COMPTROLLER GENERAL REMEDIES.**

9 (a) PERIODS FOR CERTAIN ACTIONS.—Section 3554
10 of title 31, United States Code, is amended—

11 (1) by adding at the end of subsection (b) the
12 following new paragraph:

13 “(3) If, pursuant to paragraph (1)(B), the Comptrol-
14 ler General recommends that a Federal agency recompetete
15 a contract immediately, the Federal agency shall carry out
16 that recommendation.”; and

17 (2) in subsection (c), striking out paragraph (1)
18 and inserting in lieu thereof the following:

19 “(1) If the Comptroller General determines that a so-
20 licitation for a contract or a proposed award of a contract
21 does not comply with a statute or regulation, the Comp-
22 troller General may declare an appropriate interested
23 party to be entitled to any of the following:

24 “(A) Damages.

1 “(B) The costs of filing and pursuing the pro-
2 test, including reasonable attorneys’ fees.

3 “(C) The costs of bid and proposal prepara-
4 tion.”.

5 **Subtitle D—Other Matters**

6 **SEC. 331. UNIFICATION OF PROCUREMENT LAWS.**

7 The Administrator for Federal Procurement Policy
8 shall submit to Congress proposed legislation that—

9 (1) unifies the procurement laws applicable to
10 the Department of Defense, the Coast Guard, and
11 the National Aeronautics and Space Administration
12 with the procurement laws applicable to the other
13 departments and agencies of the Federal Govern-
14 ment; and

15 (2) applies to all departments and agencies of
16 the Federal Government the policies, authorities,
17 procedures, requirements, limitations, and restric-
18 tions set forth in the provisions of titles I through
19 III of this Act and in the amendments made by such
20 provisions.

1 **TITLE IV—CONFORMING**
2 **AMENDMENTS**

3 **SEC. 401. MODIFICATION OF THE RESPONSIBILITY OF THE**
4 **COMPTROLLER OF THE DEPARTMENT OF DE-**
5 **FENSE FOR DEFENSE ACQUISITION BUDG-**
6 **ETS.**

7 Section 137(c) of title 10, United States Code, is
8 amended in each of paragraphs (2), (3), and (4), by insert-
9 ing after the paragraph designation the following: “subject
10 to section 133(b) of this title,”.

11 **SEC. 402. THE DEFENSE ACQUISITION WORK FORCE.**

12 (a) GENERAL AUTHORITIES AND RESPONSIBIL-
13 ITIES.—(1)(A) Sections 1704, 1705, and 1707 of title 10,
14 United States Code, are repealed.

15 (B) The table of sections at the beginning of sub-
16 chapter I of chapter 87 of such title is amended by strik-
17 ing out the items relating to sections 1704 through 1707
18 and inserting in lieu thereof the following:

 “1704. Acquisition career program boards.”.

19 (2) Section 1706 of title 10, United States Code, is
20 amended—

21 (A) in the section heading by striking out
22 “**§ 1706**” and inserting in lieu thereof “**§ 1704**”;

23 (B) by striking out subsection (a) and inserting
24 in lieu thereof the following:

1 “(a) ESTABLISHMENT.—The Under Secretary of De-
2 fense for Acquisition shall establish an acquisition career
3 program board to advise the Under Secretary in managing
4 the accession, training, education, and career development
5 of military and civilian personnel in the acquisition
6 workforce and in selecting individuals for the Acquisition
7 Corps under section 1731 of this title.”;

8 (C) in subsection (b)—

9 (i) in the first sentence, by striking out
10 “Each” and inserting in lieu thereof “The”;
11 and

12 (ii) in the second sentence, by striking out
13 “service acquisition executive” and inserting in
14 lieu thereof “Under Secretary”; and

15 (D) in subsection (c)—

16 (i) by striking out “Secretary of a military
17 department” and inserting in lieu thereof
18 “Under Secretary”; and

19 (ii) by striking out “in the department”.

20 (b) DEFENSE ACQUISITION POSITIONS.—(1) Section
21 1722 of title 10, United States Code, is amended—

22 (A) in subsection (g), by striking out “Sec-
23 retary of each military department, acting through
24 the service acquisition executive for that depart-

1 ment,” and inserting in lieu thereof “Secretary of
2 Defense”; and

3 (B) in subsection (h), by striking out “or the
4 Secretary of a military department (as applicable)”.

5 (2) Section 1724(d) of such title is amended in the
6 first sentence—

7 (A) by striking out “a military department”
8 and inserting in lieu thereof “the Department of De-
9 fense”; and

10 (B) by striking out “of that military depart-
11 ment”.

12 (c) ACQUISITION CORPS.—(1) Section 1731 of title
13 10, United States Code, is amended—

14 (A) by striking out subsection (a) and inserting
15 in lieu thereof the following:

16 “(a) ACQUISITION CORPS.—The Secretary of Defense
17 shall establish a Department of Defense Acquisition
18 Corps.”; and

19 (B) in subsection (b), by striking out “an Ac-
20 quisition Corps” and inserting in lieu thereof “the
21 Acquisition Corps”.

22 (2) Section 1732 of such title is amended—

23 (A) in subsection (b)—

24 (i) in paragraph (2)(A)(ii), by striking out
25 “of the employing military department”; and

1 (ii) in paragraph (4), by striking out “or
2 the Secretary of the military department con-
3 cerned”; and

4 (B) in subsection (d)—

5 (i) by striking out “of a military depart-
6 ment” in the first sentence of paragraph (1)
7 and in paragraph (2); and

8 (ii) by striking out “of that military de-
9 partment” in the first sentence of paragraph
10 (1).

11 (3) Section 1733(a) of such title is amended by strik-
12 ing out “an Acquisition Corps” and inserting in lieu there-
13 of “the Acquisition Corps”.

14 (4) Section 1734(a) of such title is amended—

15 (A) in paragraph (1)—

16 (i) in the first sentence, by striking
17 out “Secretary of each military depart-
18 ment, acting through the service acquisi-
19 tion executive for that department,” and
20 inserting in lieu thereof “Secretary of De-
21 fense, acting through the Under Secretary
22 of Defense for Acquisition,”; and

23 (ii) in the second sentence, by striking
24 out “concerned”; and

1 (B) in paragraph (2), by striking out “con-
2 cerned” in the second sentence.

3 (5) Section 1738 of title 10, United States Code (as
4 redesignated by section 203(b)(1)(A)), is amended—

5 (A) in subsection (a)—

6 (i) in paragraph (1), by striking out “an
7 Acquisition Corps” and inserting in lieu thereof
8 “the Acquisition Corps”; and

9 (ii) in paragraph (5), by striking out “,
10 serving” and all that follows through “Depart-
11 ment of Defense”; and

12 (B) by striking out subsection (c) and inserting
13 in lieu thereof the following:

14 “(c) WAIVER.—(1) The Secretary of Defense may
15 waive, on a case-by-case basis, the requirements estab-
16 lished under this subchapter with respect to the assign-
17 ment of an individual to a particular critical acquisition
18 position. Such a waiver may be granted only if unusual
19 circumstances justify the waiver or if the Secretary deter-
20 mines that the individual’s qualifications obviate the need
21 for meeting the education, training, and experience re-
22 quirements established under this subchapter.

23 “(2) The Secretary shall act through the Under Sec-
24 retary of Defense for Acquisition in exercising the author-
25 ity provided in paragraph (1). The authority to grant

1 waivers under this subsection may be delegated by the
2 Under Secretary only to the Director of Acquisition Edu-
3 cation, Training, and Career Development.”.

4 (d) EDUCATION AND TRAINING.—(1) Section
5 1741(c) of title 10, United States Code, is amended to
6 read as follows:

7 “(c) PROGRAMS.—The Under Secretary shall estab-
8 lish and implement the education and training programs
9 authorized by this subchapter.”.

10 (2) Section 1742 of such title is amended by striking
11 out “require that each military department”.

12 (3) Section 1743 of such title is amended in the first
13 sentence by striking out “require that the Secretary of
14 each military department”.

15 (e) GENERAL MANAGEMENT.—(1) Section 1761(a)
16 of title 10, United States Code, is amended by striking
17 out “prescribe regulations to ensure that the military de-
18 partments and Defense Agencies”.

19 (2) Section 1762(c) of such title is amended—

20 (A) by striking out the parenthetical material in
21 the matter above paragraph (1); and

22 (B) in paragraph (4)(A), by striking out “an
23 acquisition corps” and inserting in lieu thereof “the
24 Acquisition Corps”.

1 (3) Section 1763 of such title is amended by striking
2 out the second sentence.

3 **SEC. 403. PROCUREMENT PROCEDURES GENERALLY.**

4 Chapter 137 of title 10, United States Code, is
5 amended as follows:

6 (1) Section 2305(d) is amended—

7 (A) in the first sentence of paragraph
8 (1)(A), by striking out “shall ensure that,” and
9 all that follows through “the head of an agen-
10 cy” and inserting in lieu thereof “, in preparing
11 a solicitation for the award of a development
12 contract for a major system, shall”;

13 (B) in the first sentence of paragraph
14 (2)(A), by striking out “shall ensure that,” and
15 all that follows through “the head of an agen-
16 cy” and inserting in lieu thereof “, in preparing
17 a solicitation for the award of a production con-
18 tract for a major system, shall”;

19 (C) by striking out “the head of the agen-
20 cy” each place it appears and inserting in lieu
21 thereof “the Secretary”; and

22 (D) by striking out “the head of an agen-
23 cy” each place it appears and inserting in lieu
24 thereof “the Secretary of Defense”.

25 (2) Section 2306(h) is amended—

1 (A) in paragraph (1), by striking out “the
2 head of an agency” in the matter above sub-
3 paragraph (A) and inserting in lieu thereof “the
4 Secretary of Defense”;

5 (B) in paragraph (2)(D), by striking out
6 “agencies in” in the matter above clause (i);

7 (C) in paragraph (3), by striking out “the
8 head of the agency concerned” and inserting in
9 lieu thereof “the Secretary of Defense”;

10 (D) by striking out paragraph (7);

11 (E) in paragraph (10), by striking out “in-
12 struct the Secretary of the military department
13 concerned to”; and

14 (F) by redesignating paragraphs (8), (9),
15 (10), and (11) as paragraphs (7), (8), (9), and
16 (10), respectively.

17 (3) Section 2307(e)(7) is amended by striking
18 out the second sentence.

19 (4) Section 2311 is amended—

20 (A) by striking out “Except as provided
21 in” and inserting in lieu thereof “(a) Except as
22 provided in subsection (b) and”; and

23 (B) by adding at the end the following new
24 subsection:

1 “(b) The Secretary of Defense may delegate any au-
2 thority of the Secretary under this chapter only to—

3 “(1) the Deputy Secretary of Defense, who may
4 successively delegate such authority only to the
5 Under Secretary of Defense for Acquisition;

6 “(2) the Under Secretary of Defense for Acqui-
7 sition; or

8 “(3) any acquisition program executive officer
9 or acquisition program manager of the Defense Re-
10 search, Development, and Acquisition Agency.”.

11 (5) Section 2318 is amended—

12 (A) in subsection (a), by striking out “De-
13 fense Logistics Agency” each place it appears
14 and inserting in lieu thereof “Defense Research,
15 Development, and Acquisition Agency”; and

16 (B) in subsection (c), by striking out
17 “Each advocate for competition of an agency”
18 and inserting in lieu thereof “The advocate for
19 competition”.

20 (6) Section 2320(b) is amended—

21 (A) in the matter above paragraph (1), by
22 striking out “an agency named in section 2303
23 of this title” and inserting in lieu thereof “the
24 Department of Defense”; and

1 (B) in paragraph (9), by striking out “the
2 head of the agency to withhold” and inserting
3 in lieu thereof “the withholding of”.

4 (7) Section 2324 is amended—

5 (A) in subsection (e)—

6 (i) in paragraph (2)(C), by striking
7 out “head of the agency awarding the con-
8 tract” and inserting in lieu thereof “Sec-
9 retary”; and

10 (ii) in paragraph (3)—

11 (I) in subparagraph (A), by strik-
12 ing out the matter above clause (i)
13 and inserting in lieu thereof the fol-
14 lowing:

15 “(A) Pursuant to regulations prescribed by the Sec-
16 retary and subject to the availability of appropriations, the
17 Secretary may waive the application of the provisions of
18 paragraphs (1)(M) and (1)(N) to a covered contract (other
19 than a contract to which paragraph (2) applies) if the Sec-
20 retary determines that—”;

21 (II) by striking out “head of an
22 agency” each place it appears in sub-
23 paragraphs (B) and (C); and

24 (III) in subparagraph (B)(ii), by
25 striking out “head of the agency will

1 consider granting such waiver, and, if
2 the agency head” and inserting in lieu
3 thereof “Secretary will consider grant-
4 ing such waiver, and, if the Sec-
5 retary”;

6 (B) in subsection (h)(2), by striking out
7 “or the Secretary of the military department
8 concerned”; and

9 (C) in subsection (k)(4)—

10 (i) by striking out “the head of the
11 agency that awarded the covered contract”
12 and inserting in lieu thereof “the Secretary
13 of Defense”;

14 (ii) by striking out “the agency head”
15 and inserting in lieu thereof “the Sec-
16 retary”;

17 (iii) by striking out “such agency
18 head” and inserting in lieu thereof “the
19 Secretary”; and

20 (iv) in clause (B), by striking out
21 “agency” and inserting in lieu thereof
22 “Department of Defense”.

23 (8) Section 2326 is amended—

1 (A) by striking out “head of an agency”
2 each place it appears and inserting in lieu
3 thereof “Secretary of Defense”;

4 (B) by striking out “head of the agency”
5 each place it appears and inserting in lieu
6 thereof “Secretary of Defense”; and

7 (C) in subsection (a), by striking out “mili-
8 tary department concerned” and inserting in
9 lieu thereof “Department of Defense”.

10 (9) Section 2327 is amended—

11 (A) in subsection (a), by striking out “The
12 head of an agency” and inserting in lieu thereof
13 “The Secretary of Defense”;

14 (B) in subsection (b), by striking out “the
15 head of an agency” and inserting in lieu thereof
16 “the Secretary of Defense”;

17 (C) in subsection (c)(1)—

18 (i) by striking out “the head of an
19 agency” each place it appears and insert-
20 ing in lieu thereof “the Secretary”; and

21 (ii) by striking out “such head of an
22 agency” each place it appears and insert-
23 ing in lieu thereof “the Secretary”;

1 (D) in subsection (c)(2), by striking out
2 “Upon the request of the head of an agency,
3 the” and inserting in lieu thereof “The”; and

4 (E) in subsection (d)—

5 (i) by striking out “(1)”; and

6 (ii) by striking out paragraph (2).

7 (10) Section 2329 is amended—

8 (A) in subsection (a), by striking out the
9 second sentence;

10 (B) in subsection (b), by striking out “the
11 Secretary of a military department” and insert-
12 ing in lieu thereof “the Secretary of Defense”;

13 (C) in subsection (c)—

14 (i) by striking out “the Secretary con-
15 cerned” each place it appears and inserting
16 in lieu thereof “the Secretary of Defense”;
17 and

18 (ii) by striking out the second sen-
19 tence of paragraph (3).

20 **SEC. 404. RESEARCH AND DEVELOPMENT.**

21 Chapter 139 of title 10, United States Code, is
22 amended as follows:

23 (1) Section 2352(a) is amended in the matter
24 above paragraph (1)—

1 (A) by striking out “The Secretary of a
2 military department” and inserting in lieu
3 thereof “The Secretary of Defense”; and

4 (B) by striking out “of that military de-
5 partment”.

6 (2) Section 2353 is amended—

7 (A) in the first sentence of subsection
8 (a)—

9 (i) by striking out “contract of a mili-
10 tary department” and inserting in lieu
11 thereof “Department of Defense contract”;
12 and

13 (ii) by striking out “the Secretary of
14 the military department concerned” and
15 inserting in lieu thereof “the Secretary of
16 Defense”; and

17 (B) in subsection (b)(3), by striking out
18 “the Secretary concerned” and inserting in lieu
19 thereof “the Secretary of Defense”.

20 (3) Section 2354 is amended—

21 (A) in subsection (a), by striking out “the
22 Secretary of the military department concerned,
23 any contract of a military department” and in-
24 serting in lieu thereof “the Secretary of De-

1 fense, any contract of the Department of De-
2 fense”;

3 (B) in subsection (c)—

4 (i) by striking out “the Secretary of
5 the department concerned” and inserting
6 in lieu thereof “the Secretary of Defense”;
7 and

8 (ii) by striking out “of his depart-
9 ment”; and

10 (C) in subsection (d), by striking out “the
11 Secretary concerned” and inserting in lieu
12 thereof “the Secretary of Defense”.

13 (4) Section 2355 is amended—

14 (A) by striking out “Secretary of each
15 military department” and all that follows
16 through “Comptroller General,” and inserting
17 in lieu thereof “Secretary of Defense, with the
18 approval of the Comptroller General, may”; and

19 (B) by striking out “his department”.

20 (5) Section 2356(a) is amended to read as
21 follows:

22 “(a)(1) Except as provided in paragraph (2), the Sec-
23 retary of Defense may delegate any authority under sec-
24 tion 1584, 2353, 2354, 2355, or 2358 of this title to—

1 “(A) the Deputy Secretary of Defense, who may
2 successively delegate such authority only to the
3 Under Secretary of Defense for Acquisition;

4 “(B) the Under Secretary of Defense for Acqui-
5 sition; or

6 “(C) any employee of the Defense Research,
7 Development, and Acquisition Agency.

8 “(2) The authority of the Secretary under section
9 2353(b)(3) of this title may not be delegated to a person
10 described in paragraph (1)(C).”.

11 (6) Section 2367(c) is amended to read as fol-
12 lows:

13 “(c) Funds appropriated to the Department of De-
14 fense may not be obligated or expended for purposes of
15 operating a federally funded research center that was not
16 in existence before June 2, 1986, until—

17 “(1) the Secretary of Defense submits to Con-
18 gress a report with respect to such center that de-
19 scribes the purpose, mission, and general scope of ef-
20 fort of the center; and

21 “(2) 60 days elapse after the date on which
22 such report is received by Congress.”.

23 (7) Section 2369 is amended—

24 (A) in subsection (a), by striking out “a
25 program for the supervision and coordination

1 of” and inserting in lieu thereof “and conduct
2 appropriate”; and

3 (B) by striking out subsection (b) and in-
4 serting in lieu thereof the following:

5 “(b) PURPOSE OF PRODUCT EVALUATION.—The
6 purpose of each product evaluation activity established
7 under subsection (a) is to evaluate products developed by
8 private industry independent of any contract or other ar-
9 rangement with the United States in order to determine
10 the utility of such products in the Department of De-
11 fense.”.

12 (8) Subsections (a) and (g) of section 2371 are
13 amended by striking out “in carrying out advanced
14 research projects through the Defense Advanced Re-
15 search Projects Agency, and the Secretary of each
16 military department,”.

17 **SEC. 405. MISCELLANEOUS PROCUREMENT PROVISIONS.**

18 Chapter 141 of title 10, United States Code, is
19 amended as follows:

20 (1) Section 2381 is amended—

21 (A) in subsection (a)—

22 (i) by striking out “The Secretary of
23 a military department” and inserting in
24 lieu thereof “The Secretary of Defense”;
25 and

1 (ii) by striking out “that department”
2 in paragraph (1) and inserting in lieu
3 thereof “the Department of Defense”; and
4 (B) in subsection (b)—

5 (i) in the matter above paragraph (1),
6 by striking out “the Secretary concerned”
7 and inserting in lieu thereof “the Secretary
8 of Defense”; and

9 (ii) in paragraph (2), by striking out
10 “military department concerned” and in-
11 serting in lieu thereof “Department of De-
12 fense”.

13 (2) Section 2385 is amended by striking out “a
14 military department” and inserting in lieu thereof
15 “the Department of Defense”.

16 (3) Section 2386 is amended by striking out “a
17 military department” and inserting in lieu thereof
18 “the Department of Defense”.

19 (4) Section 2388(a) is amended by striking out
20 “The Secretary of a military department” and in-
21 serting in lieu thereof “The Secretary of Defense”.

22 (5) Section 2393 is amended—

23 (A) in subsection (a)—

24 (i) by striking out “the Secretary of a
25 military department” in paragraph (1) and

1 inserting in lieu thereof “the Secretary of
2 Defense”; and

3 (ii) by striking out “the Secretary
4 concerned” in paragraph (2) and inserting
5 in lieu thereof “the Secretary of Defense”;
6 and

7 (B) in subsection (b), by striking out “the
8 Secretary concerned” and inserting in lieu
9 thereof “the Secretary of Defense”.

10 (6) Section 2394 is amended—

11 (A) in subsection (a), by striking out “the
12 Secretary of a military department” and insert-
13 ing in lieu thereof “the Secretary of Defense”;

14 (B) by striking out subsection (b); and

15 (C) by redesignating subsection (c) as sub-
16 section (b).

17 (7) Section 2394a is amended—

18 (A) in subsection (a)—

19 (i) by striking out “Secretary of a
20 military department” and inserting in lieu
21 thereof “Secretary of Defense”; and

22 (ii) by striking out “military depart-
23 ment under his jurisdiction” and inserting
24 in lieu thereof “Department of Defense”;
25 and

1 (B) in subsection (b), by striking out the
2 second sentence.

3 (8) Section 2401(a) is amended by striking out
4 “The Secretary of a military department” both
5 places it appears and inserting in lieu thereof “The
6 Secretary of Defense”.

7 (9) Section 2403 is amended—

8 (A) in subsection (a), by striking out para-
9 graph (8);

10 (B) in subsection (b), by striking out “the
11 head of an agency” in the matter above para-
12 graph (1) and inserting in lieu thereof “the
13 Secretary of Defense”;

14 (C) in subsections (c), (f), and (g), by
15 striking out “head of the agency concerned”
16 each place it appears and inserting in lieu
17 thereof “Secretary of Defense”;

18 (D) in subsection (d)—

19 (i) by inserting “(1)” after the sub-
20 section designation;

21 (ii) by redesignating paragraphs (1)
22 and (2) as subparagraphs (A) and (B),
23 respectively;

24 (iii) by striking out the second sen-
25 tence; and

1 (iv) by adding at the end the following
2 new paragraph:

3 “(2) The Secretary may delegate authority under this
4 subsection only to the Under Secretary of Defense for Ac-
5 quisition.”; and

6 (E) in subsection (h)—

7 (i) by striking out “(1)”; and

8 (ii) by striking out paragraph (2).

9 (10) Section 2405(a) is amended by striking
10 out “The Secretary of a military department” and
11 inserting in lieu thereof “The Secretary of Defense”.

12 (11) Section 2406 is amended—

13 (A) in subsection (a)—

14 (i) by striking out “head of an agen-
15 cy” and inserting in lieu thereof “Sec-
16 retary of Defense”;

17 (ii) by striking out “with that agen-
18 cy”; and

19 (iii) by striking out “head of the agen-
20 cy” each place it appears and inserting in
21 lieu thereof “Secretary”; and

22 (B) in subsection (f)—

23 (i) by striking out paragraph (1);

1 (ii) by redesignating paragraphs (2),
2 (3), and (4) as paragraphs (1), (2), and
3 (3), respectively;

4 (iii) by striking out “2432(a)” and in-
5 serting in lieu thereof “2430” in para-
6 graph (1) (as redesignated by clause (ii));
7 and

8 (iv) by striking out “the head of an
9 agency” and inserting in lieu thereof “the
10 Secretary of Defense” in paragraph (3) (as
11 redesignated by clause (ii)).

12 (12) Section 2411(3) is amended by striking
13 out “Director of the Defense Logistics Agency” and
14 inserting in lieu thereof “Under Secretary of De-
15 fense for Acquisition”.

16 **SEC. 406. MAJOR DEFENSE ACQUISITION PROGRAMS.**

17 Chapter 144 of title 10, United States Code, is
18 amended as follows:

19 (1) Section 2433 is amended—

20 (A) by striking out “service acquisition ex-
21 ecutive designated by the Secretary concerned”
22 each place it appears and inserting in lieu
23 thereof “Under Secretary of Defense for Acqui-
24 sition”;

1 (B) in subsection (c)(2), by striking out
2 “such service acquisition executive” each place
3 it appears and inserting in lieu thereof “the
4 Under Secretary of Defense for Acquisition”;

5 (C) in subsection (d)—

6 (i) by striking out “the service acqui-
7 sition executive” in paragraphs (1) and (2)
8 and inserting in lieu thereof “the Under
9 Secretary”; and

10 (ii) in paragraph (3), by striking out
11 “If, based upon the service acquisition ex-
12 ecutive’s determination, the Secretary con-
13 cerned” and inserting in lieu thereof “If
14 the Under Secretary of Defense for Acqui-
15 sition”; and

16 (D) in subsection (e)—

17 (i) in paragraph (1)(A), by striking
18 out “Secretary concerned” and inserting in
19 lieu thereof “Under Secretary of Defense
20 for Acquisition”;

21 (ii) in paragraph (1)(B), by striking
22 out “Secretary” and inserting in lieu
23 thereof “Under Secretary”;

24 (iii) in paragraph (2), by striking out
25 “(as determined by the Secretary” in the

1 matter above subparagraph (A) and insert-
2 ing in lieu thereof “(as determined by the
3 Under Secretary”;

4 (iv) in paragraph (3), by striking out
5 “by the Secretary” both places it appears
6 in the first sentence and inserting in lieu
7 thereof “by the Under Secretary”.

8 (2) Section 2434(b)(1) is amended by striking
9 out “the military department,” and all that follows
10 and inserting in lieu thereof “Department of De-
11 fense.”.

12 (3) Section 2435 is amended—

13 (A) in subsection (a)(1), by striking out
14 the matter above subparagraph (A) and insert-
15 ing in lieu thereof the following:

16 “(a) BASELINE DESCRIPTION REQUIREMENT.—(1)
17 The Under Secretary of Defense for Acquisition shall es-
18 tablish a baseline description for each major defense ac-
19 quisition program—”; and

20 (B) in subsection (b)—

21 (i) in paragraph (1), by striking out
22 “Secretary of the military department con-
23 cerned and to the service acquisition execu-
24 tive designated by such Secretary” and in-

1 serting in lieu thereof “Under Secretary of
2 Defense for Acquisition”; and

3 (ii) in paragraph (2), in the matter
4 above subparagraph (A)—

5 (I) by striking out “The Sec-
6 retary of the military department con-
7 cerned” and inserting in lieu thereof
8 “The Under Secretary of Defense for
9 Acquisition”; and

10 (II) by striking out “180
11 days—” and all that follows and in-
12 serting in lieu thereof the following:
13 “180 days, establish a review panel to
14 review such program and to submit to
15 the Under Secretary a report on the
16 results of such review within 45 days
17 after the date on which the program
18 deviation report is submitted under
19 paragraph (1).”.

20 (4) Section 2436 is amended—

21 (A) in subsection (a)—

22 (i) by striking out “, through the Sec-
23 retaries of the military departments,”; and

24 (ii) by striking out “senior procure-
25 ment executive of the military department

1 concerned” and inserting in lieu thereof
2 “Under Secretary of Defense for Acquisi-
3 tion”;

4 (B) in subsection (b)—

5 (i) by striking out “Secretary of a
6 military department” and inserting in lieu
7 thereof “Secretary”; and

8 (ii) by striking out “under the juris-
9 diction of the Secretary”;

10 (C) in subsection (c)—

11 (i) in paragraph (1), by striking out
12 “Secretary concerned” and inserting in
13 lieu thereof “Under Secretary of Defense
14 for Acquisition”; and

15 (ii) in paragraph (3), by striking out
16 “senior procurement executive” and all
17 that follows and inserting in lieu thereof
18 “Under Secretary.”; and

19 (D) in subsection (d), by striking out “the
20 senior procurement executive of the military de-
21 partment concerned, with the approval of”.

22 (5)(A) Section 2437 is repealed.

23 (B) The table of sections at the beginning of
24 chapter 144 is amended by striking out the item re-
25 lating to section 2437.

1 **SEC. 407. SERVICE SPECIFIC ACQUISITION AUTHORITY.**

2 (a) ARMY.—Part IV of subtitle B of title 10, United
3 States Code, is amended in sections 4501(c), 4502(a),
4 4503, 4504, 4505, 4506, 4507, 4508(a), 4531, 4532(a),
5 4533, 4535, 4537, 4538, 4540(a), and 4542 (each place
6 it appears) by striking out “Secretary of the Army” and
7 inserting in lieu thereof “Secretary of Defense”.

8 (b) NAVY.—Part IV of subtitle C of such title is
9 amended as follows:

10 (1) In sections 7201, 7203(a), 7210(a),
11 7212(a), 7213, 7229, 7299a (each place it appears),
12 7301(a), 7309(e), 7311(a), 7311(b), 7312 (each
13 place it appears), 7314, 7341(a), 7342(b), 7345(a),
14 7361 (each place it appears), 7362, 7364, 7365, and
15 7521, strike out “Secretary of the Navy” and insert
16 in lieu thereof “Secretary of Defense”.

17 (2) Section 7203 is amended—

18 (A) in subsection (a), by striking out
19 “(a)”; and

20 (B) by striking out subsection (b).

21 (3) Section 7210 is amended—

22 (A) in subsection (a), by striking out
23 “(a)”; and

24 (B) by striking out subsection (b).

25 (4) Section 7310(a) is amended by striking out
26 “Navy” the first place it appears in the second sen-

1 tence and inserting in lieu thereof “Secretary of De-
2 fense”.

3 (5) Section 7311(a)(1) is amended by striking
4 out “Navy” the first place it appears and inserting
5 in lieu thereof “Secretary of Defense”.

6 (6) Section 7314(2) is amended by striking out
7 “Navy” and inserting in lieu thereof “Department of
8 Defense”.

9 (7) Section 7363 is amended in the first sen-
10 tence—

11 (A) by striking out “Department of the
12 Navy” and inserting in lieu thereof “Secretary
13 of Defense”; and

14 (B) by striking out “Secretary” and insert-
15 ing in lieu thereof “Secretary of Defense”.

16 (8) Section 7521 is amended by striking out
17 “contract made by the Department of the Navy” in
18 the first sentence and inserting in lieu thereof “con-
19 tract entered into for the Department of the Navy”.

20 (9) Section 7522 is amended by striking out
21 “Secretary of the Navy” and all that follows through
22 “chiefs of bureaus” and inserting in lieu thereof
23 “Secretary of Defense”.

24 (c) AIR FORCE.—Part IV of subtitle D of such title
25 is amended in sections 9501(c), 9502(a), 9503, 9504,

1 9505, 9506, 9507, 9511(11), 9531, 9532, 9535, 9537,
 2 9538(a), and 9540(a) by striking out “Secretary of the
 3 Air Force” and inserting in lieu thereof “Secretary of De-
 4 fense”.

5 **SEC. 408. OTHER LAWS.**

6 In any other provision of law providing authority for
 7 the Secretary of a military department or the head of a
 8 Defense Agency of the Department of Defense to perform
 9 a research, development, or acquisition function of the De-
 10 partment of Defense, the reference to that official shall
 11 be deemed to refer to the Secretary of Defense. That func-
 12 tion shall be performed as provided in section 133(b) of
 13 title 10, United States Code (as amended by section
 14 101(a)), and section 232 of such title (as added by section
 15 101(b)).

16 **TITLE V—EFFECTIVE DATES**

17 **SEC. 501. EFFECTIVE DATES.**

18 (a) TITLES I AND III.—Titles I, III, and IV, section
 19 204, and the amendments made by such titles and section
 20 shall take effect on October 1, 1994.

21 (b) TITLE II.—Title II, except section 204, shall take
 22 effect on the date of the enactment of this Act.

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S 1598 IS—2

S 1598 IS—3

S 1598 IS—4

S 1598 IS—5

S 1598 IS—6