

115TH CONGRESS  
1ST SESSION

# H. R. 1294

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## AN ACT

To amend the Homeland Security Act of 2002 to provide for congressional notification regarding major acquisition program breaches, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Reducing DHS Acqui-  
3 sition Cost Growth Act”.

4 **SEC. 2. CONGRESSIONAL NOTIFICATION FOR MAJOR AC-**  
5 **QUISITION PROGRAMS.**

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

10 **“SEC. 836. CONGRESSIONAL NOTIFICATION AND OTHER RE-**  
11 **QUIREMENTS FOR MAJOR ACQUISITION PRO-**  
12 **GRAM BREACH.**

13 “(a) REQUIREMENTS WITHIN DEPARTMENT IN  
14 EVENT OF BREACH.—

15 “(1) NOTIFICATIONS.—

16 “(A) NOTIFICATION OF BREACH.—If a  
17 breach occurs in a major acquisition program,  
18 the program manager for such program shall  
19 notify the Component Acquisition Executive for  
20 such program, the head of the component con-  
21 cerned, the Executive Director of the Program  
22 Accountability and Risk Management division,  
23 the Under Secretary for Management, and the  
24 Deputy Secretary not later than 30 calendar  
25 days after such breach is identified.

1           “(B) NOTIFICATION TO SECRETARY.—If a  
2           breach occurs in a major acquisition program  
3           and such breach results in a cost overrun great-  
4           er than 15 percent, a schedule delay greater  
5           than 180 days, or a failure to meet any of the  
6           performance thresholds from the cost, schedule,  
7           or performance parameters specified in the  
8           most recently approved acquisition program  
9           baseline for such program, the Component Ac-  
10          quisition Executive for such program shall no-  
11          tify the Secretary and the Inspector General of  
12          the Department not later than five business  
13          days after the Component Acquisition Executive  
14          for such program, the head of the component  
15          concerned, the Executive Director of the Pro-  
16          gram Accountability and Risk Management Di-  
17          vision, the Under Secretary for Management,  
18          and the Deputy Secretary are notified of the  
19          breach pursuant to subparagraph (A).

20          “(2) REMEDIATION PLAN AND ROOT CAUSE  
21          ANALYSIS.—

22                 “(A) IN GENERAL.—If a breach occurs in  
23                 a major acquisition program, the program man-  
24                 ager for such program shall submit to the head  
25                 of the component concerned, the Executive Di-

1 rector of the Program Accountability and Risk  
2 Management division, and the Under Secretary  
3 for Management in writing a remediation plan  
4 and root cause analysis relating to such breach  
5 and program. Such plan and analysis shall be  
6 submitted at a date established at the discretion  
7 of the Under Secretary for Management.

8 “(B) REMEDIATION PLAN.—The remedi-  
9 ation plan required under this subparagraph  
10 (A) shall—

11 “(i) explain the circumstances of the  
12 breach at issue;

13 “(ii) provide prior cost estimating in-  
14 formation;

15 “(iii) include a root cause analysis  
16 that determines the underlying cause or  
17 causes of shortcomings in cost, schedule,  
18 or performance of the major acquisition  
19 program with respect to which such breach  
20 has occurred, including the role, if any,  
21 of—

22 “(I) unrealistic performance ex-  
23 pectations;

1           “(II) unrealistic baseline esti-  
2           mates for cost or schedule or changes  
3           in program requirements;

4           “(III) immature technologies or  
5           excessive manufacturing or integra-  
6           tion risk;

7           “(IV) unanticipated design, engi-  
8           neering, manufacturing, or technology  
9           integration issues arising during pro-  
10          gram performance;

11          “(V) changes to the scope of such  
12          program;

13          “(VI) inadequate program fund-  
14          ing or changes in planned out-year  
15          funding from one 5-year funding plan  
16          to the next 5-year funding plan as  
17          outlined in the Future Years Home-  
18          land Security Program required under  
19          section 874;

20          “(VII) legislative, legal, or regu-  
21          latory changes; or

22          “(VIII) inadequate program  
23          management personnel, including lack  
24          of sufficient number of staff, training,

1                   credentials, certifications, or use of  
2                   best practices;

3                   “(iv) propose corrective action to ad-  
4                   dress cost growth, schedule delays, or per-  
5                   formance issues;

6                   “(v) explain the rationale for why a  
7                   proposed corrective action is recommended;  
8                   and

9                   “(vi) in coordination with the Compo-  
10                  nent Acquisition Executive for such pro-  
11                  gram, discuss all options considered, in-  
12                  cluding the estimated impact on cost,  
13                  schedule, or performance of such program  
14                  if no changes are made to current require-  
15                  ments, the estimated cost of such program  
16                  if requirements are modified, and the ex-  
17                  tent to which funding from other programs  
18                  will need to be reduced to cover the cost  
19                  growth of such program.

20                  “(3) REVIEW OF CORRECTIVE ACTIONS.—

21                  “(A) IN GENERAL.—The Under Secretary  
22                  for Management shall review the remediation  
23                  plan required under paragraph (2). The Under  
24                  Secretary may approve such plan or provide an  
25                  alternative proposed corrective action within 30

1 days of the submission of such plan under such  
2 paragraph.

3 “(B) SUBMISSION TO CONGRESS.—Not  
4 later than 30 days after the review required  
5 under subparagraph (A) is completed, the  
6 Under Secretary for Management shall submit  
7 to the congressional homeland security commit-  
8 tees the following:

9 “(i) A copy of the remediation plan  
10 and the root cause analysis required under  
11 paragraph (2).

12 “(ii) A statement describing the cor-  
13 rective action or actions that have occurred  
14 pursuant to paragraph (2)(b)(iv) for the  
15 major acquisition program at issue, with a  
16 justification for such action or actions.

17 “(b) REQUIREMENTS RELATING TO CONGRESSIONAL  
18 NOTIFICATION IF BREACH OCCURS.—

19 “(1) NOTIFICATION TO CONGRESS.—If a notifi-  
20 cation to the Secretary is made under subsection  
21 (a)(1)(B) relating to a breach in a major acquisition  
22 program, the Under Secretary for Management shall  
23 notify the congressional homeland security commit-  
24 tees of such breach in the next quarterly Com-  
25 prehensive Acquisition Status Report, as required by

1 title I of division D of the Consolidated Appropria-  
2 tions Act, 2016, (Public Law 114–113) following re-  
3 ceipt by the Under Secretary of notification under  
4 such subsection.

5 “(2) SIGNIFICANT VARIANCES IN COSTS OR  
6 SCHEDULE.—If a likely cost overrun is greater than  
7 20 percent or a likely delay is greater than 12  
8 months from the costs and schedule specified in the  
9 acquisition program baseline for a major acquisition  
10 program, the Under Secretary for Management shall  
11 include in the notification required in paragraph (1)  
12 a written certification, with supporting explanation,  
13 that—

14 “(A) such program is essential to the ac-  
15 complishment of the Department’s mission;

16 “(B) there are no alternatives to the capa-  
17 bility or asset provided by such program that  
18 will provide equal or greater capability in both  
19 a more cost-effective and timely manner;

20 “(C) the new acquisition schedule and esti-  
21 mates for total acquisition cost are reasonable;  
22 and

23 “(D) the management structure for such  
24 program is adequate to manage and control  
25 cost, schedule, and performance.

1 “(c) DEFINITIONS.—In this section:

2 “(1) ACQUISITION.—The term ‘acquisition’ has  
3 the meaning given such term in section 131 of title  
4 41, United States Code.

5 “(2) ACQUISITION PROGRAM.—The term ‘acqui-  
6 sition program’ means the process by which the De-  
7 partment acquires, with any appropriated amounts,  
8 by contract for purchase or lease, property or serv-  
9 ices (including construction) that support the mis-  
10 sions and goals of the Department.

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

18 “(4) BEST PRACTICES.—The term ‘best prac-  
19 tices’, with respect to acquisition, means a knowl-  
20 edge-based approach to capability development that  
21 includes—

22 “(A) identifying and validating needs;

23 “(B) assessing alternatives to select the  
24 most appropriate solution;

1           “(C) clearly establishing well-defined re-  
2           quirements;

3           “(D) developing realistic cost assessments  
4           and schedules;

5           “(E) securing stable funding that matches  
6           resources to requirements;

7           “(F) demonstrating technology, design,  
8           and manufacturing maturity;

9           “(G) using milestones and exit criteria or  
10          specific accomplishments that demonstrate  
11          progress;

12          “(H) adopting and executing standardized  
13          processes with known success across programs;

14          “(I) establishing an adequate workforce  
15          that is qualified and sufficient to perform nec-  
16          essary functions; and

17          “(J) integrating the capabilities described  
18          in subparagraphs (A) through (I) into the De-  
19          partment’s mission and business operations.

20          “(5) BREACH.—The term ‘breach’, with respect  
21          to a major acquisition program, means a failure to  
22          meet any cost, schedule, or performance threshold  
23          specified in the most recently approved acquisition  
24          program baseline.

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

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

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

11           “(7) COMPONENT ACQUISITION EXECUTIVE.—  
12 The term ‘Component Acquisition Executive’ means  
13 the senior acquisition official within a component  
14 who is designated in writing by the Under Secretary  
15 for Management, in consultation with the component  
16 head, with authority and responsibility for leading a  
17 process and staff to provide acquisition and program  
18 management oversight, policy, and guidance to en-  
19 sure that statutory, regulatory, and higher level pol-  
20 icy requirements are fulfilled, including compliance  
21 with Federal law, the Federal Acquisition Regula-  
22 tion, and Department acquisition management direc-  
23 tives established by the Under Secretary for Man-  
24 agement.





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