AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

113TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
113–436

DHS ACQUISITION ACCOUNTABILITY AND EFFICIENCY ACT

MAY 6, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCCAUL, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4228]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4228) to require the Department of Homeland Security to improve discipline, accountability, and transparency in acquisition program management, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	16
Background and Need for Legislation	16
Hearings	18
Committee Consideration	19
Committee Votes	22
Committee Oversight Findings	22
New Budget Authority, Entitlement Authority, and Tax Expenditures	22
Congressional Budget Office Estimate	22
Statement of General Performance Goals and Objectives	22
Duplicative Federal Programs	23
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	23
Federal Mandates Statement	23
Preemption Clarification	23
Disclosure of Directed Rule Makings	23
Advisory Committee Statement	23
Applicability to Legislative Branch	23
Section-by-Section Analysis of the Legislation	23
Changes in Existing Law Made by the Bill, as Reported	36

39–006

Additional Views 55

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "DHS Acquisition Accountability and Efficiency Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Definitions.

TITLE I—ACQUISITION AUTHORITIES

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

TITLE II—ACQUISITION PROGRAM MANAGEMENT DISCIPLINE

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

TITLE III—ACQUISITION PROGRAM MANAGEMENT ACCOUNTABILITY AND TRANSPARENCY

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

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Department of Homeland Security does not consistently implement its policies and Government and private sector best practices for acquisitions and procurement.

(2) It is difficult to determine the cost of the Department's major acquisition programs because the Department has not provided consistent, comparable updates on an annual basis. As of January 2014, the Department identified over 80 major acquisition programs costing over $300,000,000, and, based on 2011, estimates it plans to spend about $170,000,000,000 in the future on major acquisition programs.

(3) Since 2005, the Government Accountability Office has placed Department acquisition management activities on its "High-Risk List", which identifies Government operations that have greater susceptibility to fraud, waste, abuse, and mismanagement or greater need for transformation to address economy, efficiency, or effectiveness challenges.

(4) While the Department has taken actions to address some high-risk acquisition program management issues, many programs continue to experience challenges with funding instability, workforce shortfalls, reliable cost estimates, realistic schedules, agreed-upon baseline objectives, and consistent and reliable data needed to accurately measure program performance.

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

(6) In 2012, the Government Accountability Office found that only 20 of 63 programs had Department-approved acquisition program baselines. The Government Accountability Office also reported that the Department planned to spend more than $105 billion on programs lacking acquisition program baselines.

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(2) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(3) CONGRESSIONAL HOMELAND SECURITY COMMITTEES.—The term "congressional homeland security committees" means—

(A) the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

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

(b) ADDITIONAL DEFINITIONS.—In this Act:

(1) ACQUISITION.—The term "acquisition" has the meaning provided in section 131 of title 41, United States Code.

(2) BEST PRACTICES.—The term "best practices", with respect to acquisition, means a knowledge-based approach to capability development that includes identifying and validating needs; assessing alternatives to select the most appropriate solution; clearly establishing well-defined requirements; developing realistic cost assessments and schedules; securing stable funding that matches resources to requirements; demonstrating technology, design, and manufacturing maturity; using milestones and exit criteria or specific accomplishments that demonstrate progress; adopting and executing standardized processes with known success across programs; establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and integrating these capabilities into the Department's mission and business operations.

(c) AMENDMENTS TO DEFINITIONS IN HOMELAND SECURITY ACT OF 2002.—Section 2 of the Homeland Security Act of 2002 is amended—

(1) by striking "In this Act," and inserting "(a) IN GENERAL.—In this Act,";

(2) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

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

"(B) The term 'congressional homeland security committees' means—

"(i) the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(ii) the Committee on Appropriations of the House of Representatives and of the Senate, where appropriate."; and

(3) by adding at the end the following new subsection:

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

"(1) ACQUISITION.—The term 'acquisition' has the meaning provided in section 131 of title 41, United States Code.

"(2) ACQUISITION DECISION AUTHORITY.—The term 'acquisition decision authority' means the authority, held by the Secretary acting through the Deputy Secretary or Under Secretary for Management—

"(A) to ensure compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives;

"(B) to review (including approving, halting, modifying, or cancelling) an acquisition program through the life cycle of the program;

"(C) to ensure that program managers have the resources necessary to successfully execute an approved acquisition program; and

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

"(3) ACQUISITION DECISION EVENT.—The term 'acquisition decision event', with respect to an investment or acquisition program, means a predetermined point within the acquisition phases of the investment or acquisition program at which the investment or acquisition program will undergo a review prior to commencement of the next phase.

"(4) ACQUISITION DECISION MEMORANDUM.—The term 'acquisition decision memorandum', with respect to an acquisition, means the official acquisition decision event record that includes a documented record of decisions, exit criteria, and assigned actions for the acquisition as determined by the person exercising acquisition decision authority for the acquisition.

"(5) ACQUISITION PROGRAM BASELINE.—The term 'acquisition program baseline', with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which must be met in order to accomplish the goals of the program.

"(6) CAPABILITY DEVELOPMENT PLAN.—The term 'capability development plan', with respect to a proposed acquisition, means the document that the Acquisition Review Board approves for the first acquisition decision event related to validating the need of a proposed acquisition.

"(7) COMPONENT ACQUISITION EXECUTIVE.—The term 'Component Acquisition Executive' means the senior acquisition official within a Component who is designated in writing by the Under Secretary for Management, in consultation with the Component head, with authority and responsibility for leading a process and staff to provide acquisition and program management oversight, policy, and guidance to ensure that statutory, regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management.

"(8) LIFE CYCLE COST.—The term 'life cycle cost', with respect to an acquisition program, means all costs associated with research, development, procurement, operation, integrated logistics support, and disposal under the program, including supporting infrastructure that plans, manages, and executes the program over its full life, and costs of common support items incurred as a result of the program.

"(9) MAJOR ACQUISITION PROGRAM.—The term 'major acquisition program' means a Department acquisition program that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2014 constant dollars) over its life cycle cost.".

TITLE I—ACQUISITION AUTHORITIES

SEC. 101. ACQUISITION AUTHORITIES FOR UNDER SECRETARY FOR MANAGEMENT.

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

(1) in subsection (a)(2), by striking "Procurement" and inserting "Acquisition and procurement"; and

(2) by adding at the end the following:

"(d) ACQUISITION AND RELATED RESPONSIBILITIES.—

"(1) IN GENERAL.—Notwithstanding section 1702(b) of title 41, United States Code, the Under Secretary for Management is the Chief Acquisition Officer of the Department. As Chief Acquisition Officer, the Under Secretary shall have the authority and perform the functions as specified in section 1702(b) of such title, and perform all other functions and responsibilities delegated by the Secretary or described in this subsection.

"(2) DUTIES AND RESPONSIBILITIES.—In addition to the authority and functions specified in section 1702(b) of title 41, United States Code, the duties and responsibilities of the Under Secretary for Management related to acquisition include the following:

"(A) Advising the Secretary regarding acquisition management activities, taking into account risks of failure to achieve cost, schedule, or performance parameters, to ensure that the Department achieves its mission through the adoption of widely accepted program management best practices and standards.

"(B) Exercising the acquisition decision authority to approve, halt, modify (including the rescission of approvals of program milestones), or cancel major acquisition programs, unless the Under Secretary delegates the authority to a Component Acquisition Executive pursuant to paragraph (3).

"(C) Establishing policies for acquisition that implement an approach that takes into account risks of failure to achieve cost, schedule, or performance parameters that all Components of the Department shall comply with, including outlining relevant authorities for program managers to effectively manage acquisition programs.

"(D) Ensuring that each major acquisition program has a Department-approved acquisition program baseline.

"(E) Ensuring that the heads of Components and Component Acquisition Executives comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives.

"(F) Ensuring that grants and financial assistance are provided only to individuals and organizations that are not suspended or debarred.

"(G) Distributing guidance throughout the Department to ensure that contractors involved in acquisitions, particularly companies that access the Department's information systems and technologies, adhere to internal cybersecurity policies established by the Department of Homeland Security.

"(3) DELEGATION OF ACQUISITION DECISION AUTHORITY.—

"(A) LEVEL 3 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for an acquisition program that has a life cycle cost estimate of less than $300,000,000.

"(B) LEVEL 2 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for a major acquisition program that has a life cycle cost estimate of at least $300,000,000 but not more than $1,000,000,000 if all of the following requirements are met:

"(i) The Component concerned possesses working policies, processes, and procedures that are consistent with Department-level acquisition policy.

"(ii) The Component Acquisition Executive has adequate, experienced, dedicated program management professional staff commensurate with the size of the delegated portfolio.

"(iii) Each major acquisition program concerned has written documentation showing that it has a Department-approved acquisition program baseline and it is meeting agreed-upon cost, schedule, and performance thresholds.

"(4) EXCLUDED PARTIES LIST SYSTEM CONSULTATION.—The Under Secretary for Management shall require that all Department contracting and procurement officials consult the Excluded Parties List System (or successor system) as maintained by the General Services Administration prior to awarding a contract or grant or entering into other transactions to ascertain whether the selected contractor is excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

"(5) RELATIONSHIP TO UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.—Nothing in this subsection shall diminish the authority granted to the Under Secretary for Science and Technology under this Act. The Under Secretary for Management and the Under Secretary for Science and Technology shall cooperate in matters related to the coordination of acquisitions across the Department so that investments of the Directorate of Science and Technology can support current and future requirements of the Components.".

SEC. 102. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL OFFICER.

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

"(J) Notwithstanding section 902 of title 31, United States Code, provide leadership over financial management policy and programs for the Department as they relate to the Department's acquisitions programs, in consultation with the Under Secretary for Management.".

SEC. 103. ACQUISITION AUTHORITIES FOR CHIEF INFORMATION OFFICER.

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

"(c) ACQUISITION RESPONSIBILITIES.—Notwithstanding section 11315 of title 40, United States Code, the acquisition responsibilities of the Chief Information Officer, in consultation with the Under Secretary for Management, shall include the following:

"(1) Serve as the lead technical authority for information technology programs and establish departmental information technology priorities, policies, processes, standards, guidelines, and procedures.

"(2) Oversee the management of the Homeland Security Enterprise Architecture and ensure that, before each acquisition decision event, approved information technology acquisitions comply with departmental information technology management processes, technical requirements, and the Homeland Security Enterprise Architecture, and in any case in which information technology acquisitions do not comply with Departmental management directives, make recommendations to the Acquisition Review Board regarding such noncompliance.

"(3) Be responsible for providing recommendations to the Acquisition Review Board established in section 836 of this Act on information technology programs, and be responsible for developing information technology acquisition strategic guidance.".

SEC. 104. CHIEF PROCUREMENT OFFICER.

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

"SEC. 708. CHIEF PROCUREMENT OFFICER.

"(a) IN GENERAL.—There is a Chief Procurement Officer of the Department, who shall report directly to the Under Secretary for Management. The Chief Procurement Officer is the senior procurement executive for purposes of section 1702(c) of title 41, United States Code, and shall perform procurement functions as specified in such section. The Chief Procurement Officer also shall perform other functions

and responsibilities set forth in this section and as may be assigned by the Under Secretary for Management.

"(b) RESPONSIBILITIES.—The Chief Procurement Officer shall—

"(1) exercise leadership and authority to the extent delegated by the Under Secretary for Management over the Department procurement function;

"(2) issue acquisition regulations and policies;

"(3) account for the integrity, performance, and oversight of Department procurement and contracting functions and be responsible for ensuring that a procurement's contracting strategy and plans are consistent with the intent and direction of the Acquisition Review Board established in section 836 of this Act;

"(4) serve as the Department's business advisor and main liaison to industry on procurement-related issues by providing advice on industry engagement, acquisition policy, oversight of the procurement function, and development of the acquisition workforce;

"(5) oversee a centralized certification and training program, in consultation with the Under Secretary for Management, for the entire Department acquisition workforce while using, to the greatest extent practicable, best practices and acquisitions training opportunities already in existence within the Federal Government, the private sector, or universities and colleges, as appropriate, and including training on how best to identify actions that warrant referrals for suspension or debarment;

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

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

"(8) collect baseline data and establish performance measures on the impact of strategic sourcing initiatives on the private sector, including, in particular, small businesses; and

"(9) ensure that a fair proportion (as defined pursuant to the Small Business Act (15 U.S.C. 631 et seq.)) of Federal contract and subcontract dollars are awarded to small businesses, maximize opportunities for small business participation, and ensure, to the extent practicable, small businesses that achieve qualified vendor status for security-related technologies are provided an opportunity to compete for contracts for such technology.".

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

"Sec. 708. Chief Procurement Officer.".

SEC. 105. REQUIREMENTS TO ENSURE GREATER ACCOUNTABILITY FOR ACQUISITION PROGRAMS.

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

"SEC. 709. REQUIREMENTS TO ENSURE GREATER ACCOUNTABILITY FOR ACQUISITION PROGRAMS.

"(a) REQUIREMENT TO ESTABLISH MECHANISM.—Within the Management Directorate, the Under Secretary for Management shall establish a mechanism to prioritize improving the accountability, standardization, and transparency of major acquisition programs of the Department in order to increase opportunities for effectiveness and efficiencies and to serve as the central oversight function of all Department acquisition programs.

"(b) RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—The Under Secretary for Management shall designate an Executive Director to oversee the requirement under subsection (a). The Executive Director shall report directly to the Under Secretary and shall carry out the following responsibilities:

"(1) Monitor the performance of Department acquisition programs regularly between acquisition decision events to identify problems with cost, performance, or schedule that Components may need to address to prevent cost overruns, performance issues, or schedule delays.

"(2) Assist the Chief Acquisition Officer in managing the Department's acquisition portfolio.

"(3) Conduct oversight of individual acquisition programs to implement Department acquisition program policy, procedures, and guidance with a priority on ensuring the data it collects and maintains from its Components is accurate and reliable.

"(4) Serve as the focal point within the Department for policy, process, and procedure regarding life cycle cost estimating and analysis.

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

"(6) Advise the persons having acquisition decision authority in making acquisition decisions consistent with all applicable laws and in establishing clear lines of authority, accountability, and responsibility for acquisition decision-making within the Department.

"(7) Engage in the strategic planning and performance evaluation process required under section 306 of title 5, United States Code, and sections 1105(a)(28), 1115, 1116, and 9703 of title 31, United States Code, by supporting the Chief Procurement Officer in developing strategies and specific plans for hiring, training, and professional development in order to rectify any deficiency within the Department's acquisition workforce.

"(8) Oversee the Component Acquisition Executive structure to ensure it has sufficient capabilities and complies with Department policies.

"(9) Develop standardized certification standards in consultation with the Component Acquisition Executives for all acquisition program managers.

"(10) In the event that a program manager's certification or actions need review for purposes of promotion or removal, provide input, in consultation with the relevant Component Acquisition Executive, into the relevant program manager's performance evaluation, and report positive or negative experiences to the relevant certifying authority.

"(11) Provide technical support and assistance to Department acquisitions and acquisition personnel in conjunction with the Chief Procurement Officer.

"(12) Prepare the Department's Comprehensive Acquisition Status Report, as required by the Department of Homeland Security Appropriations Act, 2013 (division D of Public Law 113–6; 127 Stat. 343) and section 840 of this Act, and make such report available to congressional homeland security committees.

"(13) Prepare the Department's Quarterly Program Accountability Report as required by section 840 of this Act, and make such report available to the congressional homeland security committees.

"(c) RESPONSIBILITIES OF COMPONENTS.—Each head of a Component shall comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management. For each major acquisition program, each head of a Component shall—

"(1) establish a complete life cycle cost estimate with supporting documentation, including an acquisition program baseline;

"(2) verify each life cycle cost estimate against independent cost estimates, and reconcile any differences;

"(3) complete a cost-benefit analysis with supporting documentation;

"(4) develop and maintain a schedule that is consistent with scheduling best practices as identified by the Comptroller General of the United States, including, in appropriate cases, an integrated master schedule; and

"(5) ensure that all acquisition program information provided by the Component is complete, accurate, timely, and valid.".

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

"Sec. 709. Requirements to ensure greater accountability for acquisition programs.".

TITLE II—ACQUISITION PROGRAM MANAGEMENT DISCIPLINE

SEC. 201. ACQUISITION REVIEW BOARD.

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

"SEC. 836. ACQUISITION REVIEW BOARD.

"(a) IN GENERAL.—The Secretary shall establish an Acquisition Review Board (in this section referred to as the 'Board') to strengthen accountability and uniformity within the Department acquisition review process, review major acquisition programs, and review the use of best practices.

"(b) COMPOSITION.—The Deputy Secretary or Under Secretary for Management shall serve as chair of the Board. The Secretary shall also ensure participation by other relevant Department officials, including at least two Component heads or their designees, as permanent members of the Board.

"(c) MEETINGS.—The Board shall meet every time a major acquisition program needs authorization to proceed from acquisition decision events through the acquisition life cycle and to consider any major acquisition program in breach as necessary. The Board may also be convened for non-major acquisitions that are deemed high-risk by the Executive Director referred to in section 709(b) of this Act. The Board shall also meet regularly for purposes of ensuring all acquisitions processes proceed in a timely fashion to achieve mission readiness.

"(d) RESPONSIBILITIES.—The responsibilities of the Board are as follows:

"(1) Determine whether a proposed acquisition has met the requirements of key phases of the acquisition life cycle framework and is able to proceed to the next phase and eventual full production and deployment.

"(2) Oversee executable business strategy, resources, management, accountability, and alignment to strategic initiatives.

"(3) Support the person with acquisition decision authority for an acquisition in determining the appropriate direction for the acquisition at key acquisition decision events.

"(4) Conduct systematic reviews of acquisitions to ensure that they are progressing in compliance with the approved documents for their current acquisition phase.

"(5) Validate the acquisition documents of each major acquisition program, including the acquisition program baseline, to ensure the reliability of underlying data.

"(6) Ensure that practices are adopted and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the capability development plan, second acquisition decision event, including, at a minimum, the following practices:

"(A) Department officials responsible for acquisition, budget, and cost estimating functions are provided with the appropriate opportunity to develop estimates and raise cost and schedule matters before performance objectives are established for capabilities when feasible.

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

"(e) ACQUISITION PROGRAM BASELINE REPORT REQUIREMENT.—If the person exercising acquisition decision authority over a major acquisition program approves the program to proceed beyond the acquisition decision event requiring a capability development plan before it has a Department-approved acquisition program baseline, then the Under Secretary for Management shall create and approve an acquisition program baseline report on the decision, and the Secretary shall—

"(1) within seven days after an acquisition decision memorandum is signed, notify in writing the congressional homeland security committees of such decision; and

"(2) within 60 days after the acquisition decision memorandum is signed, submit a report to such committees stating the rationale for the decision and a plan of action to require an acquisition program baseline for the program.

"(f) BEST PRACTICES DEFINED.—In this section, the term 'best practices' has the meaning provided in section 4(b) of the DHS Acquisition Accountability and Efficiency Act.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is further amended by adding after the item relating to section 835 the following new item:

"Sec. 836. Acquisition Review Board.".

SEC. 202. REQUIREMENTS TO REDUCE DUPLICATION IN ACQUISITION PROGRAMS.

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

"SEC. 837. REQUIREMENTS TO REDUCE DUPLICATION IN ACQUISITION PROGRAMS.

"(a) REQUIREMENT TO ESTABLISH POLICIES.—In an effort to reduce duplication and inefficiency for all Department investments, including major acquisition programs, the Deputy Secretary, in consultation with the Under Secretary for Management, shall establish Department-wide policies to integrate all phases of the investment life cycle and help the Department identify, validate, and prioritize standards for common Component requirements for major acquisition program requirements in order to increase opportunities for effectiveness and efficiencies. The policies shall also include strategic alternatives for developing and facilitating a Department Component-driven requirements process that includes oversight of a development test and evaluation capability; identification of priority gaps and overlaps in Depart-

ment capability needs; and provision of feasible technical alternatives, including innovative commercially available alternatives, to meet capability needs.

"(b) MECHANISMS TO CARRY OUT REQUIREMENT.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall coordinate the actions necessary to carry out subsection (a), using such mechanisms as considered necessary by the Secretary to help the Department reduce duplication and inefficiency for all Department investments, including major acquisition programs.

"(c) COORDINATION.—In coordinating the actions necessary to carry out subsection (a), the Deputy Secretary shall consult with the Under Secretary for Management, Component Acquisition Executives, and any other Department officials, including the Under Secretary for Science and Technology or his designee, with specific knowledge of Department or Component acquisition capabilities to prevent unnecessary duplication of requirements.

"(d) ADVISORS.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall seek and consider input within legal and ethical boundaries from members of Federal, State, local, and tribal governments, nonprofit organizations, and the private sector, as appropriate, on matters within their authority and expertise in carrying out the Department's mission.

"(e) MEETINGS.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall meet at least quarterly and communicate with Components often to ensure that Components do not overlap or duplicate spending or priorities on major investments and acquisition programs within their areas of responsibility.

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

"(1) To review and validate the requirements documents of major investments and acquisition programs prior to acquisition decision events of the investments or programs.

"(2) To ensure the requirements and scope of a major investment or acquisition program are stable, measurable, achievable, at an acceptable risk level, and match the resources planned to be available.

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

"(A) to implement portfolio reviews to identify common mission requirements and crosscutting opportunities among Components to harmonize investments and requirements and prevent overlap and duplication among Components; and

"(B) to the extent practicable, to standardize equipment purchases, streamline the acquisition process, improve efficiencies, and conduct best practices for strategic sourcing.

"(4) To ensure program managers of major investments and acquisition programs conduct analyses, giving particular attention to factors such as cost, schedule, risk, performance, and operational efficiency in order to determine that programs work as intended within cost and budget expectations.

"(5) To propose schedules for delivery of the operational capability needed to meet each Department investment and major acquisition program.

"(g) BEST PRACTICES DEFINED.—In this section, the term 'best practices' has the meaning provided in section 4(b) of the DHS Acquisition Accountability and Efficiency Act.".

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

"Sec. 837. Requirements to reduce duplication in acquisition programs.".

SEC. 203. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF BOARD AND OF REQUIREMENTS TO REDUCE DUPLICATION IN ACQUISITION PROGRAMS.

(a) REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a review of the effectiveness of the Acquisition Review Board established under section 836 of the Homeland Security Act of 2002 (as added by section 201) and the requirements to reduce duplication in acquisition programs established under section 837 of such Act (as added by section 202) in improving the Department's acquisition management process.

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

(1) An assessment of the effectiveness of the Department in increasing program management oversight, best practices and standards, and discipline among the Components of the Department, including in working together and in preventing overlap and duplication.

(2) An assessment of the effectiveness of the Department in instilling program management discipline.

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

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

SEC. 204. EXCLUDED PARTY LIST SYSTEM WAIVERS.

The Secretary of Homeland Security shall provide notification to the congressional homeland security committees within five days after the issuance of a waiver by the Secretary of Federal requirements that an agency not engage in business with a contractor in the Excluded Party List System (or successor system) as maintained by the General Services Administration and an explanation for a finding by the Secretary that a compelling reason exists for this action.

SEC. 205. INSPECTOR GENERAL OVERSIGHT OF SUSPENSION AND DEBARMENT.

The Inspector General of the Department of Homeland Security—

(1) may audit decisions about grant and procurement awards to identify instances where a contract or grant was improperly awarded to a suspended or debarred entity and whether corrective actions were taken to prevent recurrence; and

(2) shall review the suspension and debarment program throughout the Department of Homeland Security to assess whether suspension and debarment criteria are consistently applied throughout the Department and whether disparities exist in the application of such criteria, particularly with respect to business size and categories.

TITLE III—ACQUISITION PROGRAM MANAGEMENT ACCOUNTABILITY AND TRANSPARENCY

SEC. 301. CONGRESSIONAL NOTIFICATION AND OTHER REQUIREMENTS FOR MAJOR ACQUISITION PROGRAM BREACH.

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

"SEC. 838. CONGRESSIONAL NOTIFICATION AND OTHER REQUIREMENTS FOR MAJOR ACQUISITION PROGRAM BREACH.

"(a) BREACH DEFINED.—The term 'breach', with respect to a major acquisition program, means a failure to meet any cost, schedule, or performance parameter specified in the acquisition program baseline.

"(b) REQUIREMENTS WITHIN DEPARTMENT IF BREACH OCCURS.—

"(1) NOTIFICATIONS.—

"(A) NOTIFICATION OF POTENTIAL BREACH.—If a major acquisition program has a potential for a future breach, as determined by the program manager for that program, the program manager shall notify the person exercising acquisition decision authority for the program.

"(B) NOTIFICATION OF ACTUAL BREACH.—If an actual breach occurs in a major acquisition program, the program manager for that program shall notify the head of the Component concerned, the Component Acquisition Executive for the program, the Executive Director referred to in section 709(b) of this Act, the Under Secretary for Management, and the Deputy Secretary.

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

"(2) REMEDIATION PLAN AND ROOT CAUSE ANALYSIS.—

"(A) IN GENERAL.—In the case of an actual breach with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the acquisition program baseline, a remediation plan and root cause analysis is required, and the Under Secretary for

Management or his designee shall establish a date for submission within the Department of a breach remediation plan and root cause analysis in accordance with this subsection.

"(B) REMEDIATION PLAN.—The remediation plan required under this subsection shall be submitted in writing to the head of the Component concerned, the Executive Director referred to in section 709(b) of this Act, and the Under Secretary for Management. The plan shall—

"(i) explain the circumstances of the breach;

"(ii) provide prior cost estimating information;

"(iii) propose corrective action to control cost growth, schedule delays, or performance issues;

"(iv) in coordination with Component Acquisition Executive, discuss all options considered, including the estimated impact on cost, schedule, or performance of the program if no changes are made to current requirements, the estimated cost of the program if requirements are modified, and the extent to which funding from other programs will need to be reduced to cover the cost growth of the program; and

"(v) explain the rationale for why the proposed corrective action is recommended.

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

"(i) Unrealistic performance expectations.

"(ii) Unrealistic baseline estimates for cost or schedule or changes in program requirements.

"(iii) Immature technologies or excessive manufacturing or integration risk.

"(iv) Unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance.

"(v) Changes in procurement quantities.

"(vi) Inadequate program funding or changes in planned out-year funding from one five-year funding plan to the next five-year funding plan as outlined in the Future Years Homeland Security Program required under section 874 of this Act.

"(vii) Legislative, legal, or regulatory changes.

"(viii) Inadequate program management personnel, including lack of training, credentials, certifications, or use of best practices.

"(3) CORRECTION OF BREACH.—The Under Secretary for Management or his designee shall establish a date for submission within the Department of a program of corrective action that ensures that one of the following actions has occurred:

"(A) The breach has been corrected and the program is again in compliance with the original acquisition program baseline parameters.

"(B) A revised acquisition program baseline has been approved.

"(C) The program has been halted or cancelled.

"(c) REQUIREMENTS RELATING TO CONGRESSIONAL NOTIFICATION IF BREACH OCCURS.—

"(1) NOTIFICATION TO CONGRESS.—If a notification is made under subsection (b)(1)(B) for a breach in a major acquisition program with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the acquisition program baseline, or with an anticipated failure for any key performance threshold or parameter specified in the acquisition program baseline, the Under Secretary for Management shall notify the congressional homeland security committees of the breach in the next quarterly Comprehensive Acquisition Status Report after the Under Secretary for Management receives the notification from the program manager under subsection (b)(1)(B).

"(2) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule set forth in the acquisition program baseline for a major acquisition program, the Under Secretary for Management shall include in the notification required in (c)(1) a written certification, with supporting explanation, that—

"(A) the acquisition is essential to the accomplishment of the Department's mission;

"(B) there are no alternatives to such capability or asset that will provide equal or greater capability in both a more cost-effective and timely manner;

"(C) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

"(D) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

"(3) SUBMISSIONS TO CONGRESS.—Not later than 30 calendar days after submission to such committees of a breach notification under paragraph (1) of this section for a major acquisition program, the Under Secretary for Management shall submit to such committees the following:

"(A) A copy of the remediation plan and the root cause analysis prepared under subsection (b)(2) for the program.

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

"(d) ADDITIONAL ACTIONS IF BREACH OCCURS.—

"(1) PROHIBITION ON OBLIGATION OF FUNDS.—During the 90-day period following submission under subsection (c)(3) of a remediation plan, root cause analysis, and statement of corrective actions with respect to a major acquisition program, the Under Secretary for Management shall submit a certification described in paragraph (2) of this subsection to the congressional homeland security committees. If the Under Secretary for Management does not submit such certification by the end of such 90-day period, then funds appropriated to the major acquisition program shall not be obligated until the Under Secretary for Management submits such certification.

"(2) CERTIFICATION.—For purposes of paragraph (1), the certification described in this paragraph is a certification that—

"(A) the Department has adjusted or restructured the program in a manner that addresses the root cause or causes of the cost growth in the program; and

"(B) the Department has conducted a thorough review of the breached program's acquisition decision event approvals and the current acquisition decision event approval for the breached program has been adjusted as necessary to account for the restructured program.".

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

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

SEC. 302. MULTIYEAR ACQUISITION STRATEGY.

(a) IN GENERAL.—

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

"SEC. 839. MULTIYEAR ACQUISITION STRATEGY.

"(a) MULTIYEAR ACQUISITION STRATEGY REQUIRED.—Not later than one year after the date of the enactment of this section, the Secretary shall submit to the appropriate homeland security committees a multiyear acquisition strategy to guide the overall direction of the acquisitions of the Department while allowing flexibility to deal with ever-changing threats and risks and to help industry better understand, plan, and align resources to meet the future acquisition needs of the Department. The strategy shall be updated and included in each Future Years Homeland Security Program required under section 874 of this Act.

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

"(c) FORM OF STRATEGY.—The report shall be submitted in unclassified form but may include a classified annex for any sensitive or classified information if necessary. The Department also shall publish the plan in an unclassified format that is publicly available.

"(d) CONTENTS OF STRATEGY.—The strategy shall include the following:

"(1) PRIORITIZED LIST.—A systematic and integrated prioritized list developed by the Under Secretary for Management or his designee in coordination with all of the Component Acquisition Executives of Department major acquisition programs that Department and Component acquisition investments seek to address, that includes the expected security and economic benefit of the program or system and an analysis of how the security and economic benefit derived from the program or system will be measured.

"(2) INVENTORY.—A plan to develop a reliable Department-wide inventory of investments and real property assets to help the Department plan, budget,

schedule, and acquire upgrades of its systems and equipment and plan for the acquisition and management of future systems and equipment.

"(3) FUNDING GAPS.—A plan to address funding gaps between funding requirements for major acquisition programs and known available resources including, to the maximum extent practicable, ways of leveraging best practices to identify and eliminate overpayment for items to prevent wasteful purchasing, achieve the greatest level of efficiency and cost savings by rationalizing purchases, aligning pricing for similar items, and utilizing purchase timing and economies of scale.

"(4) IDENTIFICATION OF CAPABILITIES.—An identification of test, evaluation, modeling, and simulation capabilities that will be required to support the acquisition of the technologies to meet the needs of the plan and ways to leverage to the greatest extent possible the emerging technology trends and research and development trends within the public and private sectors and an identification of ways to ensure that the appropriate technology is acquired and integrated into the Department's operating doctrine and procured in ways that improve mission performance.

"(5) FOCUS ON FLEXIBLE SOLUTIONS.—An assessment of ways the Department can improve its ability to test and acquire innovative solutions to allow needed incentives and protections for appropriate risk-taking in order to meet its acquisition needs with resiliency, agility, and responsiveness to assure the Nation's homeland security and facilitate trade.

"(6) FOCUS ON INCENTIVES TO SAVE TAXPAYER DOLLARS.—An assessment of ways the Department can develop incentives for program managers and senior Department acquisition officials to prevent cost overruns, avoid schedule delays, and achieve cost savings in major acquisition programs.

"(7) FOCUS ON ADDRESSING DELAYS AND BID PROTESTS.—An assessment of ways the Department can improve the acquisition process to minimize cost overruns in requirements development, procurement announcements, requests for proposals, evaluation of proposals, protests of decisions and awards and through the use of best practices as defined in section 4(b) of the DHS Acquisition Accountability and Efficiency Act and lessons learned by the Department and other Federal agencies.

"(8) FOCUS ON IMPROVING OUTREACH.—An identification and assessment of ways to increase opportunities for communication and collaboration with industry, small and disadvantaged businesses, intra-government entities, university centers of excellence, accredited certification and standards development organizations, and national laboratories to ensure that the Department understands the market for technologies, products, and innovation that is available to meet its mission needs to inform the requirements-setting process and before engaging in an acquisition, including—

"(A) methods designed especially to engage small and disadvantaged businesses and a cost-benefit analysis of the tradeoffs that small and disadvantaged businesses provide, barriers to entry for small and disadvantaged businesses, and unique requirements for small and disadvantaged businesses; and

"(B) within the Department Vendor Communication Plan and Market Research Guide, instructions for interaction by program managers with such entities to prevent misinterpretation of acquisition regulations and to permit freedom within legal and ethical boundaries for program managers to interact with such businesses with transparency.

"(9) COMPETITION.—A plan regarding competition as described in subsection (e).

"(10) ACQUISITION WORKFORCE.—A plan regarding the Department acquisition workforce as described in subsection (f).

"(11) FEASIBILITY OF WORKFORCE DEVELOPMENT FUND PILOT PROGRAM.—An assessment of the feasibility of conducting a pilot program to establish an acquisition workforce development fund as described in subsection (g).

"(e) COMPETITION PLAN.—The strategy shall also include a plan (referred to in subsection (d)(9)) that shall address actions to ensure competition, or the option of competition, for major acquisition programs. The plan may include assessments of the following measures in appropriate cases if such measures are cost effective:

"(1) Competitive prototyping.

"(2) Dual-sourcing.

"(3) Unbundling of contracts.

"(4) Funding of next-generation prototype systems or subsystems.

"(5) Use of modular, open architectures to enable competition for upgrades.

"(6) Acquisition of complete technical data packages.

"(7) Periodic competitions for subsystem upgrades.

"(8) Licensing of additional suppliers, including small businesses.

"(9) Periodic system or program reviews to address long-term competitive effects of program decisions.

"(f) ACQUISITION WORKFORCE PLAN.—

"(1) ACQUISITION WORKFORCE.—The strategy shall also include a plan (referred to in subsection (d)(10)) to address Department acquisition workforce accountability and talent management that identifies the acquisition workforce needs of each Component performing acquisition functions and develops options for filling those needs with qualified individuals, including a cost-benefit analysis of contracting for acquisition assistance.

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

"(A) improve the recruitment, hiring, training, and retention of Department acquisition workforce personnel, including contracting officer's representatives, in order to retain highly qualified individuals that have experience in the acquisition life cycle, complex procurements, and management of large programs;

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

"(C) prevent duplication within Department acquisition workforce training and certification requirements through leveraging already-existing training within the Federal Government, academic community, or private industry;

"(D) achieve integration and consistency with Government-wide training and accreditation standards, acquisition training tools, and training facilities;

"(E) designate the acquisition positions that will be necessary to support the Department acquisition requirements, including in the fields of—

"(i) program management;

"(ii) systems engineering;

"(iii) procurement, including contracting;

"(iv) test and evaluation;

"(v) life cycle logistics;

"(vi) cost estimating and program financial management; and

"(vii) additional disciplines appropriate to Department mission needs;

"(F) strengthen the performance of contracting officer's representatives (as defined in Subpart 1.602-2 and Subpart 2.101 of the Federal Acquisition Regulation), including by—

"(i) assessing the extent to which contracting officer's representatives are certified and receive training that is appropriate;

"(ii) determining what training is most effective with respect to the type and complexity of assignment; and

"(iii) implementing actions to improve training based on such assessment; and

"(G) identify ways to increase training for relevant investigators and auditors to examine fraud in major acquisition programs, including identifying opportunities to leverage existing Government and private sector resources in coordination with the Inspector General of the Department.

"(g) FEASIBILITY OF WORKFORCE DEVELOPMENT FUND PILOT PROGRAM.—The strategy shall also include an assessment (referred to in subsection (d)(11)) of the feasibility of conducting a pilot program to establish a Homeland Security Acquisition Workforce Development Fund (in this subsection referred to as the 'Fund') to ensure the Department acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission and ensure that the Department receives the best value for the expenditure of public resources. The assessment shall address the following:

"(1) Ways to fund the Fund, including the use of direct appropriations, or the credit, transfer, or deposit of unobligated or unused funds from Department Components into the Fund to remain available for obligation in the fiscal year for which credited, transferred, or deposited and to remain available for successive fiscal years.

"(2) Ways to reward the Department acquisition workforce and program managers for good program management in controlling cost growth, limiting schedule delays, and ensuring operational effectiveness through providing a percentage of the savings or general acquisition bonuses.

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

"(A) Describe the costs and benefits associated with the use of direct appropriations or credit, transfer, or deposit of unobligated or unused funds to finance the Fund.

"(B) Describe the manner and timing for applications for amounts in the Fund to be submitted.

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

"(D) Explain the mechanism to report to Congress on the implementation of the Fund on an ongoing basis.

"(E) Detail measurable performance metrics to determine if the Fund is meeting the objective to improve the acquisition workforce and to achieve cost savings in acquisition management.".

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

"Sec. 839. Multiyear acquisition strategy.".

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

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

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

"(4) include the multiyear acquisition strategy required under section 839 of this Act.".

SEC. 303. ACQUISITION REPORTS.

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

"SEC. 840. ACQUISITION REPORTS.

"(a) COMPREHENSIVE ACQUISITION STATUS REPORT.—

"(1) IN GENERAL.—The Under Secretary for Management each year shall submit to the congressional homeland security committees, at the same time as the President's budget is submitted for a fiscal year under section 1105(a) of title 31, United States Code, a comprehensive acquisition status report. The report shall include the following:

"(A) The information required under the heading 'Office of the Under Secretary for Management' under Title I of division D of the Consolidated Appropriations Act, 2012 (Public Law 112-74) (as required under the Department of Homeland Security Appropriations Act, 2013 (Public Law 113–6).

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

"(C) A listing of established Executive Steering Committees, which provide governance of a program or related set of programs and lower-tiered oversight, and support between acquisition decision events and Component reviews, including the mission and membership for each.

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

"(A) A narrative description, including current gaps and shortfalls, the capabilities to be fielded, and the number of planned increments or units.

"(B) Acquisition Review Board (or other board designated to review the acquisition) status of each acquisition, including the current acquisition phase, the date of the last review, and a listing of the required documents that have been reviewed with the dates reviewed or approved.

"(C) The most current, approved acquisition program baseline (including project schedules and events).

"(D) A comparison of the original acquisition program baseline, the current acquisition program baseline, and the current estimate.

"(E) Whether or not an independent verification and validation has been implemented, with an explanation for the decision and a summary of any findings.

"(F) A rating of cost risk, schedule risk, and technical risk associated with the program (including narrative descriptions and mitigation actions).

"(G) Contract status (including earned value management data as applicable).

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

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

"(b) QUARTERLY PROGRAM ACCOUNTABILITY REPORT.—The Under Secretary for Management shall prepare a quarterly program accountability report to meet the Department's mandate to perform program health assessments and improve program execution and governance. The report shall be submitted to the congressional homeland security committees.".

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

"Sec. 840. Acquisition reports.".

SEC. 304. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF MULTIYEAR ACQUISITION STRATEGY.

(a) REVIEW REQUIRED.—After submission to Congress of the first multiyear acquisition strategy (pursuant to section 839 of the Homeland Security Act of 2002) after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the plan within 180 days to analyze the viability of the plan's effectiveness in the following:

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

(2) Establishing clear connections between Department objectives and acquisition priorities.

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

(4) Ensuring competition or the option of competition for major acquisition programs.

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

(6) Preventing duplication within Department acquisition workforce training requirements through leveraging already-existing training within the Federal Government, academic community, or private industry.

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

(8) Assessing the feasibility of conducting a pilot program to establish a Homeland Security Acquisition Workforce Development Fund.

(b) REPORT REQUIRED.—The Comptroller General shall submit to the congressional homeland security committees a report on the review required by this section. The report shall be submitted in unclassified form but may include a classified annex.

SEC. 305. OFFICE OF INSPECTOR GENERAL REPORT.

(a) REVIEW REQUIRED.—No later than 2 years following the submission of the report submitted by the Comptroller General of the United States as required by section 304, the Department's Inspector General shall conduct a review of whether the Department has complied with the multiyear acquisition strategy (pursuant to section 839 of the Homeland Security Act of 2002) and adhered to the strategies set forth in the plan. The review shall also consider whether the Department has complied with the requirements to provide the Acquisition Review Board with a capability development plan for each major acquisition program.

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

PURPOSE AND SUMMARY

The purpose of H.R. 4228 is to require the Department of Homeland Security to improve discipline, accountability, and transparency in acquisition program management.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Homeland Security (DHS) spends billions of taxpayer dollars each year in major acquisition programs to help protect the homeland. For example, in fiscal year 2013, DHS spent

almost $10 billion on acquisition programs for a variety of missions, such as border security, aviation passenger screening, and infrastructure protection. DHS will spend at least $300 million on each program and take years to develop and procure them. Despite the critical need to protect the homeland from terrorist attacks and other events, DHS acknowledges that its current major acquisition portfolio is unaffordable. Due to increasing fiscal constraints and persistent security risks, DHS must ensure its acquisition processes are effective and efficient to minimize cost overruns, schedule delays, and performance issues. The DHS Acquisition Accountability and Efficiency Act addresses these issues and implements solutions to save taxpayer dollars and increase mission performance.

Since 2005, the Comptroller General of the United States—the head of the U.S. Government Accountability Office (GAO)—has identified DHS's acquisition management as an activity on GAO's "High Risk List," which identifies programs highly susceptible to fraud, waste, abuse, and mismanagement or most in need of broad reform. In April 2014, GAO noted weaknesses in DHS's acquisition planning process and portfolio management. GAO found that, as of November 2013, DHS still lacked Acquisition Program Baselines for 21 of 46 major acquisition programs and, as of December 2013, DHS had only approved life cycle cost estimates for 20 of 80 major acquisition programs. Further, GAO found that DHS' largest acquisition programs will likely experience schedule slips, cost growth, and capability reductions in the coming years if funding instability worsens.

This year alone, there have been examples of poor DHS acquisition management. In March 2014, GAO found that U.S. Customs and Border Protection's (CBP) Arizona Border Surveillance Technology Plan, a plan including seven programs with estimated costs from $3 million to $961 million, does not include an Integrated Master Schedule in accordance with best practices nor does it have an independent cost estimate for its life cycle cost estimate. In January 2014, GAO found that CBP's TECS Modernization program, estimated to cost $724 million, lacks a fully developed master schedule and is revising its schedule baseline for the second time in under a year. Immigration and Customs Enforcement's (ICE) TECS Modernization program, estimated to cost $818 million, determined in June 2013 as unviable, is reassessing its design alternatives and schedule and cost estimates, which jeopardizes its ability to meet its 2015 deadline.

GAO also reported in September 2012 that 42 DHS acquisition programs experienced cost growth, schedule delays, or both. GAO's report noted that 16 programs incurred an aggregate total cost growth of 166 percent. However, the report noted that many acquisition programs lacked Acquisition Program Baselines-key documents detailing a program's cost, schedule, and performance goals. As a result, GAO could not assess to what extent cost growth occurred in most major acquisition programs at DHS.

In addition, the DHS Office of Inspector General reported in 2013 that DHS lacked reliable Department-wide inventory data on legacy radio systems and mismanaged a $3 billion Department-wide strategic sourcing contract to modernize these systems. The Inspector General also reported in 2013 that the U.S. Customs and

Border Protection and U.S. Coast Guard could have better coordinated on the acquisition and modification of DHS helicopters. Examples from GAO and the Inspector General highlight the need for a more disciplined, accountable, and transparent process to DHS's acquisition management.

Over ten years after the creation of the Department, DHS cannot rely on increased budgets to rectify past mistakes. DHS cannot continue to utilize immature processes for the management of acquisition functions. Combining 22 disparate agencies under one department was one of the most extensive reorganizations in the Federal Government since World War II. However, over ten years later, DHS must improve its management of major acquisitions. As the Department's Chief Acquisition Officer, the Under Secretary for Management should have the authorities needed to hold programs accountable.

The Committee believes that DHS must increase its communication with Congress. Improving transparency when cost, schedule, or performance issues arise will increase the Committee's assurance that DHS has a plan to improve, track, and institutionalize lessons learned to prevent future issues. To date, DHS has lacked a strategy to guide the billions of dollars it spends on these major acquisition programs. A more strategic approach is needed to ensure taxpayer dollars are spent in the most efficient and effective manner. The DHS Acquisition Accountability and Efficiency Act addresses these areas to improve the Department's management and better secure the homeland.

HEARINGS

No hearings were held specifically on H.R. 4228. However, the Committee held oversight hearings related to acquisition issues addressed in H.R. 4228. These hearings are listed below.

112th Congress

On July 15, 2011, the Subcommittee on Oversight, Investigations, and Management held a hearing entitled "Homeland Security Contracting: Does the Department Effectively Leverage Emerging Technologies?" The Subcommittee received testimony from Mr. Charles K. Edwards, Acting Inspector General, Department of Homeland Security; Mr. David Maurer, Director, Homeland Security and Justice Team, Government Accountability Office; Mr. Rafael Borras, Under Secretary for Management and Chief Acquisition Officer, Department of Homeland Security; Dr. Tara O'Toole, Under Secretary, Science and Technology Directorate, Department of Homeland Security; Mr. Jim Williams, Vice Chair, Homeland Security Committee, TechAmerica; Mr. Marc Pearl, President and CEO, Homeland Security and Defense Business Council; and Mr. Scott Amey, General Counsel, Project on Government Oversight.

On September 21, 2012, the Subcommittee on Oversight, Investigations, and Management held a hearing entitled "DHS Acquisition Management Challenges: Solutions for Saving Taxpayer Dollars." The Subcommittee received testimony from Mr. John Hutton, Director, Acquisition and Sourcing Management, Government Accountability Office; Dr. Nick Nayak, Chief Procurement Officer, Department of Homeland Security; Mr. Mark Borkowski, Assistant

Commissioner, Office of Technology Innovation and Acquisition, Customs and Border Protection, Department of Homeland Security; Ms. Karen Shelton Waters, Assistant Administrator, Office of Acquisition, Transportation Security Administration, Department of Homeland Security.

113th Congress

On September 19, 2013, the Subcommittee on Oversight and Management Efficiency held a hearing entitled "DHS Acquisition Practices: Improving Outcomes for Taxpayers Using Defense and Private Sector Lessons Learned." The Subcommittee received testimony from Hon. Rafael Borras, Undersecretary for Management, Department of Homeland Security; Ms. Michele Mackin, Director, GAO; Ms. Anne Richards, Assistant Inspector General for Audits, DHS Office of Inspector General; Mr. William C. Greenwalt, Visiting Fellow, American Enterprise Institute; Mr. Stan Soloway, President and CEO, Professional Services Council; Mr. David Berteau, Senior Vice President, Center for Strategic and International Studies.

COMMITTEE CONSIDERATION

The Subcommittee on Oversight and Management Efficiency met on March 26, 2014, to consider H.R. 4228, and ordered the measure forwarded to the Full Committee with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by MR. DUNCAN (#1); was AGREED TO, as amended, by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. BARBER (#1A); was AGREED TO by voice vote.

Consisting of the following amendments:

An amendment:
Page 17, line 6, insert after "including" the following: ", in particular,"

An amendment:
Page 22, beginning on line 17, strike "The Chief Financial Officer" and all that follows through "The Board shall" on line 20, and insert "The Secretary shall".

An amendment:
Page 40, lines 15 and 16, strike "ranked based on mission and greatest security risks to the homeland".

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. DAINES (#1B); was AGREED TO by voice vote.

Page 42, insert after line 2 a new paragraph entitled "(6) Focus on incentives to save taxpayer dollars."
Page 42, line 3, strike "(6)" and insert "(7)".
Page 42, line 13, strike "(7)" and insert "(8)".
Page 43, line 16, strike "(8)" and insert "(9)".
Page 43, line 18, strike "(9)" and insert "(10)".
Page 43, line 21, strike "(10)" and insert "(11)".
Page 44, line 2, strike "(d)(8)" and insert "(d)(9)".
Page 45, line 1, strike "(d)(9)" and insert "(d)(10)".
Page 46, line 21, strike "(d)(10)" and insert "(d)(11)".;

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. O'ROURKE (#1C); was AGREED TO by voice vote.

Consisting of the following amendments:

An amendment:
Page 21, starting on line 11, strike "For each major acquisition" and all that follows through the period on line 16, and insert the following: "For each major acquisition, each head of a Component shall—
"(1) establish a complete life cycle cost estimate with supporting documentation;
"(2) verify each life cycle cost estimate against independent cost estimates, and reconcile any differences;
"(3) complete a cost-benefit analysis with supporting documentation;
"(4) develop and maintain a schedule that is consistent with scheduling best practices as identified by the Comptroller General of the United States, including, in appropriate cases, an integrated master schedule; and
"(5) ensure that all acquisition program information provided by the Component is complete, accurate, timely, and valid.

An amendment:
Page 40, line 17, after "address" insert ", that includes the expected security benefit of the program or system and an analysis of how the security benefit derived from the program or system will be measured"

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 on the roster by MR. PAYNE (#1D); was ADOPTED by unanimous consent.

Page 45, line 12, insert after "personnel" the following ", including contracting officer's representatives,".;

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. PAYNE (#1E); was ADOPTED by unanimous consent.

Page 46, after line 18, insert the following:
"(F) strengthen the performance of contracting officer's representatives (as defined in Subpart 1.602-2 and Subpart 2.101 of the Federal Acquisition Regulation), including by-
"(i) assessing the extent to which contracting officer's representatives are certified and receive training that is appropriate;
"(ii) determining what training is most effective with respect to the type and complexity of assignment; and "(ii) implementing actions to improve training based on such assessment.".
Page 46, line 4, strike "and".
Page 46, line 18, strike the period and insert "; and".

The Committee met on April 30, 2014, to consider H.R. 4228, and ordered the measure to be reported to the House, with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

An Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. DUNCAN (#1); was AGREED TO, amended, by voice vote.

An en bloc amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. THOMPSON OF MISSISSIPPI (#1A); WAS AGREED TO BY VOICE VOTE.

Consisting of the following amendments:

An amendment:
Page 11, after line 20, insert the following "(F) Ensuring that grants and financial Assistance are provided only to responsible individuals and organizations that are not excluded from government participation.

An amendment:
Page 13, after line 2, insert the following new paragraph entitled "(4) Excluded parties list system consultation."

An amendment:
Page 16, line 22, insert before the semicolon at the end the following: "and including training on how best to identify actions that warrant referrals for suspension or debarment".

An amendment:
P. 17, line 11, strike "businesses and" and insert "businesses,".

Page 17, line 12, strike "participation." and insert "participation, and ensure, to the extent practicable, small businesses that achieve qualified vendor status for security-related technologies are provided an opportunity to compete for contracts for such technology."

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. BARLETTA (#1B); was AGREED TO by voice vote.

Page 48, line 12, strike "and".

Page 48, line 25, strike the period at the end and insert "; and".

Page 48, after line 25, insert the following:

"(G) identify ways to increase training for relevant investigators and auditors to examine fraud in major acquisition programs, including identifying opportunities to leverage existing Government and private sector resources in coordination with the Inspector General of the Department.

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MS. CLARKE (#1C); was AGREED TO by voice vote.

Page 11, after line 20, insert the following:

"(F) Distributing guidance throughout the Department to ensure that contractors involved in acquisitions, particularly companies that access the Department's information systems and technologies, adhere to internal cybersecurity policies established by the Department of Homeland Security.

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. BARBER (#1D); was WITHDRAWN by unanimous consent.

Page 17, after line 12, insert the following (and make appropriate technical and conforming amendments):

"(10) encourage the Department to enter into contracts with nonprofit agencies employing persons who are blind or are other severally disabled as defined under chapter 85 of title 41, United States Code (popularly referred to as the Javits-Wagner-O'Day Act).".

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. BARBER (#1E); was AGREED TO by voice vote.

At the end of title II (page 31, after line 17) insert the following new section (and conform the table of contents accordingly):

"Sec. 204. Suspension and Debarment Audits."

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. O'ROURKE (#1F); was AGREED TO by voice vote.

Page 42, lines 2 and 4, after "security" insert "and economic".

Page 43, line 15, after "security insert "and facilitate trade".

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 on the roster by MS. JACKSON LEE (#1G); was ADOPTED by unanimous consent.

At the end of title II (page 31, after line 17) insert the following new section (and conform the table of contents accordingly):

"Sec. 204. Excluded Party List System Waivers."

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. DUNCAN (#1H); was AGREED TO by voice vote.

Page 6, line 3, insert after "Senate" the following": ", where appropriate".

An amendment to the Amendment in the Nature of a Substitute to H.R. 4228 offered by MR. O'ROURKE (#1I); was WITHDRWAN by unanimous consent.

Page 41, line 13, strike "the academic community" and insert "civil liberties and academic communities".

Page 43, after line 15, insert the a new paragraph entitled "(6) Civil Liberties Protections."

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 4228.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 4228, the DHS Acquisition Accountability and Efficiency Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 4228 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

The performance goals and objectives of H.R. 4228 include the development of a multiyear acquisition strategy to inform the overall direction of DHS's acquisition programs. The bill requires the Government Accountability Office to review the effectiveness of the multiyear acquisition strategy, as well as, the Office of Inspector General to evaluate the extent to which DHS has complied with the strategy. The bill also mandates the Department to provide the Committee with acquisition reports to detail the performance of major acquisition programs.

In addition, the Department shall notify the Committee in instances when certain cost, schedule, or performance issues occur. In these cases, the development of a remediation plan and root cause analysis will inform DHS's approach on corrective actions and allow the Committee to hold the Department accountable for future acquisition issues.

DUPLICATIVE FEDERAL PROGRAMS

The Committee finds that H.R. 4228 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 4228 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 4228 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that bill may be cited as the "DHS Acquisition Accountability and Efficiency Act."

Sec. 2. Table of Contents.

Sec. 3. Findings.

This section provides the congressional findings on acquisition program management in the Department of Homeland Security.

Sec. 4. Definitions.

The following list of terms and positions are defined: "Secretary", "Department", "congressional homeland security committees", "acquisition", "best practices", "acquisition decision authority", "acquisition decision event", "acquisition decision memorandum", "acquisition program baseline", "capability development plan", "component acquisition executive", "life cycle cost", and "major acquisition program".

TITLE I-ACQUISITION AUTHORITIES

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

Section 101 designates the Under Secretary for Management (USM) as the Chief Acquisition Officer (CAO) for DHS. It also specifies that the ability to exercise Acquisition Decision Authority (ADA) is held by the Secretary but may be delegated to the Deputy Secretary or USM in order to approve, halt, modify, or cancel major acquisition programs. It is the Committee's intent that whoever holds the ADA will take action to stop or cancel failing programs. In particular, Section 101 requires that the USM take responsibility to ensure that every major acquisition program has a Department-approved Acquisition Program Baseline (APB). The Committee finds it very concerning that according to an April 2014 GAO report, as of November 2013, DHS officials reported that 21 of 46 programs still lacked approved baselines and as of April 2014 DHS has not approved most of its major acquisition programs' cost estimates.

Section 101 also requires that the USM ensure that the heads of Components and Component Acquisition Executives follow Federal law, the Federal Acquisition Regulation, and Department acquisition management directives. It is the intent of the Committee that all of the Components with acquisition responsibilities follow these directives. Furthermore, it is the Committee's view that decision-making authority and processes should not reside solely within Department Headquarters. Rather, the USM should transparently incorporate Components into unified decision-making processes and the analytic efforts that inform decision-making on major acquisition programs and non-major acquisition programs to meet U.S. homeland security missions in a cost effective manner.

Section 101 also authorizes the USM to delegate the ADA to the relevant Component Acquisition Executive in certain instances. First, for non-major acquisition programs with a life cycle cost of less than $300 million, the USM may delegate the ADA to the relevant Component Acquisition Executive. Second, for major acquisition programs with a life cycle cost between $300 million and $1 billion, the USM may delegate the ADA only if the following conditions are met: The Component shall have working policies, processes, and procedures that are consistent with DHS acquisition policy; possess adequate, experienced, dedicated program management professional staff proportionate to the size of the delegated portfolio; and each major acquisition program must have written documentation showing that it has a Department-approved APB and that it is meeting agreed-upon cost, schedule, and performance thresholds.

The USM shall not have the authority to delegate the ADA for major acquisition programs with life cycle costs of over $1 billion. Furthermore, it is the Committee's intention that the USM shall not delegate the ADA for any major acquisition program that has experienced an actual breach of a cost overrun greater than 15 percent of the APB or a schedule delay of more than 180 days in the delivery schedule specified in the APB. Section 101 also authorizes the Under Secretary for Science and Technology (S&T) to cooperate in acquisitions so that S&T can support current and future requirements more effectively.

Sec. 102. Acquisition authorities for Chief Financial Officer.

Section 102 authorizes the Chief Financial Officer's (CFO) responsibilities for providing leadership over financial management policy and programs for DHS as they relate to DHS acquisition programs in consultation with the USM. According to a 2014 GAO report, from fiscal years 2003 to 2013, DHS's budget authority nearly doubled from about $31 to $61 billion. Yet, DHS's leadership did not consistently address affordability issues during this time. In December 2012, the DHS Chief Financial Officer reported that major acquisition programs will cost 30 percent more than DHS's current five-year funding plan.

Unfortunately, according to GAO, in 2013, DHS made little progress in addressing the Department's major acquisition funding gap and the 30 percent figure noted by DHS in 2012 was based on unreliable cost estimates, which raises concern that the funding gap may be even more significant. It is the Committee's view that the CFO should take an active role to help DHS strengthen and enhance the programming and budgeting process by incorporating the results of strategic analysis and joint requirements planning into portfolios and increase DHS's cost estimating capacity for major acquisition programs to help prevent cost overruns and schedule delays.

The Committee intends to clarify and specify the role of the CFO with regard to the acquisition process at DHS. Nothing in this Act is intended to reduce or constrain the existing, government-wide CFO authorities that apply to the DHS CFO under current law.

Sec. 103. Acquisition authorities for Chief Information Officer.

Section 103 authorizes the Chief Information Officer (CIO)'s responsibilities to serve as the lead technical authority for IT programs, to oversee the management of the Homeland Security Enterprise Architecture, and to provide recommendations to the Acquisition Review Board on IT programs and IT acquisition strategic guidance. Section 103 also requires that if the CIO determines that there are any IT acquisitions that do not comply with Departmental management directives, the CIO shall provide recommendations to the Acquisition Review Board regarding noncompliance. It is the Committee's view that the CIO should take an active role to prevent IT failures of major acquisition programs. The CIO should also consider the advantages of already-existing innovative commercial solutions that may have the ability to meet U.S. homeland security mission needs while providing solutions for lower costs.

The Committee intends to clarify and specify the important role of the CIO in IT related acquisition programs at DHS. Nothing in this Act is intended to reduce or constrain the existing government-

wide CIO authorities as they apply to the DHS CIO under current law.

Sec. 104. Chief Procurement Officer.

Section 104 authorizes the position of Chief Procurement Officer (CPO). This section does not create a new office within DHS because many of these responsibilities are currently being executed through the Office of the CPO. Nothing in this section or Act is intended to diminish CPO authority as currently exercised. Section 104 authorizes that the CPO reports directly to the USM and is the senior procurement executive with responsibility over procurement and contracting. The CPO is also responsible for ensuring that DHS's contracting strategy and plans are consistent with the intent and direction of the ARB. Section 104 also designates the CPO as the main liaison to industry and authorizes the CPO to oversee a certification and training program for DHS's acquisition workforce that employs best practices used by others in the Federal Government and private sector. The Committee's intention is not for DHS to duplicate the efforts of other Federal acquisition certification and training efforts but instead to leverage already existing efforts within the Federal Government, private sector, or universities and colleges as appropriate.

This section also ensures that the CPO participates in the selection and performance review of the head of each contracting activity within DHS and that the CPO follows the requirements established in the Small Business Act. The Committee understands that according to the Small Business Dashboard, DHS exceeded the Department goal of over 30 percent and the Government-wide goal of 23 percent for contracts awarded to Small Business and Small and Disadvantaged Business. Additionally, according to the FY12 Small Business Procurement Scorecard, DHS received an "A" rating. The Committee commends DHS's efforts in this regard. The Committee commends the Department's efforts to contract with nonprofit agencies employing persons who are blind or severely disabled as defined under Chapter 85 of Title 41, United States Code and encourages the CPO to continue such efforts. The Committee encourages the CPO to work toward developing a procurement goal and metrics for this initiative as part of its strategic planning process. The Committee urges DHS to think strategically to ensure that DHS clearly matches U.S. homeland security mission needs with the best business solutions available regardless of the size of business in order to serve U.S. Government interests most effectively.

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

Section 105 authorizes the USM to establish a mechanism within the Management Directorate to improve the accountability, standardization, and transparency of major acquisition programs in order to increase effectiveness and efficiencies. This mechanism will serve as the central oversight function for all DHS acquisition programs. Section 105 does not create a new office within DHS because many of these responsibilities are being executed through the Program Accountability and Risk Management (PARM) Office. However, the Committee's intention is not to codify PARM's existing structure but rather to provide specific guidance of objectives

that DHS must meet while allowing DHS the flexibility to make adjustments to the structure as necessary.

Section 105 also authorizes an Executive Director to report directly to the USM to hold responsibility for meeting the objectives as outlined in Section 105. The Executive Director's responsibilities include regular monitoring of the performance of DHS acquisition programs between acquisition decision events. The Committee expects the Executive Director to take an active role in regularly reviewing all major acquisition programs and any non-major acquisition programs that the Executive Director deems as "high-risk" in order to prevent cost overruns, performance issues, or schedule delays before these problems occur.

The Committee believes that non-major acquisitions that meet the following criteria should be deemed "high-risk": (a) Its importance to the Department's strategic and performance plans is disproportionate to its life cycle cost; (b) it has high executive visibility; (c) it impacts more than one Component; (d) it has significant program or policy implications; or (e) the Deputy Secretary, Under Secretary for Management, or Acquisition Decision Authority recommends that the program is worthy of the Acquisition Review Board's examination.

The Executive Director shall also assist the USM in managing DHS's acquisition portfolio; conducting oversight of all acquisition programs (major and non-major) to ensure that the programs have reliable and complete documentation; and serving as the focal point within DHS for acquisition policy, processes, and procedure regarding life cycle cost estimating and analysis. It is the Committee's view that the Executive Director shall work in consultation with the USM and CFO to address funding shortfalls identified by DHS and GAO.

Moreover, the Executive Director should support the CPO in developing strategies and specific plans to address DHS acquisition workforce needs; develop standardized certification standards in consultation with the Component Acquisition Executives for all acquisition program managers; and play a role in performance evaluations of acquisition program managers. The Executive Director shall also be responsible for preparing the DHS Comprehensive Acquisition Status Report (CASR) and Quarterly Program Accountability Report (QPAR).

The Committee believes that carrying out DHS's acquisition functions is a shared responsibility between DHS headquarters and its Components. However, Components have not always adhered to established DHS policies, which has contributed to cost overruns, schedule delays, and performance issues. As a result, section 105 also requires Components to follow Federal law, the Federal Acquisition Regulation (FAR), and DHS acquisition management directives. For major acquisition programs, heads of Components must establish a complete life cycle cost estimate with supporting documentation including an APB; verify each life cycle cost estimates against independent cost estimates (reconciling any differences); complete a cost-benefit analysis with supporting documentation; develop and maintain a schedule that is consistent with scheduling best practices identified by the Comptroller General of the U.S. including an integrated master schedule when appropriate; and en-

sure that the underlying acquisition program information is complete, accurate, timely, and valid.

TITLE II-ACQUISITON PROGRAM MANAGEMENT DISCIPLINE

Sec. 201. Acquisition Review Board.

Section 201 authorizes the Secretary to establish an Acquisition Review Board (ARB) to strengthen the accountability and uniformity within DHS's acquisition review process, review major acquisition programs, and evaluate the use of best practices. Section 201 does not create a new office within DHS because many of these responsibilities are being executed through an ARB already; however, section 201 codifies and sharpens the ARB's responsibilities in several ways.

The Committees intends for the Deputy Secretary or USM to serve as the chair of the ARB. In addition, the composition of the ARB should include the CFO, CIO, CPO, Under Secretary for Science and Technology, Assistant Secretary for Policy, General Counsel, Chief Human Capital Officer, Chief Readiness Support Officer, Chief Security Officer, Component Acquisition Executive, and user representatives from the Component sponsoring a particular acquisition for review. At least two Component heads or their designees shall serve as permanent members of the ARB.

The Committee intends for the ARB to meet every time a major acquisition program needs authorization to move from acquisition decision events through the acquisition life cycle. The Committee also expects the ARB to consider any major acquisition program in actual breach and monitor those programs with increased scrutiny in order to take appropriate corrective action for the program. In addition, the Committee intends for the ARB to convene for non-major acquisitions that are deemed "high-risk" by the Executive Director and to meet regularly in order to ensure that all acquisition processes proceed in a timely fashion to achieve mission readiness.

Furthermore, section 201 authorizes the ARB to determine whether a proposed acquisition has met the requirements of key phases of the acquisition life cycle framework in order to proceed to the next phase, eventual full-rate production, and deployment and to verify the acquisition documents of each major acquisition program. The Committee will conduct strenuous oversight of the ARB to determine whether it is carrying out its responsibilities to validate the APB and ensure the reliability of all underlying data for both major and non-major acquisition programs as required by this Act. In particular, section 201 also authorizes the ARB to adopt and implement practices that consider the trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the capability development.

The Committee is concerned that according to a 2014 GAO report, the ARB within DHS has rarely directed programs to make affordability tradeoffs, such as by modifying requirements, even in light of the Department's 30 percent funding gap for its major acquisitions. GAO found that the ARB met 13 times in 2013, but it only directed programs to make affordability tradeoffs twice. The Committee intends for the ARB to prioritize the consideration of

trade-offs among cost, schedule, and performance objectives and emphasize improving these programs' affordability.

Section 201 also requires that in the event that the person holding the Acquisition Decision Authority (ADA) approves a major acquisition program without a Department-approved APB to proceed beyond the acquisition decision event requiring a capability development plan (the second acquisition decision event), the USM shall create and approve an acquisition program baseline report, and the Secretary shall submit to the Congressional homeland security committees a written notification of such decision within seven days of such a decision and a report providing the rationale for the decision and plan to create an acquisition program baseline for the program within 60 days after the acquisition decision memorandum is signed.

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

Section 202 authorizes the Deputy Secretary, in consultation with the USM, to establish Department-wide policies to integrate all phases of the investment life cycle and help DHS identify, validate, and prioritize standards for common Component requirements for major acquisition programs. Section 202 does not create a new office within DHS because many of these responsibilities are being executed through the Capabilities and Requirements Council (CRC). However, the Committee is concerned about the fragmented approach the CRC has had so far in failing to consider a range of tradeoffs across multiple functional portfolios. Thus, section 202 provides specific guidance on DHS responsibilities to reduce duplication and inefficiency across multiple functional portfolios although it leaves the particular mechanism of implementation of these objectives up to the Deputy Secretary.

In 2003, DHS established a Joint Requirements Council (JRC) to identify crosscutting opportunities and common requirements among DHS Components. JRC stopped meeting in 2006. GAO recommended in 2008 that DHS reinstate it. In June 2013, DHS initiated a CRC pilot to consider tradeoffs across acquisition programs within DHS's cybersecurity portfolio.

Section 202 emphasizes that the Deputy Secretary's policies must include strategic alternatives for developing and facilitating a Department Component-driven requirements process that include oversight of a developmental test and evaluation capability; identification of priority gaps and overlaps in Departmental capability needs; and provision of feasible technical alternatives, including commercially-available alternatives, to meet capability needs. In particular, while the Committee believes that the Secretary, acting through the USM, holds the responsibility for the success or failure of DHS acquisition programs, it is the responsibility of DHS Headquarters to achieve Component buy-in and to facilitate a Component-driven requirements process that meets U.S. homeland security mission needs while reducing duplication and efficiency among Component's acquisition programs.

Section 202 requires that the Deputy Secretary, in consultation with the USM, meet at least quarterly and communicate with Components often to ensure Components do not create overlapping requirements or duplicative spending on major investments and acquisition programs within their areas of responsibilities. The Com-

mittee believes that the Components must be working together to think strategically about how their acquisition decisions impact other Components and connect to the Department's strategic homeland security missions in the most cost effective manner possible.

The Deputy Secretary is responsible for creating a mechanism such as the Capability and Requirements Council to review and validate the requirements documents of major investments and acquisition programs before these programs move through the acquisition decision events; and to ensure the requirements and scope of major investments or acquisition programs are stable, measurable, achievable, at an acceptable risk level, and match the resources planned to be available.

Section 202 also requires that before any entity of the Department issues a solicitation for a new contract, that the Deputy Secretary is responsible for coordinating with all the other entities within DHS with acquisition responsibilities as appropriate to prevent duplication and inefficiency; implement portfolio reviews to identify common mission requirements and crosscutting opportunities among Components; standardize equipment purchases, streamline the acquisition process, improve efficiencies; and conduct best practices for strategic sourcing. The Deputy Secretary shall also ensure that program managers of major investments and acquisition programs focus on cost, schedule, risk, performance, and operational efficiency to determine that acquisition programs work as intended within cost and budget expectations.

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

Section 203 requires GAO to conduct a review within one year of the effectiveness of the Acquisition Review Board established under section 201 and the Management Directorate to Reduce Duplication in Acquisition Programs established under section 202 in improving DHS' acquisition management process.

Sec. 204. Excluded Party List System waivers.

Section 204 requires that the Secretary provide notification to the congressional homeland security committees within five days after issuance of a waiver for the requirement that an agency not engage in business with a contractor listed in the Excluded Party List System, and an explanation for that waiver. The Committee believes that this additional layer of congressional scrutiny of the decision to waive the exclusion should bring greater accountability to DHS's contracting process.

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

Section 205 provides that the DHS Inspector General may audit grant and procurement award decisions to ensure entities that are suspended or debarred from receiving Federal funds are not improperly receiving those awards. The section also requires that the Inspector General review the Department's suspension and debarment program to assess whether criteria are being consistently applied throughout the Department.

TITLE III-ACQUISITION PROGRAM MANAGEMENT ACCOUNTABILITY AND TRANSPARENCY

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

Section 301 requires two forms of reporting for major acquisition programs that experience a breach, defined as a failure to meet any cost, schedule, or performance parameter specified in the acquisition program baseline (APB). The Committee does not intend for breach notifications to become a paperwork exercise or for program managers to contort their program to prevent their supervisors from reporting a breach to the Congress. The breach notification's rationale is to increase the transparency of programs that are not meeting their APBs and require more fiscal discipline in managing a program's cost, schedule, and performance objectives.

First, section 301 requires internal notification within DHS if a breach occurs. If a major acquisition program has a potential for a future breach, as determined by the program manager for that program, the program manager has the responsibility to notify the person exercising acquisition decision authority for the program. In the case of an actual breach in a major acquisition program, the program manager for that program must notify the head of the Component concerned, the Component Acquisition Executive for the program, and Executive Director, the USM, and the Deputy Secretary. In the case of a major acquisition that experiences an actual breach with a cost overrun greater than 20 percent or a schedule delay greater than 12 months from the costs or schedule set forth in the APB, the Secretary and the Inspector General must be notified no later than five business days after the actual breach is identified.

Furthermore, in the case of an actual breach with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the APB, section 301 requires DHS to develop a remediation plan and root cause analysis. The Committee encourages DHS to conduct such analysis for all major acquisition programs in actual breach if appropriate and if resources are available.

The USM has the responsibility to establish a date for submission within DHS of the breach remediation plan and root cause analysis. The USM also has the responsibility to establish a date for submission within DHS of a program of corrective action that ensures that one of the following has occurred: (1) The breach has been corrected and the program is again in compliance with the original APB; (2) a revised APB has been approved; or (3) the program has been halted or canceled. The Committee believes that DHS should keep the original program baseline parameters on file in order to help assess the development of each program and ensure knowledge transfer in the case of personnel attrition or changes.

Second, section 301 requires notification to the congressional homeland security committees for major acquisition programs that experience an actual breach with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the APB or with an anticipated failure for any key performance threshold or parameter specified in the APB.

The USM will submit this notification in the next quarterly Comprehensive Acquisition Status Report.

In the event that a major acquisition program is likely to experience a cost overrun greater than 20 percent or a likely delay greater than 12 months from the costs and schedule set forth in the APB, the USM shall include in the notification to such committees a written certification that the acquisition is essential to the accomplishment of the Department's mission; there are no alternatives to such capability or asset that will provide equal or greater capability in both a more cost-effective and timely manner; the new acquisition schedule and estimates for total acquisition costs are reasonable; and the management structure for the acquisition program is adequate to manage and control performance, cost and schedule.

Additionally, no later than 30 calendar days after the USM submits the breach notification within the Comprehensive Acquisition Status Report, the USM shall submit to such committees a copy of the remediation plan and root cause analysis prepared for the major acquisition program and a statement describing the corrective action with a justification for the action.

Finally, during the 90-day period following submission to the congressional homeland security committees of the remediation plan, root cause analysis, and statement describing the corrective action for the major acquisition program, the USM shall submit a certification that DHS has adjusted or restructured the program in a manner that addresses the root cause or causes of the cost growth and/or schedule delay in the program and DHS has conducted a thorough review of the breached program's current acquisition decision event approvals and adjusted the current acquisition decision event approval for the breached program as necessary to account for the restructured program. If the USM fails to submit this required certification within the 90-day period, then funds appropriated to the major acquisition program shall not be obligated until the USM submits such certification.

The Committee is concerned about the lack of accountability with DHS acquisition programs. While the Committee wants to provide for some variances in cost and schedule and prevent disruption and potential increase of total acquisition costs, the Committee firmly believes that DHS must take steps to restrain the cost increases, schedule delays, and operational effectiveness failures within its major acquisition programs.

Sec. 302. Multiyear acquisition strategy.

Section 302 requires the Secretary to create a multiyear acquisition strategy to guide the overall direction of DHS's acquisitions while allowing flexibility to deal with ever-changing threats and risks and to help industry better understand, plan, and align resources to meet the future acquisition needs of DHS. The strategy should be updated and included in each Future Years Homeland Security Program (FYHSP). The Committee foresees the list, inventory, funding gaps, and identification of capabilities to be an annual update as part of the FYHSP that will help both Congress and industry understand key homeland security priorities. Other parts should be updated each year as necessary, but they should be considered reaffirmed unless otherwise stated.

Section 302 requires that DHS submit this Multiyear Acquisition Strategy no later than one year after the date of the enactment of

this section. The Committee believes that the Secretary should consult to the maximum extent practicable with DHS Headquarters, Components, employees in the field, and individuals from industry and the academic community as appropriate. The Committee intends for DHS to emphasize the perspectives and experiences of its employees in the field in crafting its acquisition strategy in order to ensure that DHS bases its priorities on the practical needs of those who will be responsible for the operational implementation of these acquisitions to meet U.S. homeland security mission objectives. The Committee intends for the report to be submitted in an unclassified form online in the public domain. However, for any sensitive or classified information, DHS may include a classified annex.

List of Major Acquisition Programs and Inventory of Investments

Section 302 also requires that the USM develop a systematic and integrated prioritized list of DHS's major acquisition programs that includes the expected security and economic benefit of the program or system and an analysis of how the security and economic benefit derived from the program or system will be measured. The Committee also expects that the strategy as part of the FYHSP report explain how DHS's homeland security strategy correlates to DHS's resource allocations and priorities for major acquisition investments. The Committee believes that DHS should submit enough information to provide Congress with the ability to identify and assess how much DHS plans to invest across its major acquisition portfolio, how those funding priorities are ranked based on risk and threat to the homeland, and how DHS expects to afford these priorities.

Section 302 also requires that DHS develop a reliable Department-wide inventory of investments and real property assets to help DHS plan, budget, schedule, and acquire upgrades of its systems and equipment. In August 2013, the DHS Inspector General found that DHS lacks reliable Department-wide inventory data and had mismanaged a $3 billion Department-wide strategic sourcing contract to modernize its legacy radio systems. The Committee expects DHS to address this issue.

Funding Gaps

Section 302 also requires that DHS develop a plan to address funding gaps between requirements for major acquisition programs and planned resources. The 2013 Senate Report No. 112-169 required that the fiscal year 2014 FYHSP report include the funding plans for all major acquisitions. According to a 2014 GAO report, the 2014 FYHSP report accounted for a greater proportion of major acquisition programs than prior years' reports, but it did not account for all of the programs on DHS's major acquisition oversight list. The Committee expects that the FYHSP present funding plans for all major acquisitions that include the planning, maintenance, and personnel funding. The Committee also expects that the strategy as part of the FYHSP report identify how major acquisition programs' annual cost estimates compare to their funding plans and identify the associated funding gaps in order to better understand how anticipated resource constraints could affect DHS's largest investments.

Identification of Capabilities

Section 302 also requires DHS to identify the capabilities needed to support the acquisition or technologies to meet the needs of the Multiyear Acquisition Strategy and ways to leverage emerging technology trends and research and development trends within the public and private sectors. In particular, the Committee intends for DHS to prioritize innovative commercially-available alternatives to meet capability needs whenever possible. Section 302 also requires a focus on flexible solutions and ways to incentivize program managers and Department acquisition officials to save taxpayer dollars by preventing cost overruns, avoiding schedule delays, and achieving cost savings in major acquisition programs.

Acquisition Process and Communication with Industry

Further, section 302 requires DHS to assess how to improve the acquisition process to minimize cost overruns in requirements development, procurement announcements, requests for proposals, and protests of decisions and awards. It also requires DHS to identify ways to increase opportunities for communication with industry, small and disadvantaged businesses, intra-government entities, university centers of excellence, accredited certification and standards development organizations, and National Laboratories to ensure that DHS understands the market for technologies, products, and innovation that is available to meet its mission needs in order to better inform the requirements-setting process and before DHS engages in an acquisition.

In particular, the communications strategy should express how Federal guidance such as the Office of Federal Procurement Policy's "Myth Busters" will actually be ingrained into business process changes and trainings employees receive, so that the guidance will become a greater part of the culture of the acquisition workforce. The strategy should also make it clear to Congress and industry how goods and services are procured and provide greater clarity to all. DHS should also consider sending out press releases with contract notifications. DHS should look at mechanisms when making a contract award to do a same day release and notification.

Lowest-Price, Technically Acceptable

The Committee is concerned that a well-intentioned effort by DHS to lower costs frequently results in awarding contracts based on a lowest-price, technically acceptable (LPTA) standard without considering a best-value tradeoff approach. The Committee believes that awarding contracts based on an LPTA basis should not become the default position of DHS. Instead, careful consideration must be given to each contract to ensure that there is an appropriate weighing of cost versus other considerations.

Development of the Acquisition Workforce

Section 302 also requires a plan to ensure competition or the option of competition in major acquisition programs; a plan to address DHS acquisition workforce accountability and talent management; and the feasibility of conducting a pilot program to establish a Homeland Security Acquisition Workforce Development Fund. The Committee intends for DHS to develop innovative solutions to meet its needs through outlining DHS's specific acquisition work-

force needs and through assessing the options involved with a fund to incentivize DHS acquisition personnel to control cost growth, limit schedule delays, and ensure operational effectiveness.

DHS Contracting Officer's Representatives conduct oversight of DHS contracts and are responsible for monitoring contractor performance. The Committee therefore believes that steps should be taken to ensure that this particular cadre of the DHS workforce is strengthened. Section 302 instructs DHS to include in its plan, ways to strengthen the performance of its cadre of contracting officer's representatives by assessing the extent to which they are certified and trained; determining the most effective form of training and improving the training offered based on the final assessment.

Sec. 303. Acquisition reports.

Section 303 authorizes the USM to submit annually the Comprehensive Acquisition Status Report (CASR) along with quarterly updates no later than 45 days after the completion of each quarter. Section 303 also authorizes the USM to prepare a Quarterly Program Accountability Report (QPAR), which DHS is currently doing of its own initiative to perform program health assessments and to improve program execution and governance.

Furthermore, the Committee intends for the USM to also include in the QPAR additional information for major acquisition programs that DHS considers in the "sustainment phase" as defined by the DHS May 2013 "Acquisition Decision Memorandum." This 2013 Memorandum directed Component Acquisition Executives to "waive the acquisition documentation requirements for the 42 Level 1 and 2 acquisition programs" that were in the sustainment phase prior to 2008 when D 102-01 was issued.

The Committee is concerned about this decision, as it contradicts GAO findings for good program management. According to a 2013 GAO report, a knowledge deficit early in a program can cascade through design and production leaving decision makers with less knowledge to support decisions about when and how best to move into subsequent acquisition phases that commit more budgetary resources.

The Committee believes that DHS's approach in removing these 42 programs from these requirements sends the wrong message to program managers about accountability for failure. Furthermore, there are several programs widely known to have serious problems with operational effectiveness, cost overruns, or schedule delays that were included as in the "sustainment phase" in the 2013 Memorandum. These programs were allowed to proceed without the assurance that they had the appropriate levels of knowledge to be successful. As a result, DHS allowed taxpayer dollars to be put at high risk.

Thus, the Committee expects that the USM incorporate within each QPAR the following information on every major acquisition program for which five years or more have elapsed since final approval for system procurement and deployment was given, including (1) the Acquisition Program Baseline (APB) for the major acquisition program; (2) the current five-year life cycle cost for operation of the major acquisition program; (3) the life cycle cost projected at the time of procurement and deployment; (4) the projected five-year life cycle cost of commercially available alternatives capable of replicating the functionality or functionalities of the major acquisition

program, including major subsystems or capability Components that can be separated or integrated into the major acquisition program; and (5) DHS's assessment of ways it can reduce life cycle costs associated with these major acquisition programs, including through using already-existing innovative commercially-available solutions.

Sec. 304. Government Accountability Office review of multiyear acquisition strategy.

Section 304 requires that GAO conduct a review of the Multiyear Acquisition Strategy within 180 days after submission to Congress of the first Multiyear Acquisition Strategy to analyze the plan's effectiveness.

Sec. 305. Office of Inspector General report.

Section 305 requires that the DHS Inspector General conduct a review no later than 2 years following the submission of the Multiyear Acquisition Strategy report to Congress to determine whether DHS has complied with the strategy; adhered to the strategies set forth in the plan; and complied with the requirements to provide the Acquisition Review Board with a capability development plan for each major acquisition.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

* * * * * * *

TITLE VII—MANAGEMENT

* * * * * * *

Sec. 708. Chief Procurement Officer.
Sec. 709. Requirements to ensure greater accountability for acquisition programs.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * * * *

Subtitle D—Acquisitions

* * * * * * *

Sec. 836. Acquisition Review Board.
Sec. 837. Requirements to reduce duplication in acquisition programs.
Sec. 838. Congressional notification and other requirements for major acquisition program breach.
Sec. 839. Multiyear acquisition strategy.
Sec. 840. Acquisition reports.

* * * * * * *

SEC. 2. DEFINITIONS.

(a) IN GENERAL.— In this Act, the following definitions apply:

(1) * * *

(2)*(A)* The term "appropriate congressional committee" means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(B) The term "congressional homeland security committees" means—

(i) the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Appropriations of the House of Representatives and of the Senate, where appropriate.

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

(1) ACQUISITION.—The term "acquisition" has the meaning provided in section 131 of title 41, United States Code.

(2) ACQUISITION DECISION AUTHORITY.—The term "acquisition decision authority" means the authority, held by the Secretary acting through the Deputy Secretary or Under Secretary for Management—

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

(B) to review (including approving, halting, modifying, or cancelling) an acquisition program through the life cycle of the program;

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

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

(3) ACQUISITION DECISION EVENT.—The term "acquisition decision event", with respect to an investment or acquisition program, means a predetermined point within the acquisition phases of the investment or acquisition program at which the investment or acquisition program will undergo a review prior to commencement of the next phase.

(4) ACQUISITION DECISION MEMORANDUM.—The term "acquisition decision memorandum", with respect to an acquisition, means the official acquisition decision event record that includes a documented record of decisions, exit criteria, and assigned actions for the acquisition as determined by the person exercising acquisition decision authority for the acquisition.

(5) ACQUISITION PROGRAM BASELINE.—The term "acquisition program baseline", with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which must be met in order to accomplish the goals of the program.

(6) CAPABILITY DEVELOPMENT PLAN.—The term "capability development plan", with respect to a proposed acquisition, means the document that the Acquisition Review Board approves for the first acquisition decision event related to validating the need of a proposed acquisition.

(7) COMPONENT ACQUISITION EXECUTIVE.—The term "Component Acquisition Executive" means the senior acquisition official within a Component who is designated in writing by the Under Secretary for Management, in consultation with the Component head, with authority and responsibility for leading a process and staff to provide acquisition and program management oversight, policy, and guidance to ensure that statutory, regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management.

(8) LIFE CYCLE COST.—The term "life cycle cost", with respect to an acquisition program, means all costs associated with research, development, procurement, operation, integrated logistics support, and disposal under the program, including supporting infrastructure that plans, manages, and executes the program over its full life, and costs of common support items incurred as a result of the program.

(9) MAJOR ACQUISITION PROGRAM.—The term "major acquisition program" means a Department acquisition program that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2014 constant dollars) over its life cycle cost.

* * * * * * *

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) * * *

(2) [Procurement] *Acquisition and procurement*.

* * * * * * *

(d) ACQUISITION AND RELATED RESPONSIBILITIES.—

(1) IN GENERAL.—Notwithstanding section 1702(b) of title 41, United States Code, the Under Secretary for Management is the Chief Acquisition Officer of the Department. As Chief Acquisition Officer, the Under Secretary shall have the authority and perform the functions as specified in section 1702(b) of such title, and perform all other functions and responsibilities delegated by the Secretary or described in this subsection.

(2) DUTIES AND RESPONSIBILITIES.—In addition to the authority and functions specified in section 1702(b) of title 41, United States Code, the duties and responsibilities of the Under Secretary for Management related to acquisition include the following:

(A) Advising the Secretary regarding acquisition management activities, taking into account risks of failure to achieve cost, schedule, or performance parameters, to ensure that the Department achieves its mission through the adoption of widely accepted program management best practices and standards.

(B) Exercising the acquisition decision authority to approve, halt, modify (including the rescission of approvals of program milestones), or cancel major acquisition programs, unless the Under Secretary delegates the authority to a Component Acquisition Executive pursuant to paragraph (3).

(C) Establishing policies for acquisition that implement an approach that takes into account risks of failure to achieve cost, schedule, or performance parameters that all Components of the Department shall comply with, including outlining relevant authorities for program managers to effectively manage acquisition programs.

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

(E) Ensuring that the heads of Components and Component Acquisition Executives comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives.

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

(G) Distributing guidance throughout the Department to ensure that contractors involved in acquisitions, particularly companies that access the Department's information systems and technologies, adhere to internal cybersecurity policies established by the Department of Homeland Security.

(3) DELEGATION OF ACQUISITION DECISION AUTHORITY.—

(A) LEVEL 3 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for an acquisition program that has a life cycle cost estimate of less than $300,000,000.

(B) LEVEL 2 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for a major acquisition program that has a life cycle cost estimate of at least $300,000,000 but not more than $1,000,000,000 if all of the following requirements are met:

(i) The Component concerned possesses working policies, processes, and procedures that are consistent with Department-level acquisition policy.

(ii) The Component Acquisition Executive has adequate, experienced, dedicated program management

professional staff commensurate with the size of the delegated portfolio.

(iii) Each major acquisition program concerned has written documentation showing that it has a Department-approved acquisition program baseline and it is meeting agreed-upon cost, schedule, and performance thresholds.

(4) EXCLUDED PARTIES LIST SYSTEM CONSULTATION.—The Under Secretary for Management shall require that all Department contracting and procurement officials consult the Excluded Parties List System (or successor system) as maintained by the General Services Administration prior to awarding a contract or grant or entering into other transactions to ascertain whether the selected contractor is excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

(5) RELATIONSHIP TO UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.—Nothing in this subsection shall diminish the authority granted to the Under Secretary for Science and Technology under this Act. The Under Secretary for Management and the Under Secretary for Science and Technology shall cooperate in matters related to the coordination of acquisitions across the Department so that investments of the Directorate of Science and Technology can support current and future requirements of the Components.

SEC. 702. CHIEF FINANCIAL OFFICER.

(a) * * *

(b) PROGRAM ANALYSIS AND EVALUATION FUNCTION.—

(1) * * *

(2) RESPONSIBILITIES.—The Office shall perform the following functions:

(A) * * *

* * * * * * *

(J) Notwithstanding section 902 of title 31, United States Code, provide leadership over financial management policy and programs for the Department as they relate to the Department's acquisitions programs, in consultation with the Under Secretary for Management.

* * * * * * *

SEC. 703. CHIEF INFORMATION OFFICER.

(a) * * *

* * * * * * *

(c) ACQUISITION RESPONSIBILITIES.—Notwithstanding section 11315 of title 40, United States Code, the acquisition responsibilities of the Chief Information Officer, in consultation with the Under Secretary for Management, shall include the following:

(1) Serve as the lead technical authority for information technology programs and establish departmental information technology priorities, policies, processes, standards, guidelines, and procedures.

(2) Oversee the management of the Homeland Security Enterprise Architecture and ensure that, before each acquisition decision event, approved information technology acquisitions com-

ply with departmental information technology management processes, technical requirements, and the Homeland Security Enterprise Architecture, and in any case in which information technology acquisitions do not comply with Departmental management directives, make recommendations to the Acquisition Review Board regarding such noncompliance.

(3) Be responsible for providing recommendations to the Acquisition Review Board established in section 836 of this Act on information technology programs, and be responsible for developing information technology acquisition strategic guidance.

* * * * * * *

SEC. 708. CHIEF PROCUREMENT OFFICER.

(a) IN GENERAL.—There is a Chief Procurement Officer of the Department, who shall report directly to the Under Secretary for Management. The Chief Procurement Officer is the senior procurement executive for purposes of section 1702(c) of title 41, United States Code, and shall perform procurement functions as specified in such section. The Chief Procurement Officer also shall perform other functions and responsibilities set forth in this section and as may be assigned by the Under Secretary for Management.

(b) RESPONSIBILITIES.—The Chief Procurement Officer shall—

(1) exercise leadership and authority to the extent delegated by the Under Secretary for Management over the Department procurement function;

(2) issue acquisition regulations and policies;

(3) account for the integrity, performance, and oversight of Department procurement and contracting functions and be responsible for ensuring that a procurement's contracting strategy and plans are consistent with the intent and direction of the Acquisition Review Board established in section 836 of this Act;

(4) serve as the Department's business advisor and main liaison to industry on procurement-related issues by providing advice on industry engagement, acquisition policy, oversight of the procurement function, and development of the acquisition workforce;

(5) oversee a centralized certification and training program, in consultation with the Under Secretary for Management, for the entire Department acquisition workforce while using, to the greatest extent practicable, best practices and acquisitions training opportunities already in existence within the Federal Government, the private sector, or universities and colleges, as appropriate, and including training on how best to identify actions that warrant referrals for suspension or debarment;

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

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

(8) collect baseline data and establish performance measures on the impact of strategic sourcing initiatives on the private sector, including, in particular, small businesses; and

(9) ensure that a fair proportion (as defined pursuant to the Small Business Act (15 U.S.C. 631 et seq.)) of Federal contract and subcontract dollars are awarded to small businesses, maxi-

mize opportunities for small business participation, and ensure, to the extent practicable, small businesses that achieve qualified vendor status for security-related technologies are provided an opportunity to compete for contracts for such technology.

SEC. 709. REQUIREMENTS TO ENSURE GREATER ACCOUNTABILITY FOR ACQUISITION PROGRAMS.

(a) REQUIREMENT TO ESTABLISH MECHANISM.—Within the Management Directorate, the Under Secretary for Management shall establish a mechanism to prioritize improving the accountability, standardization, and transparency of major acquisition programs of the Department in order to increase opportunities for effectiveness and efficiencies and to serve as the central oversight function of all Department acquisition programs.

(b) RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—The Under Secretary for Management shall designate an Executive Director to oversee the requirement under subsection (a). The Executive Director shall report directly to the Under Secretary and shall carry out the following responsibilities:

(1) Monitor the performance of Department acquisition programs regularly between acquisition decision events to identify problems with cost, performance, or schedule that Components may need to address to prevent cost overruns, performance issues, or schedule delays.

(2) Assist the Chief Acquisition Officer in managing the Department's acquisition portfolio.

(3) Conduct oversight of individual acquisition programs to implement Department acquisition program policy, procedures, and guidance with a priority on ensuring the data it collects and maintains from its Components is accurate and reliable.

(4) Serve as the focal point within the Department for policy, process, and procedure regarding life cycle cost estimating and analysis.

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

(6) Advise the persons having acquisition decision authority in making acquisition decisions consistent with all applicable laws and in establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the Department.

(7) Engage in the strategic planning and performance evaluation process required under section 306 of title 5, United States Code, and sections 1105(a)(28), 1115, 1116, and 9703 of title 31, United States Code, by supporting the Chief Procurement Officer in developing strategies and specific plans for hiring, training, and professional development in order to rectify any deficiency within the Department's acquisition workforce.

(8) Oversee the Component Acquisition Executive structure to ensure it has sufficient capabilities and complies with Department policies.

(9) Develop standardized certification standards in consultation with the Component Acquisition Executives for all acquisition program managers.

(10) In the event that a program manager's certification or actions need review for purposes of promotion or removal, provide input, in consultation with the relevant Component Acquisition Executive, into the relevant program manager's performance evaluation, and report positive or negative experiences to the relevant certifying authority.

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

(12) Prepare the Department's Comprehensive Acquisition Status Report, as required by the Department of Homeland Security Appropriations Act, 2013 (division D of Public Law 113–6; 127 Stat. 343) and section 840 of this Act, and make such report available to congressional homeland security committees.

(13) Prepare the Department's Quarterly Program Accountability Report as required by section 840 of this Act, and make such report available to the congressional homeland security committees.

(c) RESPONSIBILITIES OF COMPONENTS.—Each head of a Component shall comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management. For each major acquisition program, each head of a Component shall—

(1) establish a complete life cycle cost estimate with supporting documentation, including an acquisition program baseline;

(2) verify each life cycle cost estimate against independent cost estimates, and reconcile any differences;

(3) complete a cost-benefit analysis with supporting documentation;

(4) develop and maintain a schedule that is consistent with scheduling best practices as identified by the Comptroller General of the United States, including, in appropriate cases, an integrated master schedule; and

(5) ensure that all acquisition program information provided by the Component is complete, accurate, timely, and valid.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * * * *

Subtitle D—Acquisitions

* * * * * * *

SEC. 836. ACQUISITION REVIEW BOARD.

(a) IN GENERAL.—The Secretary shall establish an Acquisition Review Board (in this section referred to as the "Board") to strengthen accountability and uniformity within the Department acquisition

review process, review major acquisition programs, and review the use of best practices.

(b) COMPOSITION.—The Deputy Secretary or Under Secretary for Management shall serve as chair of the Board. The Secretary shall also ensure participation by other relevant Department officials, including at least two Component heads or their designees, as permanent members of the Board.

(c) MEETINGS.—The Board shall meet every time a major acquisition program needs authorization to proceed from acquisition decision events through the acquisition life cycle and to consider any major acquisition program in breach as necessary. The Board may also be convened for non-major acquisitions that are deemed high-risk by the Executive Director referred to in section 709(b) of this Act. The Board shall also meet regularly for purposes of ensuring all acquisitions processes proceed in a timely fashion to achieve mission readiness.

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

(1) Determine whether a proposed acquisition has met the requirements of key phases of the acquisition life cycle framework and is able to proceed to the next phase and eventual full production and deployment.

(2) Oversee executable business strategy, resources, management, accountability, and alignment to strategic initiatives.

(3) Support the person with acquisition decision authority for an acquisition in determining the appropriate direction for the acquisition at key acquisition decision events.

(4) Conduct systematic reviews of acquisitions to ensure that they are progressing in compliance with the approved documents for their current acquisition phase.

(5) Validate the acquisition documents of each major acquisition program, including the acquisition program baseline, to ensure the reliability of underlying data.

(6) Ensure that practices are adopted and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the capability development plan, second acquisition decision event, including, at a minimum, the following practices:

(A) Department officials responsible for acquisition, budget, and cost estimating functions are provided with the appropriate opportunity to develop estimates and raise cost and schedule matters before performance objectives are established for capabilities when feasible.

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

(e) ACQUISITION PROGRAM BASELINE REPORT REQUIREMENT.—If the person exercising acquisition decision authority over a major acquisition program approves the program to proceed beyond the acquisition decision event requiring a capability development plan before it has a Department-approved acquisition program baseline, then the Under Secretary for Management shall create and approve an acquisition program baseline report on the decision, and the Secretary shall—

(1) within seven days after an acquisition decision memorandum is signed, notify in writing the congressional homeland security committees of such decision; and

(2) within 60 days after the acquisition decision memorandum is signed, submit a report to such committees stating the rationale for the decision and a plan of action to require an acquisition program baseline for the program.

(f) BEST PRACTICES DEFINED.—In this section, the term "best practices" has the meaning provided in section 4(b) of the DHS Acquisition Accountability and Efficiency Act.

SEC. 837. REQUIREMENTS TO REDUCE DUPLICATION IN ACQUISITION PROGRAMS.

(a) REQUIREMENT TO ESTABLISH POLICIES.—In an effort to reduce duplication and inefficiency for all Department investments, including major acquisition programs, the Deputy Secretary, in consultation with the Under Secretary for Management, shall establish Department-wide policies to integrate all phases of the investment life cycle and help the Department identify, validate, and prioritize standards for common Component requirements for major acquisition program requirements in order to increase opportunities for effectiveness and efficiencies. The policies shall also include strategic alternatives for developing and facilitating a Department Component-driven requirements process that includes oversight of a development test and evaluation capability; identification of priority gaps and overlaps in Department capability needs; and provision of feasible technical alternatives, including innovative commercially available alternatives, to meet capability needs.

(b) MECHANISMS TO CARRY OUT REQUIREMENT.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall coordinate the actions necessary to carry out subsection (a), using such mechanisms as considered necessary by the Secretary to help the Department reduce duplication and inefficiency for all Department investments, including major acquisition programs.

(c) COORDINATION.—In coordinating the actions necessary to carry out subsection (a), the Deputy Secretary shall consult with the Under Secretary for Management, Component Acquisition Executives, and any other Department officials, including the Under Secretary for Science and Technology or his designee, with specific knowledge of Department or Component acquisition capabilities to prevent unnecessary duplication of requirements.

(d) ADVISORS.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall seek and consider input within legal and ethical boundaries from members of Federal, State, local, and tribal governments, nonprofit organizations, and the private sector, as appropriate, on matters within their authority and expertise in carrying out the Department's mission.

(e) MEETINGS.—The Deputy Secretary, in consultation with the Under Secretary for Management, shall meet at least quarterly and communicate with Components often to ensure that Components do not overlap or duplicate spending or priorities on major investments and acquisition programs within their areas of responsibility.

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

(1) To review and validate the requirements documents of major investments and acquisition programs prior to acquisition decision events of the investments or programs.

(2) To ensure the requirements and scope of a major investment or acquisition program are stable, measurable, achievable, at an acceptable risk level, and match the resources planned to be available.

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

(A) to implement portfolio reviews to identify common mission requirements and crosscutting opportunities among Components to harmonize investments and requirements and prevent overlap and duplication among Components; and

(B) to the extent practicable, to standardize equipment purchases, streamline the acquisition process, improve efficiencies, and conduct best practices for strategic sourcing.

(4) To ensure program managers of major investments and acquisition programs conduct analyses, giving particular attention to factors such as cost, schedule, risk, performance, and operational efficiency in order to determine that programs work as intended within cost and budget expectations.

(5) To propose schedules for delivery of the operational capability needed to meet each Department investment and major acquisition program.

(g) BEST PRACTICES DEFINED.—In this section, the term "best practices" has the meaning provided in section 4(b) of the DHS Acquisition Accountability and Efficiency Act.

SEC. 838. CONGRESSIONAL NOTIFICATION AND OTHER REQUIREMENTS FOR MAJOR ACQUISITION PROGRAM BREACH.

(a) BREACH DEFINED.—The term "breach", with respect to a major acquisition program, means a failure to meet any cost, schedule, or performance parameter specified in the acquisition program baseline.

(b) REQUIREMENTS WITHIN DEPARTMENT IF BREACH OCCURS.—

(1) NOTIFICATIONS.—

(A) NOTIFICATION OF POTENTIAL BREACH.—If a major acquisition program has a potential for a future breach, as determined by the program manager for that program, the program manager shall notify the person exercising acquisition decision authority for the program.

(B) NOTIFICATION OF ACTUAL BREACH.—If an actual breach occurs in a major acquisition program, the program manager for that program shall notify the head of the Component concerned, the Component Acquisition Executive for the program, the Executive Director referred to in section 709(b) of this Act, the Under Secretary for Management, and the Deputy Secretary.

(C) NOTIFICATION TO SECRETARY.—If a major acquisition program has an actual breach with a cost overrun greater than 20 percent or a schedule delay greater than 12 months from the costs or schedule set forth in the acquisition program baseline for the program, the Secretary and the Inspector General of the Department shall be notified not

later than five business days after the actual breach is identified.

(2) REMEDIATION PLAN AND ROOT CAUSE ANALYSIS.—

(A) IN GENERAL.—In the case of an actual breach with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the acquisition program baseline, a remediation plan and root cause analysis is required, and the Under Secretary for Management or his designee shall establish a date for submission within the Department of a breach remediation plan and root cause analysis in accordance with this subsection.

(B) REMEDIATION PLAN.—The remediation plan required under this subsection shall be submitted in writing to the head of the Component concerned, the Executive Director referred to in section 709(b) of this Act, and the Under Secretary for Management. The plan shall—

(i) explain the circumstances of the breach;

(ii) provide prior cost estimating information;

(iii) propose corrective action to control cost growth, schedule delays, or performance issues;

(iv) in coordination with Component Acquisition Executive, discuss all options considered, including the estimated impact on cost, schedule, or performance of the program if no changes are made to current requirements, the estimated cost of the program if requirements are modified, and the extent to which funding from other programs will need to be reduced to cover the cost growth of the program; and

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

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

(i) Unrealistic performance expectations.

(ii) Unrealistic baseline estimates for cost or schedule or changes in program requirements.

(iii) Immature technologies or excessive manufacturing or integration risk.

(iv) Unanticipated design, engineering, manufacturing, or technology integration issues arising during program performance.

(v) Changes in procurement quantities.

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

(vii) Legislative, legal, or regulatory changes.

(viii) Inadequate program management personnel, including lack of training, credentials, certifications, or use of best practices.

(3) CORRECTION OF BREACH.—The Under Secretary for Management or his designee shall establish a date for submission within the Department of a program of corrective action that ensures that one of the following actions has occurred:

(A) The breach has been corrected and the program is again in compliance with the original acquisition program baseline parameters.

(B) A revised acquisition program baseline has been approved.

(C) The program has been halted or cancelled.

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

(1) NOTIFICATION TO CONGRESS.—If a notification is made under subsection (b)(1)(B) for a breach in a major acquisition program with a cost overrun greater than 15 percent or a schedule delay greater than 180 days from the costs or schedule set forth in the acquisition program baseline, or with an anticipated failure for any key performance threshold or parameter specified in the acquisition program baseline, the Under Secretary for Management shall notify the congressional homeland security committees of the breach in the next quarterly Comprehensive Acquisition Status Report after the Under Secretary for Management receives the notification from the program manager under subsection (b)(1)(B).

(2) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule set forth in the acquisition program baseline for a major acquisition program, the Under Secretary for Management shall include in the notification required in (c)(1) a written certification, with supporting explanation, that—

(A) the acquisition is essential to the accomplishment of the Department's mission;

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

(C) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

(D) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

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

(A) A copy of the remediation plan and the root cause analysis prepared under subsection (b)(2) for the program.

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

(d) ADDITIONAL ACTIONS IF BREACH OCCURS.—

(1) PROHIBITION ON OBLIGATION OF FUNDS.—During the 90-day period following submission under subsection (c)(3) of a remediation plan, root cause analysis, and statement of corrective

actions with respect to a major acquisition program, the Under Secretary for Management shall submit a certification described in paragraph (2) of this subsection to the congressional homeland security committees. If the Under Secretary for Management does not submit such certification by the end of such 90-day period, then funds appropriated to the major acquisition program shall not be obligated until the Under Secretary for Management submits such certification.

(2) CERTIFICATION.—For purposes of paragraph (1), the certification described in this paragraph is a certification that—

(A) the Department has adjusted or restructured the program in a manner that addresses the root cause or causes of the cost growth in the program; and

(B) the Department has conducted a thorough review of the breached program's acquisition decision event approvals and the current acquisition decision event approval for the breached program has been adjusted as necessary to account for the restructured program.

SEC. 839. MULTIYEAR ACQUISITION STRATEGY.

(a) MULTIYEAR ACQUISITION STRATEGY REQUIRED.—Not later than one year after the date of the enactment of this section, the Secretary shall submit to the appropriate homeland security committees a multiyear acquisition strategy to guide the overall direction of the acquisitions of the Department while allowing flexibility to deal with ever-changing threats and risks and to help industry better understand, plan, and align resources to meet the future acquisition needs of the Department. The strategy shall be updated and included in each Future Years Homeland Security Program required under section 874 of this Act.

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

(c) FORM OF STRATEGY.—The report shall be submitted in unclassified form but may include a classified annex for any sensitive or classified information if necessary. The Department also shall publish the plan in an unclassified format that is publicly available.

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

(1) PRIORITIZED LIST.—A systematic and integrated prioritized list developed by the Under Secretary for Management or his designee in coordination with all of the Component Acquisition Executives of Department major acquisition programs that Department and Component acquisition investments seek to address, that includes the expected security and economic benefit of the program or system and an analysis of how the security and economic benefit derived from the program or system will be measured.

(2) INVENTORY.—A plan to develop a reliable Department-wide inventory of investments and real property assets to help the Department plan, budget, schedule, and acquire upgrades of its systems and equipment and plan for the acquisition and management of future systems and equipment.

(3) FUNDING GAPS.—A plan to address funding gaps between funding requirements for major acquisition programs and known available resources including, to the maximum extent practicable, ways of leveraging best practices to identify and eliminate overpayment for items to prevent wasteful purchasing, achieve the greatest level of efficiency and cost savings by rationalizing purchases, aligning pricing for similar items, and utilizing purchase timing and economies of scale.

(4) IDENTIFICATION OF CAPABILITIES.—An identification of test, evaluation, modeling, and simulation capabilities that will be required to support the acquisition of the technologies to meet the needs of the plan and ways to leverage to the greatest extent possible the emerging technology trends and research and development trends within the public and private sectors and an identification of ways to ensure that the appropriate technology is acquired and integrated into the Department's operating doctrine and procured in ways that improve mission performance.

(5) FOCUS ON FLEXIBLE SOLUTIONS.—An assessment of ways the Department can improve its ability to test and acquire innovative solutions to allow needed incentives and protections for appropriate risk-taking in order to meet its acquisition needs with resiliency, agility, and responsiveness to assure the Nation's homeland security and facilitate trade.

(6) FOCUS ON INCENTIVES TO SAVE TAXPAYER DOLLARS.—An assessment of ways the Department can develop incentives for program managers and senior Department acquisition officials to prevent cost overruns, avoid schedule delays, and achieve cost savings in major acquisition programs.

(7) FOCUS ON ADDRESSING DELAYS AND BID PROTESTS.—An assessment of ways the Department can improve the acquisition process to minimize cost overruns in requirements development, procurement announcements, requests for proposals, evaluation of proposals, protests of decisions and awards and through the use of best practices as defined in section 4(b) of the DHS Acquisition Accountability and Efficiency Act and lessons learned by the Department and other Federal agencies.

(8) FOCUS ON IMPROVING OUTREACH.—An identification and assessment of ways to increase opportunities for communication and collaboration with industry, small and disadvantaged businesses, intra-government entities, university centers of excellence, accredited certification and standards development organizations, and national laboratories to ensure that the Department understands the market for technologies, products, and innovation that is available to meet its mission needs to inform the requirements-setting process and before engaging in an acquisition, including—

(A) methods designed especially to engage small and disadvantaged businesses and a cost-benefit analysis of the tradeoffs that small and disadvantaged businesses provide, barriers to entry for small and disadvantaged businesses, and unique requirements for small and disadvantaged businesses; and

(B) within the Department Vendor Communication Plan and Market Research Guide, instructions for interaction by

program managers with such entities to prevent misinterpretation of acquisition regulations and to permit freedom within legal and ethical boundaries for program managers to interact with such businesses with transparency.

(9) COMPETITION.—A plan regarding competition as described in subsection (e).

(10) ACQUISITION WORKFORCE.—A plan regarding the Department acquisition workforce as described in subsection (f).

(11) FEASIBILITY OF WORKFORCE DEVELOPMENT FUND PILOT PROGRAM.—An assessment of the feasibility of conducting a pilot program to establish an acquisition workforce development fund as described in subsection (g).

(e) COMPETITION PLAN.—The strategy shall also include a plan (referred to in subsection (d)(9)) that shall address actions to ensure competition, or the option of competition, for major acquisition programs. The plan may include assessments of the following measures in appropriate cases if such measures are cost effective:

(1) Competitive prototyping.

(2) Dual-sourcing.

(3) Unbundling of contracts.

(4) Funding of next-generation prototype systems or subsystems.

(5) Use of modular, open architectures to enable competition for upgrades.

(6) Acquisition of complete technical data packages.

(7) Periodic competitions for subsystem upgrades.

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

(9) Periodic system or program reviews to address long-term competitive effects of program decisions.

(f) ACQUISITION WORKFORCE PLAN.—

(1) ACQUISITION WORKFORCE.—The strategy shall also include a plan (referred to in subsection (d)(10)) to address Department acquisition workforce accountability and talent management that identifies the acquisition workforce needs of each Component performing acquisition functions and develops options for filling those needs with qualified individuals, including a cost-benefit analysis of contracting for acquisition assistance.

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

(A) improve the recruitment, hiring, training, and retention of Department acquisition workforce personnel, including contracting officer's representatives, in order to retain highly qualified individuals that have experience in the acquisition life cycle, complex procurements, and management of large programs;

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

(C) prevent duplication within Department acquisition workforce training and certification requirements through leveraging already-existing training within the Federal Government, academic community, or private industry;

(D) achieve integration and consistency with Government-wide training and accreditation standards, acquisition training tools, and training facilities;

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

(i) program management;

(ii) systems engineering;

(iii) procurement, including contracting;

(iv) test and evaluation;

(v) life cycle logistics;

(vi) cost estimating and program financial management; and

(vii) additional disciplines appropriate to Department mission needs;

(F) strengthen the performance of contracting officer's representatives (as defined in Subpart 1.602-2 and Subpart 2.101 of the Federal Acquisition Regulation), including by—

(i) assessing the extent to which contracting officer's representatives are certified and receive training that is appropriate;

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

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

(G) identify ways to increase training for relevant investigators and auditors to examine fraud in major acquisition programs, including identifying opportunities to leverage existing Government and private sector resources in coordination with the Inspector General of the Department.

(g) FEASIBILITY OF WORKFORCE DEVELOPMENT FUND PILOT PROGRAM.—The strategy shall also include an assessment (referred to in subsection (d)(11)) of the feasibility of conducting a pilot program to establish a Homeland Security Acquisition Workforce Development Fund (in this subsection referred to as the "Fund") to ensure the Department acquisition workforce has the capacity, in both personnel and skills, needed to properly perform its mission and ensure that the Department receives the best value for the expenditure of public resources. The assessment shall address the following:

(1) Ways to fund the Fund, including the use of direct appropriations, or the credit, transfer, or deposit of unobligated or unused funds from Department Components into the Fund to remain available for obligation in the fiscal year for which credited, transferred, or deposited and to remain available for successive fiscal years.

(2) Ways to reward the Department acquisition workforce and program managers for good program management in controlling cost growth, limiting schedule delays, and ensuring operational effectiveness through providing a percentage of the savings or general acquisition bonuses.

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

(A) Describe the costs and benefits associated with the use of direct appropriations or credit, transfer, or deposit of unobligated or unused funds to finance the Fund.

(B) Describe the manner and timing for applications for amounts in the Fund to be submitted.

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

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

(E) Detail measurable performance metrics to determine if the Fund is meeting the objective to improve the acquisition workforce and to achieve cost savings in acquisition management.

SEC. 840. ACQUISITION REPORTS.

(a) COMPREHENSIVE ACQUISITION STATUS REPORT.—

(1) IN GENERAL.—The Under Secretary for Management each year shall submit to the congressional homeland security committees, at the same time as the President's budget is submitted for a fiscal year under section 1105(a) of title 31, United States Code, a comprehensive acquisition status report. The report shall include the following:

(A) The information required under the heading "Office of the Under Secretary for Management" under Title I of division D of the Consolidated Appropriations Act, 2012 (Public Law 112-74) (as required under the Department of Homeland Security Appropriations Act, 2013 (Public Law 113–6).

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

(C) A listing of established Executive Steering Committees, which provide governance of a program or related set of programs and lower-tiered oversight, and support between acquisition decision events and Component reviews, including the mission and membership for each.

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

(A) A narrative description, including current gaps and shortfalls, the capabilities to be fielded, and the number of planned increments or units.

(B) Acquisition Review Board (or other board designated to review the acquisition) status of each acquisition, including the current acquisition phase, the date of the last review, and a listing of the required documents that have been reviewed with the dates reviewed or approved.

(C) The most current, approved acquisition program baseline (including project schedules and events).

(D) A comparison of the original acquisition program baseline, the current acquisition program baseline, and the current estimate.

(E) Whether or not an independent verification and validation has been implemented, with an explanation for the decision and a summary of any findings.

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

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

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

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

(b) QUARTERLY PROGRAM ACCOUNTABILITY REPORT.—The Under Secretary for Management shall prepare a quarterly program accountability report to meet the Department's mandate to perform program health assessments and improve program execution and governance. The report shall be submitted to the congressional homeland security committees.

* * * * * * *

Subtitle H—Miscellaneous Provisions

* * * * * * *

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) * * *

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall—

(1) * * *

(2) set forth the homeland security strategy of the Department, which shall be developed and updated as appropriate annually by the Secretary, that was used to develop program planning guidance for the Future Years Homeland Security Program; **[**and**]**

(3) include an explanation of how the resource allocations included in the Future Years Homeland Security Program correlate to the homeland security strategy set forth under paragraph (2)**[**.**]***; and*

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

* * * * * * *

ADDITIONAL VIEWS

ADDITIONAL VIEWS OF BENNIE G. THOMPSON, RANKING MEMBER, ON BEHALF OF COMMITTEE DEMOCRATS

Committee Democrats were pleased to support H.R. 4228, the "DHS Acquisition Accountability and Efficiency Act" (Act). While we agree with the vast majority of the language contained within the Report accompanying H.R. 4228 (Report), we would like to highlight a number of areas within the legislation that that were strengthened by Democrat input and Amendments that warrant further detail. Additionally, we would like to disassociate ourselves with some of the language contained in the Report.

BACKGROUND AND NEED FOR LEGISLATION

According to the Report, DHS "will spend at least $300 million on each program and take years to develop and procure them." Committee Democrats wish to point out that the $300 million figure is an estimate. Committee Democrats anticipate that the provisions in the underlying legislation putting controls and limitations in place, including the strengthening of the Acquisition Review Board, may reduce this estimated amount.

According to the Report, "[t]o date, DHS has lacked a strategy to guide the billions of dollars it spends on these major acquisition programs." Committee Democrats agree that a more strategic approach is needed to ensure taxpayer dollars are spent in the most efficient and effective manner. However, Committee Democrats disagree with the notion that "DHS has lacked a strategy." DHS has numerous acquisition and procurement strategies in place, including Management Directive 102, which forms the framework for the underlying legislation, a DHS Acquisitions Planning Guide released by the Office of the Chief Procurement Officer, the Chief Procurement Office Strategic Plan, the Integrated Investment Life Cycle, which has aided the Department in narrowing the scope of its inclusion on the Government Accountability Office "High Risk List." Committee Democrats note that while DHS has not always been successful at implementing the numerous strategies that are in place, strategies do exist.

TITLE I—ACQUISITION AUTHORITIES

Section 101—Acquisition authorities for Under Secretary for Management

During the Full Committee Markup, the Committee adopted an amendment offered by Rep. Yvette Clarke (D-NY) related to cyber hygiene. Rep. Clarke's amendment requires the Under Secretary for Management (USM) to distribute guidance throughout DHS to

ensure that contractors involved in acquisitions adhere to internal cybersecurity policies established by DHS. Every day, numerous DHS contractors interface with DHS' networks and access its information systems and technologies. According to DHS, 96% of cyber breaches are avoidable through simple or intermediate controls and almost 97% of cyber events could have been prevented or damages mitigated, if enterprises would simply use good cyber hygiene.

At the Full Committee Markup, amendments were also adopted that were offered by Rep. Bennie G. Thompson (D-MS) that related to DHS' management of its suspension and debarment program. Pursuant to his amendments, Section 101 now requires that DHS contracting and procurement officials consult the U.S. General Services Administration's (GSA) Excluded Parties List System, or any successor system, prior to awarding a contract or other Federal funds to ensure that the recipient is eligible to receive a Federal contract or Federal financial and nonfinancial assistance and benefits. Committee Democrats believe that requiring DHS to make certain that it does not award contracts to individuals or entities that have been suspended or debarred can help prevent potential risks associated with such awards and to ensure that its operations are in compliance with the Federal Acquisition Regulation.

Section 103—Acquisition authorities for Chief Information Officer

The Committee Report states that it is the Committee's view that the Chief Information Officer (CIO) should consider the advantages of already-existing innovative commercial solutions that may have the ability to meet U.S. homeland security mission needs while providing solutions for lower costs. While Democrat Members believe that there are many instances where commercially-available solutions may prove to be the appropriate course, it is the view of Committee Democrats that the CIO should weigh all appropriate options and determine which approach is most responsive to the Department's operational needs.

Section 104—Chief Procurement Officer

During the Full Committee markup, an amendment offered by Ranking Member Thompson (D-MS) was adopted and included in Section 104. As a result of this amendment, the certification and training program overseen by the DHS Chief Procurement Officer (CPO) must also include training on how best to identify actions that warrant referrals for suspension or debarment. This amendment is consistent with Government Accountably Office and the Office of Management and Budget guidance that Federal agencies improve training in this area to better equip contracting officials with the knowledge they need to protect the Federal Government's interest.

This section also incorporates Democrat language, championed by the Ranking Member of the Subcommittee on Oversight and Management Efficiency Rep. Ron Barber (D-AZ), that strengthens the role of small businesses in DHS contracting. I am disappointed with the incomplete characterization of the Department's record when it comes to contracting with small businesses. According to the Report, DHS "exceeds the U.S. Government-wide goal of 31.75 percent for contracts awarded to Small Business and Small and

Disadvantaged Business." However, this information is deceptive and obscures the true reality of whether DHS components are meeting Federal small business goals. For example, the Transportation Security Administration (TSA) has established 23.0 percent as its goal for prime small business contracting; however, it is current contracting at 16.2 percent. Similarly, the Federal Emergency Management Agency utilizes the DHS-wide goal of 32.0 percent as its own standard; yet, its current percentage is 24.8 percent, far below both its own and the DHS-wide goal. Committee Democrats commends DHS and those Components that meet or exceed its established goals and congratulates DHS on its agency-wide Scorecard grade. At the same time, Committee Democrats want to emphasize that established goals should be met or exceeded across all components.

As a result of language offered by Committee Democrats that was incorporated into the Act, Section 104 requires the CPO to follow small business requirements established in the Small Business Act; take efforts to ensure that small businesses are not negatively impacted by strategic sourcing; and instructs DHS to maximize opportunities for small businesses, as required by law.

Finally, as a result of an amendment offered by Ranking Member Thompson and adopted at the Full Committee Markup, this section seeks to provide opportunities to small businesses that succeed in completing the Department's process for becoming a qualified vendor for a security-related technology, thus increasing competition in the market. Representatives from TSA have testified that its small business challenges are attributable to the high cost associated with being able to endure the testing and evaluation that occurs on security-related technologies the agency intends to procure.

TITLE II—ACQUISITION PROGRAM MANAGEMENT DISCIPLINE

Section 201—Acquisition Review Board

On April 17, 2014, the Government Accountability Office (GAO) released a report regarding homeland security acquisitions. While Committee Democrats were pleased with GAO's oversight and releasing reports on DHS acquisitions matters, this report did not; however, inform the basis of this legislation because it was released after the Full Committee Markup. As a result, Democrats do not support the inclusion of references to the "2014 GAO report" as a basis for the underlying legislation. While Committee Democrats will pursue the findings contained within the report and whether DHS has adequately addressed the recommendations, we cannot assert that we intend for the Acquisition Review Board (ARB) to make affordability "trade-offs" without first determining through oversight, which has not yet occurred, whether this is the best course of action.

Section 204—Excluded party list system waivers

As part of the suspension and debarment process, the U.S. General Services Administration maintains a system for identifying suspended and debarred individuals and businesses. The purpose of this list—which must be consulted before the awarding of a contract or other funds—is to protect the Government from doing busi-

ness with bad actors. Prior to issuing an award, contracting officers are required to consult the system to verify that a vendor is eligible to do business with the Government. However, contracting officers also have the ability to issue a waiver that allows the individual or business to receive a contract despite being suspended or debarred. According to the Federal Acquisition Regulation, in an effort to protect the Government, such a waiver should only be issued if a "compelling reason" exists. To ensure that the exercise of this waiver authority is responsible and appropriate, Rep. Sheila Jackson-Lee (D-TX) offered an amendment that was adopted by the Full Committee to Section 204 that requires that the Secretary provide notification to the congressional homeland security committees within five days after issuance of a waiver for the requirement that an agency not engage in business with a contractor listed in the Excluded Party List System, and an explanation for that waiver. Committee Democrats believe that this additional layer of Congressional scrutiny of the decision to waive the exclusion should bring greater accountability to DHS' contracting process and guard against overruns and other contract breaches.

Section 205—Inspector General oversight of suspension and debarment

Committee Democrats believe that failing to suspend or debar poorly performing contractors in addition to awarding contracts to those that have defrauded the government, violated laws, or committed other misconduct undermines public confidence and puts scarce homeland security dollars at risk and as a result Congressional oversight of this process is necessary. Moreover, the vast majority of DHS contracts are awarded in an effort to carry out the homeland security mission; therefore if this process lacks integrity, it has the potential to impact our Nation's security. Committee Democrats also believes that while there is a need for DHS to implement a robust suspension and debarment program, this process should be consistently applied, among all business concerns, including large, small, minority, veteran-owned, disadvantaged and woman-owned businesses. As a result, Rep. Ron Barber (D-AZ) introduced an amendment that was adopted at Full Committee that resulted in Section 204 providing that the DHS Inspector General may audit grant and procurement award decisions to ensure entities that are suspended or debarred from receiving Federal funds are not improperly receiving those awards. Rep. Barber's adopted amendment also required that the Inspector General review the Department's suspension and debarment program to assess whether suspension and debarment criteria is disproportionately impacts small, minority, veteran-owned, women-owned or disadvantaged businesses that contract with DHS.

TITLE III—ACQUISITION PROGRAM MANAGEMENT ACCOUNTABILITY AND TRANSPARENCY

Development of the Acquisition Workforce

DHS Contracting Officer's Representatives (CORs) conduct oversight of DHS contracts and are primarily responsible for monitoring contractor performance. It is the responsibility of this aspect

of the workforce to detect and address when breaches occur and poor performance. Committee Democrats believe that steps should be taken to ensure that this particular cadre of the DHS workforce is strengthened. To that end, Rep. Donald Payne (D-NJ) offered an amendment that was adopted during the Subcommittee on Oversight and Management Efficiency Markup of H.R. 4228 that was incorporated into the Amendment in the Nature of the Substitute that was offered by Rep. Jeff Duncan (R-SC) at Full Committee. Pursuant to Rep. Payne's amendment, Section 302 contains provisions that strengthen the DHS CORs workforce. According to the DHS Inspector General, many major acquisitions fail due to inadequate contractor oversight. Furthermore, the Office of Management and Budget has found that CORs are increasingly being asked to manage high-value, complex contracts that involve varying degrees of risk; however, many are not trained and developed appropriately. As a result of Rep. Payne's amendment, Section 302 seeks to address this challenge by requiring DHS to provide particular emphasis on CORs in its efforts to recruit, hire, train and retain an effective acquisition and procurement workforce. This section also instructs DHS to include in its plan, ways to strengthen the performance of its cadre of contracting officer's representatives by assessing the extent to which they are certified and trained; determining the most effective form of training and improving the training offered based on the final assessment.

Section 303—Acquisition reports

Committee Democrats are looking forward to receiving the Quarterly Program Accountability Report that the USM is authorized to submit to pursuant to Section 303. Moreover, Committee Democrats agree with the consternation expressed in the Report with the DHS May 2013 Acquisition Decision Memorandum that allows Component Acquisition Executive to waive acquisition documentation for 42 Level I and Level II acquisition programs that were in the sustainment phase prior to 2008. While Committee Democrats disagree with that decision, we do not agree that the waiver requirement bears any relation to the creation of a knowledge deficit, as indicate by the Report. Upon information received from DHS, the decision to grant this waiver authority was an attempt to reduce the large number of programs reviewed by the Acquisitions Review Board to avoid more comprehensive and focused review on more recent and prospective acquisitions. DHS thus used 2008 as the cutoff date for ARB requirements. Unfortunately, this decision removed from review some major question programs that were worthy of closer scrutiny. Therefore, Committee Democrats associate themselves, in part, with the criticism associated with this decision but do not agree that this decision was in contradiction with the referenced 2013 GAO report.

BENNIE G. THOMPSON.

○