

113TH CONGRESS
2^D SESSION

H. R. 4228

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “DHS Acquisition Ac-
3 countability and Efficiency Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Definitions.
- Sec. 5. Prohibition on additional authorization of appropriations.

TITLE I—ACQUISITION AUTHORITIES

- Sec. 101. Acquisition authorities for Under Secretary for Management.
- Sec. 102. Acquisition authorities for Chief Financial Officer.
- Sec. 103. Acquisition authorities for Chief Information Officer.
- Sec. 104. Chief Procurement Officer.
- Sec. 105. Requirements to ensure greater accountability for acquisition programs.

TITLE II—ACQUISITION PROGRAM MANAGEMENT DISCIPLINE

- Sec. 201. Acquisition Review Board.
- Sec. 202. Requirements to reduce duplication in acquisition programs.
- Sec. 203. Government Accountability Office review of Board and of requirements to reduce duplication in acquisition programs.
- Sec. 204. Excluded Party List System waivers.
- Sec. 205. Inspector General oversight of suspension and debarment.

TITLE III—ACQUISITION PROGRAM MANAGEMENT
ACCOUNTABILITY AND TRANSPARENCY

- Sec. 301. Congressional notification and other requirements for major acquisition program breach.
- Sec. 302. Multiyear acquisition strategy.
- Sec. 303. Acquisition reports.
- Sec. 304. Government Accountability Office review of multiyear acquisition strategy.
- Sec. 305. Office of Inspector General report.

6 **SEC. 3. FINDINGS.**

7 Congress finds the following:

8 (1) The Department of Homeland Security does
9 not consistently implement its policies and Govern-

1 ment and private sector best practices for acquisi-
2 tions and procurement.

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

12 (3) Since 2005, the Government Accountability
13 Office has placed Department acquisition manage-
14 ment activities on its "High-Risk List", which iden-
15 tifies Government operations that have greater sus-
16 ceptibility to fraud, waste, abuse, and mismanage-
17 ment or greater need for transformation to address
18 economy, efficiency, or effectiveness challenges.

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

1 reliable data needed to accurately measure program
2 performance.

3 (5) Of the 77 Department major acquisition
4 programs in 2011, the Government Accountability
5 Office identified 42 programs that experienced cost
6 growth, schedule slips, or both. The Department re-
7 ported that the magnitude of the cost growth for 16
8 of the 42 programs, which increased from almost
9 \$20,000,000,000 to over \$50,000,000,000 in 2011,
10 had an aggregate increase of 166 percent.

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

18 **SEC. 4. DEFINITIONS.**

19 (a) IN GENERAL.—In this Act:

20 (1) SECRETARY.—The term “Secretary” means
21 the Secretary of Homeland Security.

22 (2) DEPARTMENT.—The term “Department”
23 means the Department of Homeland Security.

1 (3) CONGRESSIONAL HOMELAND SECURITY
2 COMMITTEES.—The term “congressional homeland
3 security committees” means—

4 (A) the Committee on Homeland Security
5 of the House of Representatives and the Com-
6 mittee on Homeland Security and Govern-
7 mental Affairs of the Senate; and

8 (B) the Committee on Appropriations of
9 the House of Representatives and of the Sen-
10 ate.

11 (b) ADDITIONAL DEFINITIONS.—In this Act:

12 (1) ACQUISITION.—The term “acquisition” has
13 the meaning provided in section 131 of title 41,
14 United States Code.

15 (2) BEST PRACTICES.—The term “best prac-
16 tices”, with respect to acquisition, means a knowl-
17 edge-based approach to capability development that
18 includes identifying and validating needs; assessing
19 alternatives to select the most appropriate solution;
20 clearly establishing well-defined requirements; devel-
21 oping realistic cost assessments and schedules; se-
22 curing stable funding that matches resources to re-
23 quirements; demonstrating technology, design, and
24 manufacturing maturity; using milestones and exit
25 criteria or specific accomplishments that dem-

1 onstrate progress; adopting and executing standard-
2 ized processes with known success across programs;
3 establishing an adequate workforce that is qualified
4 and sufficient to perform necessary functions; and
5 integrating these capabilities into the Department’s
6 mission and business operations.

7 (c) AMENDMENTS TO DEFINITIONS IN HOMELAND
8 SECURITY ACT OF 2002.—Section 2 of the Homeland Se-
9 curity Act of 2002 is amended—

10 (1) by striking “In this Act,” and inserting “(a)

11 IN GENERAL.—In this Act,”;

12 (2) in paragraph (2)—

13 (A) by inserting “(A)” after “(2)”; and

14 (B) by adding at the end the following new
15 subparagraph:

16 “(B) The term ‘congressional homeland security
17 committees’ means—

18 “(i) the Committee on Homeland Security
19 of the House of Representatives and the Com-
20 mittee on Homeland Security and Govern-
21 mental Affairs of the Senate; and

22 “(ii) the Committee on Appropriations of
23 the House of Representatives and of the Sen-
24 ate, where appropriate.”; and

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

3 “(b) ACQUISITION-RELATED DEFINITIONS.—In this
4 Act, the following definitions apply:

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

8 “(2) ACQUISITION DECISION AUTHORITY.—The
9 term ‘acquisition decision authority’ means the au-
10 thority, held by the Secretary acting through the
11 Deputy Secretary or Under Secretary for Manage-
12 ment—

13 “(A) to ensure compliance with Federal
14 law, the Federal Acquisition Regulation, and
15 Department acquisition management directives;

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

19 “(C) to ensure that program managers
20 have the resources necessary to successfully
21 execute an approved acquisition program; and

22 “(D) to ensure good program management
23 of cost, schedule, risk, and system performance
24 of the acquisition, including assessing acquisi-

1 tion program baseline breaches and directing
2 any corrective action for such breaches.

3 “(3) ACQUISITION DECISION EVENT.—The term
4 ‘acquisition decision event’, with respect to an in-
5 vestment or acquisition program, means a predeter-
6 mined point within the acquisition phases of the in-
7 vestment or acquisition program at which the invest-
8 ment or acquisition program will undergo a review
9 prior to commencement of the next phase.

10 “(4) ACQUISITION DECISION MEMORANDUM.—
11 The term ‘acquisition decision memorandum’, with
12 respect to an acquisition, means the official acquisi-
13 tion decision event record that includes a docu-
14 mented record of decisions, exit criteria, and as-
15 signed actions for the acquisition as determined by
16 the person exercising acquisition decision authority
17 for the acquisition.

18 “(5) ACQUISITION PROGRAM BASELINE.—The
19 term ‘acquisition program baseline’, with respect to
20 an acquisition program, means a summary of the
21 cost, schedule, and performance parameters, ex-
22 pressed in standard, measurable, quantitative terms,
23 which must be met in order to accomplish the goals
24 of the program.

1 “(6) CAPABILITY DEVELOPMENT PLAN.—The
2 term ‘capability development plan’, with respect to a
3 proposed acquisition, means the document that the
4 Acquisition Review Board approves for the first ac-
5 quisition decision event related to validating the
6 need of a proposed acquisition.

7 “(7) COMPONENT ACQUISITION EXECUTIVE.—
8 The term ‘Component Acquisition Executive’ means
9 the senior acquisition official within a Component
10 who is designated in writing by the Under Secretary
11 for Management, in consultation with the Compo-
12 nent head, with authority and responsibility for lead-
13 ing a process and staff to provide acquisition and
14 program management oversight, policy, and guid-
15 ance to ensure that statutory, regulatory, and higher
16 level policy requirements are fulfilled, including com-
17 pliance with Federal law, the Federal Acquisition
18 Regulation, and Department acquisition manage-
19 ment directives established by the Under Secretary
20 for Management.

21 “(8) LIFE CYCLE COST.—The term ‘life cycle
22 cost’, with respect to an acquisition program, means
23 all costs associated with research, development, pro-
24 curement, operation, integrated logistics support,
25 and disposal under the program, including sup-

1 porting infrastructure that plans, manages, and exe-
2 cutes the program over its full life, and costs of com-
3 mon support items incurred as a result of the pro-
4 gram.

5 “(9) MAJOR ACQUISITION PROGRAM.—The term
6 ‘major acquisition program’ means a Department
7 acquisition program that is estimated by the Sec-
8 retary to require an eventual total expenditure of at
9 least \$300,000,000 (based on fiscal year 2014 con-
10 stant dollars) over its life cycle cost.”.

11 **SEC. 5. PROHIBITION ON ADDITIONAL AUTHORIZATION OF**
12 **APPROPRIATIONS.**

13 No additional funds are authorized to be appro-
14 priated to carry out this Act and the amendments made
15 by this Act. This Act and such amendments shall be car-
16 ried out using amounts otherwise available for such pur-
17 poses.

18 **TITLE I—ACQUISITION**
19 **AUTHORITIES**

20 **SEC. 101. ACQUISITION AUTHORITIES FOR UNDER SEC-**
21 **RETARY FOR MANAGEMENT.**

22 Section 701 of the Homeland Security Act of 2002
23 (6 U.S.C. 341) is amended—

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

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

5 “(d) ACQUISITION AND RELATED RESPONSIBIL-
6 ITIES.—

7 “(1) IN GENERAL.—Notwithstanding section
8 1702(b) of title 41, United States Code, the Under
9 Secretary for Management is the Chief Acquisition
10 Officer of the Department. As Chief Acquisition Of-
11 ficer, the Under Secretary shall have the authority
12 and perform the functions as specified in section
13 1702(b) of such title, and perform all other func-
14 tions and responsibilities delegated by the Secretary
15 or described in this subsection.

16 “(2) DUTIES AND RESPONSIBILITIES.—In addi-
17 tion to the authority and functions specified in sec-
18 tion 1702(b) of title 41, United States Code, the du-
19 ties and responsibilities of the Under Secretary for
20 Management related to acquisition include the fol-
21 lowing:

22 “(A) Advising the Secretary regarding ac-
23 quisition management activities, taking into ac-
24 count risks of failure to achieve cost, schedule,
25 or performance parameters, to ensure that the

1 Department achieves its mission through the
2 adoption of widely accepted program manage-
3 ment best practices and standards.

4 “(B) Exercising the acquisition decision
5 authority to approve, halt, modify (including
6 the rescission of approvals of program mile-
7 stones), or cancel major acquisition programs,
8 unless the Under Secretary delegates the au-
9 thority to a Component Acquisition Executive
10 pursuant to paragraph (3).

11 “(C) Establishing policies for acquisition
12 that implement an approach that takes into ac-
13 count risks of failure to achieve cost, schedule,
14 or performance parameters that all Components
15 of the Department shall comply with, including
16 outlining relevant authorities for program man-
17 agers to effectively manage acquisition pro-
18 grams.

19 “(D) Ensuring that each major acquisition
20 program has a Department-approved acquisi-
21 tion program baseline.

22 “(E) Ensuring that the heads of Compo-
23 nents and Component Acquisition Executives
24 comply with Federal law, the Federal Acquisi-

1 tion Regulation, and Department acquisition
2 management directives.

3 “(F) Ensuring that grants and financial
4 assistance are provided only to individuals and
5 organizations that are not suspended or
6 debarred.

7 “(G) Distributing guidance throughout the
8 Department to ensure that contractors involved
9 in acquisitions, particularly companies that ac-
10 cess the Department’s information systems and
11 technologies, adhere to internal cybersecurity
12 policies established by the Department of
13 Homeland Security.

14 “(3) DELEGATION OF ACQUISITION DECISION
15 AUTHORITY.—

16 “(A) LEVEL 3 ACQUISITIONS.—The Under
17 Secretary for Management may delegate acqui-
18 sition decision authority in writing to the rel-
19 evant Component Acquisition Executive for an
20 acquisition program that has a life cycle cost
21 estimate of less than \$300,000,000.

22 “(B) LEVEL 2 ACQUISITIONS.—The Under
23 Secretary for Management may delegate acqui-
24 sition decision authority in writing to the rel-
25 evant Component Acquisition Executive for a

1 major acquisition program that has a life cycle
2 cost estimate of at least \$300,000,000 but not
3 more than \$1,000,000,000 if all of the following
4 requirements are met:

5 “(i) The Component concerned pos-
6 sesses working policies, processes, and pro-
7 cedures that are consistent with Depart-
8 ment-level acquisition policy.

9 “(ii) The Component Acquisition Ex-
10 ecutive has adequate, experienced, dedi-
11 cated program management professional
12 staff commensurate with the size of the
13 delegated portfolio.

14 “(iii) Each major acquisition program
15 concerned has written documentation
16 showing that it has a Department-ap-
17 proved acquisition program baseline and it
18 is meeting agreed-upon cost, schedule, and
19 performance thresholds.

20 “(4) EXCLUDED PARTIES LIST SYSTEM CON-
21 SULTATION.—The Under Secretary for Management
22 shall require that all Department contracting and
23 procurement officials consult the Excluded Parties
24 List System (or successor system) as maintained by
25 the General Services Administration prior to award-

1 ing a contract or grant or entering into other trans-
2 actions to ascertain whether the selected contractor
3 is excluded from receiving Federal contracts, certain
4 subcontracts, and certain types of Federal financial
5 and non-financial assistance and benefits.

6 “(5) RELATIONSHIP TO UNDER SECRETARY
7 FOR SCIENCE AND TECHNOLOGY.—Nothing in this
8 subsection shall diminish the authority granted to
9 the Under Secretary for Science and Technology
10 under this Act. The Under Secretary for Manage-
11 ment and the Under Secretary for Science and
12 Technology shall cooperate in matters related to the
13 coordination of acquisitions across the Department
14 so that investments of the Directorate of Science
15 and Technology can support current and future re-
16 quirements of the Components.”.

17 **SEC. 102. ACQUISITION AUTHORITIES FOR CHIEF FINAN-**
18 **CIAL OFFICER.**

19 Section 702 of the Homeland Security Act of 2002
20 (6 U.S.C. 342) is amended by adding at the end of sub-
21 section (b)(2) the following new subparagraph:

22 “(J) Notwithstanding section 902 of title
23 31, United States Code, provide leadership over
24 financial management policy and programs for
25 the Department as they relate to the Depart-

1 comply with Departmental management directives,
2 make recommendations to the Acquisition Review
3 Board regarding such noncompliance.

4 “(3) Be responsible for providing recommenda-
5 tions to the Acquisition Review Board established in
6 section 836 of this Act on information technology
7 programs, and be responsible for developing infor-
8 mation technology acquisition strategic guidance.”.

9 **SEC. 104. CHIEF PROCUREMENT OFFICER.**

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

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

14 “(a) IN GENERAL.—There is a Chief Procurement
15 Officer of the Department, who shall report directly to the
16 Under Secretary for Management. The Chief Procurement
17 Officer is the senior procurement executive for purposes
18 of section 1702(c) of title 41, United States Code, and
19 shall perform procurement functions as specified in such
20 section. The Chief Procurement Officer also shall perform
21 other functions and responsibilities set forth in this section
22 and as may be assigned by the Under Secretary for Man-
23 agement.

24 “(b) RESPONSIBILITIES.—The Chief Procurement
25 Officer shall—

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

4 “(2) issue acquisition regulations and policies;

5 “(3) account for the integrity, performance, and
6 oversight of Department procurement and con-
7 tracting functions and be responsible for ensuring
8 that a procurement’s contracting strategy and plans
9 are consistent with the intent and direction of the
10 Acquisition Review Board established in section 836
11 of this Act;

12 “(4) serve as the Department’s business advisor
13 and main liaison to industry on procurement-related
14 issues by providing advice on industry engagement,
15 acquisition policy, oversight of the procurement
16 function, and development of the acquisition work-
17 force;

18 “(5) oversee a centralized certification and
19 training program, in consultation with the Under
20 Secretary for Management, for the entire Depart-
21 ment acquisition workforce while using, to the great-
22 est extent practicable, best practices and acquisitions
23 training opportunities already in existence within the
24 Federal Government, the private sector, or univer-
25 sities and colleges, as appropriate, and including

1 training on how best to identify actions that warrant
2 referrals for suspension or debarment;

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

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

9 “(8) collect baseline data and establish perform-
10 ance measures on the impact of strategic sourcing
11 initiatives on the private sector, including, in par-
12 ticular, small businesses; and

13 “(9) ensure that a fair proportion (as defined
14 pursuant to the Small Business Act (15 U.S.C. 631
15 et seq.)) of Federal contract and subcontract dollars
16 are awarded to small businesses, maximize opportu-
17 nities for small business participation, and ensure, to
18 the extent practicable, small businesses that achieve
19 qualified vendor status for security-related tech-
20 nologies are provided an opportunity to compete for
21 contracts for such technology.”.

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

“Sec. 708. Chief Procurement Officer.”.

1 **SEC. 105. REQUIREMENTS TO ENSURE GREATER ACCOUNT-**
2 **ABILITY FOR ACQUISITION PROGRAMS.**

3 (a) IN GENERAL.—Title VII of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 341 et seq.) is further amended
5 by adding at the end the following new section:

6 **“SEC. 709. REQUIREMENTS TO ENSURE GREATER AC-**
7 **COUNTABILITY FOR ACQUISITION PRO-**
8 **GRAMS.**

9 “(a) REQUIREMENT TO ESTABLISH MECHANISM.—
10 Within the Management Directorate, the Under Secretary
11 for Management shall establish a mechanism to prioritize
12 improving the accountability, standardization, and trans-
13 parency of major acquisition programs of the Department
14 in order to increase opportunities for effectiveness and ef-
15 ficiencies and to serve as the central oversight function
16 of all Department acquisition programs.

17 “(b) RESPONSIBILITIES OF EXECUTIVE DIREC-
18 TOR.—The Under Secretary for Management shall des-
19 ignate an Executive Director to oversee the requirement
20 under subsection (a). The Executive Director shall report
21 directly to the Under Secretary and shall carry out the
22 following responsibilities:

23 “(1) Monitor the performance of Department
24 acquisition programs regularly between acquisition
25 decision events to identify problems with cost, per-
26 formance, or schedule that Components may need to

1 address to prevent cost overruns, performance
2 issues, or schedule delays.

3 “(2) Assist the Chief Acquisition Officer in
4 managing the Department’s acquisition portfolio.

5 “(3) Conduct oversight of individual acquisition
6 programs to implement Department acquisition pro-
7 gram policy, procedures, and guidance with a pri-
8 ority on ensuring the data it collects and maintains
9 from its Components is accurate and reliable.

10 “(4) Serve as the focal point within the Depart-
11 ment for policy, process, and procedure regarding
12 life cycle cost estimating and analysis.

13 “(5) Serve as the focal point and coordinator
14 for the acquisition life cycle review process and as
15 the executive secretariat for the Acquisition Review
16 Board established under section 836 of this Act.

17 “(6) Advise the persons having acquisition deci-
18 sion authority in making acquisition decisions con-
19 sistent with all applicable laws and in establishing
20 clear lines of authority, accountability, and responsi-
21 bility for acquisition decisionmaking within the De-
22 partment.

23 “(7) Engage in the strategic planning and per-
24 formance evaluation process required under section
25 306 of title 5, United States Code, and sections

1 1105(a)(28), 1115, 1116, and 9703 of title 31,
2 United States Code, by supporting the Chief Pro-
3 curement Officer in developing strategies and spe-
4 cific plans for hiring, training, and professional de-
5 velopment in order to rectify any deficiency within
6 the Department’s acquisition workforce.

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

10 “(9) Develop standardized certification stand-
11 ards in consultation with the Component Acquisition
12 Executives for all acquisition program managers.

13 “(10) In the event that a program manager’s
14 certification or actions need review for purposes of
15 promotion or removal, provide input, in consultation
16 with the relevant Component Acquisition Executive,
17 into the relevant program manager’s performance
18 evaluation, and report positive or negative experi-
19 ences to the relevant certifying authority.

20 “(11) Provide technical support and assistance
21 to Department acquisitions and acquisition per-
22 sonnel in conjunction with the Chief Procurement
23 Officer.

24 “(12) Prepare the Department’s Comprehensive
25 Acquisition Status Report, as required by the De-

1 partment of Homeland Security Appropriations Act,
2 2013 (division D of Public Law 113–6; 127 Stat.
3 343) and section 840 of this Act, and make such re-
4 port available to congressional homeland security
5 committees.

6 “(13) Prepare the Department’s Quarterly Pro-
7 gram Accountability Report as required by section
8 840 of this Act, and make such report available to
9 the congressional homeland security committees.

10 “(c) RESPONSIBILITIES OF COMPONENTS.—Each
11 head of a Component shall comply with Federal law, the
12 Federal Acquisition Regulation, and Department acquisi-
13 tion management directives established by the Under Sec-
14 retary for Management. For each major acquisition pro-
15 gram, each head of a Component shall—

16 “(1) establish a complete life cycle cost estimate
17 with supporting documentation, including an acquisi-
18 tion program baseline;

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

22 “(3) complete a cost-benefit analysis with sup-
23 porting documentation;

24 “(4) develop and maintain a schedule that is
25 consistent with scheduling best practices as identi-

1 fied by the Comptroller General of the United
2 States, including, in appropriate cases, an integrated
3 master schedule; and

4 “(5) ensure that all acquisition program infor-
5 mation provided by the Component is complete, ac-
6 curate, timely, and valid.”.

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

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

11 **TITLE II—ACQUISITION PRO-**
12 **GRAM MANAGEMENT DIS-**
13 **CIPLINE**

14 **SEC. 201. ACQUISITION REVIEW BOARD.**

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

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

19 “(a) IN GENERAL.—The Secretary shall establish an
20 Acquisition Review Board (in this section referred to as
21 the ‘Board’) to strengthen accountability and uniformity
22 within the Department acquisition review process, review
23 major acquisition programs, and review the use of best
24 practices.

1 “(b) COMPOSITION.—The Deputy Secretary or Under
2 Secretary for Management shall serve as chair of the
3 Board. The Secretary shall also ensure participation by
4 other relevant Department officials, including at least two
5 Component heads or their designees, as permanent mem-
6 bers of the Board.

7 “(c) MEETINGS.—The Board shall meet every time
8 a major acquisition program needs authorization to pro-
9 ceed from acquisition decision events through the acquisi-
10 tion life cycle and to consider any major acquisition pro-
11 gram in breach as necessary. The Board may also be con-
12 vened for non-major acquisitions that are deemed high-
13 risk by the Executive Director referred to in section
14 709(b) of this Act. The Board shall also meet regularly
15 for purposes of ensuring all acquisitions processes proceed
16 in a timely fashion to achieve mission readiness.

17 “(d) RESPONSIBILITIES.—The responsibilities of the
18 Board are as follows:

19 “(1) Determine whether a proposed acquisition
20 has met the requirements of key phases of the acqui-
21 sition life cycle framework and is able to proceed to
22 the next phase and eventual full production and de-
23 ployment.

1 “(2) Oversee executable business strategy, re-
2 sources, management, accountability, and alignment
3 to strategic initiatives.

4 “(3) Support the person with acquisition deci-
5 sion authority for an acquisition in determining the
6 appropriate direction for the acquisition at key ac-
7 quisition decision events.

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

12 “(5) Validate the acquisition documents of each
13 major acquisition program, including the acquisition
14 program baseline, to ensure the reliability of under-
15 lying data.

16 “(6) Ensure that practices are adopted and im-
17 plemented to require consideration of trade-offs
18 among cost, schedule, and performance objectives as
19 part of the process for developing requirements for
20 major acquisition programs prior to the initiation of
21 the capability development plan, second acquisition
22 decision event, including, at a minimum, the fol-
23 lowing practices:

24 “(A) Department officials responsible for
25 acquisition, budget, and cost estimating func-

1 tions are provided with the appropriate oppor-
2 tunity to develop estimates and raise cost and
3 schedule matters before performance objectives
4 are established for capabilities when feasible.

5 “(B) Full consideration of possible trade-
6 offs among cost, schedule, and performance ob-
7 jectives for each alternative is considered.

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

17 “(1) within seven days after an acquisition deci-
18 sion memorandum is signed, notify in writing the
19 congressional homeland security committees of such
20 decision; and

21 “(2) within 60 days after the acquisition deci-
22 sion memorandum is signed, submit a report to such
23 committees stating the rationale for the decision and
24 a plan of action to require an acquisition program
25 baseline for the program.

1 “(f) BEST PRACTICES DEFINED.—In this section,
2 the term ‘best practices’ has the meaning provided in sec-
3 tion 4(b) of the DHS Acquisition Accountability and Effi-
4 ciency Act.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002 (6
7 U.S.C. 101 et seq.) is further amended by adding after
8 the item relating to section 835 the following new item:
“Sec. 836. Acquisition Review Board.”.

9 **SEC. 202. REQUIREMENTS TO REDUCE DUPLICATION IN AC-**
10 **QUISITION PROGRAMS.**

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

15 **“SEC. 837. REQUIREMENTS TO REDUCE DUPLICATION IN**
16 **ACQUISITION PROGRAMS.**

17 “(a) REQUIREMENT TO ESTABLISH POLICIES.—In
18 an effort to reduce duplication and inefficiency for all De-
19 partment investments, including major acquisition pro-
20 grams, the Deputy Secretary, in consultation with the
21 Under Secretary for Management, shall establish Depart-
22 ment-wide policies to integrate all phases of the invest-
23 ment life cycle and help the Department identify, validate,
24 and prioritize standards for common Component require-
25 ments for major acquisition program requirements in

1 order to increase opportunities for effectiveness and effi-
2 ciencies. The policies shall also include strategic alter-
3 natives for developing and facilitating a Department Com-
4 ponent-driven requirements process that includes over-
5 sight of a development test and evaluation capability; iden-
6 tification of priority gaps and overlaps in Department ca-
7 pability needs; and provision of feasible technical alter-
8 natives, including innovative commercially available alter-
9 natives, to meet capability needs.

10 “(b) MECHANISMS TO CARRY OUT REQUIREMENT.—
11 The Deputy Secretary, in consultation with the Under
12 Secretary for Management, shall coordinate the actions
13 necessary to carry out subsection (a), using such mecha-
14 nisms as considered necessary by the Secretary to help the
15 Department reduce duplication and inefficiency for all De-
16 partment investments, including major acquisition pro-
17 grams.

18 “(c) COORDINATION.—In coordinating the actions
19 necessary to carry out subsection (a), the Deputy Sec-
20 retary shall consult with the Under Secretary for Manage-
21 ment, Component Acquisition Executives, and any other
22 Department officials, including the Under Secretary for
23 Science and Technology or his designee, with specific
24 knowledge of Department or Component acquisition capa-

1 bilities to prevent unnecessary duplication of require-
2 ments.

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

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

16 “(f) RESPONSIBILITIES.—In carrying out this sec-
17 tion, the responsibilities of the Deputy Secretary are as
18 follows:

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

23 “(2) To ensure the requirements and scope of
24 a major investment or acquisition program are sta-
25 ble, measurable, achievable, at an acceptable risk

1 level, and match the resources planned to be avail-
2 able.

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

7 “(A) to implement portfolio reviews to
8 identify common mission requirements and
9 crosscutting opportunities among Components
10 to harmonize investments and requirements and
11 prevent overlap and duplication among Compo-
12 nents; and

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

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

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

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

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002 (6
7 U.S.C. 101 et seq.) is further amended by adding after
8 the item relating to section 836 the following new item:
“Sec. 837. Requirements to reduce duplication in acquisition programs.”.

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

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

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

23 (1) An assessment of the effectiveness of the
24 Department in increasing program management
25 oversight, best practices and standards, and dis-

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

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

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

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

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

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

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

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

8 The Inspector General of the Department of Home-
9 land Security—

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

15 (2) shall review the suspension and debarment
16 program throughout the Department of Homeland
17 Security to assess whether suspension and debar-
18 ment criteria are consistently applied throughout the
19 Department and whether disparities exist in the ap-
20 plication of such criteria, particularly with respect to
21 business size and categories.

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

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

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

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

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

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

21 “(1) NOTIFICATIONS.—

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

1 program manager shall notify the person exer-
2 cising acquisition decision authority for the pro-
3 gram.

4 “(B) NOTIFICATION OF ACTUAL
5 BREACH.—If an actual breach occurs in a
6 major acquisition program, the program man-
7 ager for that program shall notify the head of
8 the Component concerned, the Component Ac-
9 quisition Executive for the program, the Execu-
10 tive Director referred to in section 709(b) of
11 this Act, the Under Secretary for Management,
12 and the Deputy Secretary.

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

22 “(2) REMEDIATION PLAN AND ROOT CAUSE
23 ANALYSIS.—

24 “(A) IN GENERAL.—In the case of an ac-
25 tual breach with a cost overrun greater than 15

1 percent or a schedule delay greater than 180
2 days from the costs or schedule set forth in the
3 acquisition program baseline, a remediation
4 plan and root cause analysis is required, and
5 the Under Secretary for Management or his
6 designee shall establish a date for submission
7 within the Department of a breach remediation
8 plan and root cause analysis in accordance with
9 this subsection.

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

17 “(i) explain the circumstances of the
18 breach;

19 “(ii) provide prior cost estimating in-
20 formation;

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

24 “(iv) in coordination with Component
25 Acquisition Executive, discuss all options

1 considered, including the estimated impact
2 on cost, schedule, or performance of the
3 program if no changes are made to current
4 requirements, the estimated cost of the
5 program if requirements are modified, and
6 the extent to which funding from other
7 programs will need to be reduced to cover
8 the cost growth of the program; and

9 “(v) explain the rationale for why the
10 proposed corrective action is recommended.

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

17 “(i) Unrealistic performance expecta-
18 tions.

19 “(ii) Unrealistic baseline estimates for
20 cost or schedule or changes in program re-
21 quirements.

22 “(iii) Immature technologies or exces-
23 sive manufacturing or integration risk.

24 “(iv) Unanticipated design, engineer-
25 ing, manufacturing, or technology integra-

1 tion issues arising during program per-
2 formance.

3 “(v) Changes in procurement quan-
4 tities.

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

11 “(vii) Legislative, legal, or regulatory
12 changes.

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

17 “(3) CORRECTION OF BREACH.—The Under
18 Secretary for Management or his designee shall es-
19 tablish a date for submission within the Department
20 of a program of corrective action that ensures that
21 one of the following actions has occurred:

22 “(A) The breach has been corrected and
23 the program is again in compliance with the
24 original acquisition program baseline param-
25 eters.

1 “(B) A revised acquisition program base-
2 line has been approved.

3 “(C) The program has been halted or can-
4 celled.

5 “(c) REQUIREMENTS RELATING TO CONGRESSIONAL
6 NOTIFICATION IF BREACH OCCURS.—

7 “(1) NOTIFICATION TO CONGRESS.—If a notifi-
8 cation is made under subsection (b)(1)(B) for a
9 breach in a major acquisition program with a cost
10 overrun greater than 15 percent or a schedule delay
11 greater than 180 days from the costs or schedule set
12 forth in the acquisition program baseline, or with an
13 anticipated failure for any key performance thresh-
14 old or parameter specified in the acquisition pro-
15 gram baseline, the Under Secretary for Management
16 shall notify the congressional homeland security
17 committees of the breach in the next quarterly Com-
18 prehensive Acquisition Status Report after the
19 Under Secretary for Management receives the notifi-
20 cation from the program manager under subsection
21 (b)(1)(B).

22 “(2) SUBSTANTIAL VARIANCES IN COSTS OR
23 SCHEDULE.—If a likely cost overrun is greater than
24 20 percent or a likely delay is greater than 12
25 months from the costs and schedule set forth in the

1 acquisition program baseline for a major acquisition
2 program, the Under Secretary for Management shall
3 include in the notification required in (c)(1) a writ-
4 ten certification, with supporting explanation, that—

5 “(A) the acquisition is essential to the ac-
6 complishment of the Department’s mission;

7 “(B) there are no alternatives to such ca-
8 pability or asset that will provide equal or
9 greater capability in both a more cost-effective
10 and timely manner;

11 “(C) the new acquisition schedule and esti-
12 mates for total acquisition cost are reasonable;
13 and

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

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

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

1 “(B) A statement describing the corrective
2 action or actions that have occurred pursuant
3 to subsection (b)(3) for the program, with a
4 justification for the action or actions.

5 “(d) ADDITIONAL ACTIONS IF BREACH OCCURS.—

6 “(1) PROHIBITION ON OBLIGATION OF
7 FUNDS.—During the 90-day period following sub-
8 mission under subsection (c)(3) of a remediation
9 plan, root cause analysis, and statement of corrective
10 actions with respect to a major acquisition program,
11 the Under Secretary for Management shall submit a
12 certification described in paragraph (2) of this sub-
13 section to the congressional homeland security com-
14 mittees. If the Under Secretary for Management
15 does not submit such certification by the end of such
16 90-day period, then funds appropriated to the major
17 acquisition program shall not be obligated until the
18 Under Secretary for Management submits such cer-
19 tification.

20 “(2) CERTIFICATION.—For purposes of para-
21 graph (1), the certification described in this para-
22 graph is a certification that—

23 “(A) the Department has adjusted or re-
24 structured the program in a manner that ad-

1 dresses the root cause or causes of the cost
2 growth in the program; and

3 “(B) the Department has conducted a
4 thorough review of the breached program’s ac-
5 quisition decision event approvals and the cur-
6 rent acquisition decision event approval for the
7 breached program has been adjusted as nec-
8 essary to account for the restructured pro-
9 gram.”.

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

“Sec. 838. Congressional notification and other requirements for major acquisi-
tion program breach.”.

14 **SEC. 302. MULTIYEAR ACQUISITION STRATEGY.**

15 (a) IN GENERAL.—

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

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

21 “(a) MULTIYEAR ACQUISITION STRATEGY RE-
22 QUIRED.—Not later than one year after the date of the
23 enactment of this section, the Secretary shall submit to
24 the appropriate homeland security committees a multiyear

1 acquisition strategy to guide the overall direction of the
2 acquisitions of the Department while allowing flexibility
3 to deal with ever-changing threats and risks and to help
4 industry better understand, plan, and align resources to
5 meet the future acquisition needs of the Department. The
6 strategy shall be updated and included in each Future
7 Years Homeland Security Program required under section
8 874 of this Act.

9 “(b) CONSULTATION.—In developing the strategy,
10 the Secretary shall consult with others as the Secretary
11 deems appropriate, including headquarters, Components,
12 employees in the field, and when appropriate, individuals
13 from industry and the academic community.

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

19 “(d) CONTENTS OF STRATEGY.—The strategy shall
20 include the following:

21 “(1) PRIORITIZED LIST.—A systematic and in-
22 tegrated prioritized list developed by the Under Sec-
23 retary for Management or his designee in coordina-
24 tion with all of the Component Acquisition Execu-
25 tives of Department major acquisition programs that

1 Department and Component acquisition investments
2 seek to address, that includes the expected security
3 and economic benefit of the program or system and
4 an analysis of how the security and economic benefit
5 derived from the program or system will be meas-
6 ured.

7 “(2) INVENTORY.—A plan to develop a reliable
8 Department-wide inventory of investments and real
9 property assets to help the Department plan, budg-
10 et, schedule, and acquire upgrades of its systems
11 and equipment and plan for the acquisition and
12 management of future systems and equipment.

13 “(3) FUNDING GAPS.—A plan to address fund-
14 ing gaps between funding requirements for major ac-
15 quisition programs and known available resources in-
16 cluding, to the maximum extent practicable, ways of
17 leveraging best practices to identify and eliminate
18 overpayment for items to prevent wasteful pur-
19 chasing, achieve the greatest level of efficiency and
20 cost savings by rationalizing purchases, aligning
21 pricing for similar items, and utilizing purchase tim-
22 ing and economies of scale.

23 “(4) IDENTIFICATION OF CAPABILITIES.—An
24 identification of test, evaluation, modeling, and sim-
25 ulation capabilities that will be required to support

1 the acquisition of the technologies to meet the needs
2 of the plan and ways to leverage to the greatest ex-
3 tent possible the emerging technology trends and re-
4 search and development trends within the public and
5 private sectors and an identification of ways to en-
6 sure that the appropriate technology is acquired and
7 integrated into the Department’s operating doctrine
8 and procured in ways that improve mission perform-
9 ance.

10 “(5) FOCUS ON FLEXIBLE SOLUTIONS.—An as-
11 sessment of ways the Department can improve its
12 ability to test and acquire innovative solutions to
13 allow needed incentives and protections for appro-
14 priate risk-taking in order to meet its acquisition
15 needs with resiliency, agility, and responsiveness to
16 assure the Nation’s homeland security and facilitate
17 trade.

18 “(6) FOCUS ON INCENTIVES TO SAVE TAX-
19 PAYER DOLLARS.—An assessment of ways the De-
20 partment can develop incentives for program man-
21 agers and senior Department acquisition officials to
22 prevent cost overruns, avoid schedule delays, and
23 achieve cost savings in major acquisition programs.

24 “(7) FOCUS ON ADDRESSING DELAYS AND BID
25 PROTESTS.—An assessment of ways the Department

1 can improve the acquisition process to minimize cost
2 overruns in requirements development, procurement
3 announcements, requests for proposals, evaluation of
4 proposals, protests of decisions and awards and
5 through the use of best practices as defined in sec-
6 tion 4(b) of the DHS Acquisition Accountability and
7 Efficiency Act and lessons learned by the Depart-
8 ment and other Federal agencies.

9 “(8) FOCUS ON IMPROVING OUTREACH.—An
10 identification and assessment of ways to increase op-
11 portunities for communication and collaboration with
12 industry, small and disadvantaged businesses, intra-
13 government entities, university centers of excellence,
14 accredited certification and standards development
15 organizations, and national laboratories to ensure
16 that the Department understands the market for
17 technologies, products, and innovation that is avail-
18 able to meet its mission needs to inform the require-
19 ments-setting process and before engaging in an ac-
20 quisition, including—

21 “(A) methods designed especially to engage
22 small and disadvantaged businesses and a cost-
23 benefit analysis of the tradeoffs that small and
24 disadvantaged businesses provide, barriers to
25 entry for small and disadvantaged businesses,

1 and unique requirements for small and dis-
2 advantaged businesses; and

3 “(B) within the Department Vendor Com-
4 munication Plan and Market Research Guide,
5 instructions for interaction by program man-
6 agers with such entities to prevent misinter-
7 pretation of acquisition regulations and to per-
8 mit freedom within legal and ethical boundaries
9 for program managers to interact with such
10 businesses with transparency.

11 “(9) COMPETITION.—A plan regarding competi-
12 tion as described in subsection (e).

13 “(10) ACQUISITION WORKFORCE.—A plan re-
14 garding the Department acquisition workforce as de-
15 scribed in subsection (f).

16 “(11) FEASIBILITY OF WORKFORCE DEVELOP-
17 MENT FUND PILOT PROGRAM.—An assessment of
18 the feasibility of conducting a pilot program to es-
19 tablish an acquisition workforce development fund as
20 described in subsection (g).

21 “(e) COMPETITION PLAN.—The strategy shall also
22 include a plan (referred to in subsection (d)(9)) that shall
23 address actions to ensure competition, or the option of
24 competition, for major acquisition programs. The plan

1 may include assessments of the following measures in ap-
2 propriate cases if such measures are cost effective:

3 “(1) Competitive prototyping.

4 “(2) Dual-sourcing.

5 “(3) Unbundling of contracts.

6 “(4) Funding of next-generation prototype sys-
7 tems or subsystems.

8 “(5) Use of modular, open architectures to en-
9 able competition for upgrades.

10 “(6) Acquisition of complete technical data
11 packages.

12 “(7) Periodic competitions for subsystem up-
13 grades.

14 “(8) Licensing of additional suppliers, including
15 small businesses.

16 “(9) Periodic system or program reviews to ad-
17 dress long-term competitive effects of program deci-
18 sions.

19 “(f) ACQUISITION WORKFORCE PLAN.—

20 “(1) ACQUISITION WORKFORCE.—The strategy
21 shall also include a plan (referred to in subsection
22 (d)(10)) to address Department acquisition work-
23 force accountability and talent management that
24 identifies the acquisition workforce needs of each
25 Component performing acquisition functions and de-

1 velops options for filling those needs with qualified
2 individuals, including a cost-benefit analysis of con-
3 tracting for acquisition assistance.

4 “(2) ADDITIONAL MATTERS COVERED.—The
5 acquisition workforce plan shall address ways to—

6 “(A) improve the recruitment, hiring,
7 training, and retention of Department acquisi-
8 tion workforce personnel, including contracting
9 officer’s representatives, in order to retain high-
10 ly qualified individuals that have experience in
11 the acquisition life cycle, complex procurements,
12 and management of large programs;

13 “(B) empower program managers to have
14 the authority to manage their programs in an
15 accountable and transparent manner as they
16 work with the acquisition workforce;

17 “(C) prevent duplication within Depart-
18 ment acquisition workforce training and certifi-
19 cation requirements through leveraging already-
20 existing training within the Federal Govern-
21 ment, academic community, or private industry;

22 “(D) achieve integration and consistency
23 with Government-wide training and accredita-
24 tion standards, acquisition training tools, and
25 training facilities;

1 “(E) designate the acquisition positions
2 that will be necessary to support the Depart-
3 ment acquisition requirements, including in the
4 fields of—

5 “(i) program management;

6 “(ii) systems engineering;

7 “(iii) procurement, including con-
8 tracting;

9 “(iv) test and evaluation;

10 “(v) life cycle logistics;

11 “(vi) cost estimating and program fi-
12 nancial management; and

13 “(vii) additional disciplines appro-
14 priate to Department mission needs;

15 “(F) strengthen the performance of con-
16 tracting officer’s representatives (as defined in
17 Subpart 1.602-2 and Subpart 2.101 of the Fed-
18 eral Acquisition Regulation), including by—

19 “(i) assessing the extent to which con-
20 tracting officer’s representatives are cer-
21 tified and receive training that is appro-
22 priate;

23 “(ii) determining what training is
24 most effective with respect to the type and
25 complexity of assignment; and

1 “(iii) implementing actions to improve
2 training based on such assessment; and

3 “(G) identify ways to increase training for
4 relevant investigators and auditors to examine
5 fraud in major acquisition programs, including
6 identifying opportunities to leverage existing
7 Government and private sector resources in co-
8 ordination with the Inspector General of the
9 Department.

10 “(g) FEASIBILITY OF WORKFORCE DEVELOPMENT
11 FUND PILOT PROGRAM.—The strategy shall also include
12 an assessment (referred to in subsection (d)(11)) of the
13 feasibility of conducting a pilot program to establish a
14 Homeland Security Acquisition Workforce Development
15 Fund (in this subsection referred to as the ‘Fund’) to en-
16 sure the Department acquisition workforce has the capac-
17 ity, in both personnel and skills, needed to properly per-
18 form its mission and ensure that the Department receives
19 the best value for the expenditure of public resources. The
20 assessment shall address the following:

21 “(1) Ways to fund the Fund, including the use
22 of direct appropriations, or the credit, transfer, or
23 deposit of unobligated or unused funds from Depart-
24 ment Components into the Fund to remain available
25 for obligation in the fiscal year for which credited,

1 transferred, or deposited and to remain available for
2 successive fiscal years.

3 “(2) Ways to reward the Department acquisi-
4 tion workforce and program managers for good pro-
5 gram management in controlling cost growth, lim-
6 iting schedule delays, and ensuring operational effec-
7 tiveness through providing a percentage of the sav-
8 ings or general acquisition bonuses.

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

11 “(A) Describe the costs and benefits asso-
12 ciated with the use of direct appropriations or
13 credit, transfer, or deposit of unobligated or un-
14 used funds to finance the Fund.

15 “(B) Describe the manner and timing for
16 applications for amounts in the Fund to be sub-
17 mitted.

18 “(C) Explain the evaluation criteria to be
19 used for approving or prioritizing applications
20 for amounts in the Fund in any fiscal year.

21 “(D) Explain the mechanism to report to
22 Congress on the implementation of the Fund on
23 an ongoing basis.

24 “(E) Detail measurable performance
25 metrics to determine if the Fund is meeting the

1 objective to improve the acquisition workforce
2 and to achieve cost savings in acquisition man-
3 agement.”.

4 (2) CLERICAL AMENDMENT.—The table of con-
5 tents in section 1(b) of the Homeland Security Act
6 of 2002 (6 U.S.C. 101 et seq.) is further amended
7 by adding after the item relating to section 838 the
8 following new item:

“Sec. 839. Multiyear acquisition strategy.”.

9 (b) CONFORMING AMENDMENT TO FUTURE YEARS
10 HOMELAND SECURITY PROGRAM.—Section 874(b) of the
11 Homeland Security Act of 2002 (6 U.S.C. 454(b)) is
12 amended—

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

14 (2);

15 (2) by striking the period at the end of para-
16 graph (3) and inserting “; and”; and

17 (3) by adding at the end the following new
18 paragraph:

19 “(4) include the multiyear acquisition strategy
20 required under section 839 of this Act.”.

21 **SEC. 303. ACQUISITION REPORTS.**

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

1 **“SEC. 840. ACQUISITION REPORTS.**

2 “(a) COMPREHENSIVE ACQUISITION STATUS RE-
3 PORT.—

4 “(1) IN GENERAL.—The Under Secretary for
5 Management each year shall submit to the congress-
6 sional homeland security committees, at the same
7 time as the President’s budget is submitted for a fis-
8 cal year under section 1105(a) of title 31, United
9 States Code, a comprehensive acquisition status re-
10 port. The report shall include the following:

11 “(A) The information required under the
12 heading ‘Office of the Under Secretary for
13 Management’ under Title I of division D of the
14 Consolidated Appropriations Act, 2012 (Public
15 Law 112–74) (as required under the Depart-
16 ment of Homeland Security Appropriations Act,
17 2013 (Public Law 113–6).

18 “(B) A listing of programs that have been
19 cancelled, modified, paused, or referred to the
20 Under Secretary for Management or Deputy
21 Secretary for additional oversight or action by
22 the Board, Department Office of Inspector
23 General, or the Comptroller General.

24 “(C) A listing of established Executive
25 Steering Committees, which provide governance
26 of a program or related set of programs and

1 lower-tiered oversight, and support between ac-
2 quisition decision events and Component re-
3 views, including the mission and membership
4 for each.

5 “(2) INFORMATION FOR MAJOR ACQUISITION
6 PROGRAMS.—For each major acquisition program,
7 the report shall include the following:

8 “(A) A narrative description, including
9 current gaps and shortfalls, the capabilities to
10 be fielded, and the number of planned incre-
11 ments or units.

12 “(B) Acquisition Review Board (or other
13 board designated to review the acquisition) sta-
14 tus of each acquisition, including the current
15 acquisition phase, the date of the last review,
16 and a listing of the required documents that
17 have been reviewed with the dates reviewed or
18 approved.

19 “(C) The most current, approved acquisi-
20 tion program baseline (including project sched-
21 ules and events).

22 “(D) A comparison of the original acquisi-
23 tion program baseline, the current acquisition
24 program baseline, and the current estimate.

1 “(E) Whether or not an independent
2 verification and validation has been imple-
3 mented, with an explanation for the decision
4 and a summary of any findings.

5 “(F) A rating of cost risk, schedule risk,
6 and technical risk associated with the program
7 (including narrative descriptions and mitigation
8 actions).

9 “(G) Contract status (including earned
10 value management data as applicable).

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

13 “(3) UPDATES.—The Under Secretary shall
14 submit quarterly updates to such report not later
15 than 45 days after the completion of each quarter.

16 “(b) QUARTERLY PROGRAM ACCOUNTABILITY RE-
17 PORT.—The Under Secretary for Management shall pre-
18 pare a quarterly program accountability report to meet the
19 Department’s mandate to perform program health assess-
20 ments and improve program execution and governance.
21 The report shall be submitted to the congressional home-
22 land security committees.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1(b) of the Homeland Security Act of 2002 (6

1 U.S.C. 101 et seq.) is further amended by adding after
2 the item relating to section 839 the following new item:

“Sec. 840. Acquisition reports.”.

3 **SEC. 304. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
4 **OF MULTIYEAR ACQUISITION STRATEGY.**

5 (a) REVIEW REQUIRED.—After submission to Con-
6 gress of the first multiyear acquisition strategy (pursuant
7 to section 839 of the Homeland Security Act of 2002)
8 after the date of the enactment of this Act, the Comp-
9 troller General of the United States shall conduct a review
10 of the plan within 180 days to analyze the viability of the
11 plan’s effectiveness in the following:

12 (1) Complying with the requirements in section
13 839 of the Homeland Security Act of 2002, as
14 added by section 302 of this Act.

15 (2) Establishing clear connections between De-
16 partment objectives and acquisition priorities.

17 (3) Demonstrating that Department acquisition
18 policy reflects program management best practices
19 and standards.

20 (4) Ensuring competition or the option of com-
21 petition for major acquisition programs.

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

1 (6) Preventing duplication within Department
2 acquisition workforce training requirements through
3 leveraging already-existing training within the Fed-
4 eral Government, academic community, or private
5 industry.

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

10 (8) Assessing the feasibility of conducting a
11 pilot program to establish a Homeland Security Ac-
12 quisition Workforce Development Fund.

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

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

19 (a) REVIEW REQUIRED.—No later than 2 years fol-
20 lowing the submission of the report submitted by the
21 Comptroller General of the United States as required by
22 section 304, the Department’s Inspector General shall
23 conduct a review of whether the Department has complied
24 with the multiyear acquisition strategy (pursuant to sec-
25 tion 839 of the Homeland Security Act of 2002) and ad-

1 hered to the strategies set forth in the plan. The review
2 shall also consider whether the Department has complied
3 with the requirements to provide the Acquisition Review
4 Board with a capability development plan for each major
5 acquisition program.

6 (b) REPORT REQUIRED.—The Inspector General
7 shall submit to the congressional homeland security com-
8 mittees a report of the review required by this section. The
9 report shall be submitted in unclassified form but may in-
10 clude a classified annex.

Passed the House of Representatives June 9, 2014.

Attest:

Clerk.

113TH CONGRESS
2^D SESSION

H. R. 4228

AN ACT

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