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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reducing DHS Acquisition Cost Growth Act”.
SEC. 2. CONGRESSIONAL NOTIFICATION FOR MAJOR 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 amended by adding at the end the following:

“SEC. 836. CONGRESSIONAL NOTIFICATION AND OTHER REQUIREMENTS FOR MAJOR ACQUISITION PROGRAM BREACH.

“(a) DEFINITIONS.—In this section:

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

“(2) ACQUISITION PROGRAM.—The term ‘acquisition program’ means the process by which the Department acquires, with any appropriated amounts, by contract for purchase or lease, property or services (including construction) that support the missions and goals of the Department.

“(3) 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 shall be met in order to accomplish the goals of the program.
“(4) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ has the meaning given the term in section 226(a).

“(5) BEST PRACTICES.—The term ‘best practices’, with respect to acquisition, means a knowledge-based approach to capability development that includes—

“(A) identifying and validating needs;

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

“(C) clearly establishing well-defined requirements;

“(D) developing realistic cost assessments and schedules;

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

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

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

“(H) adopting and executing standardized processes with known success across programs;
“(I) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

“(J) integrating the capabilities described in subparagraphs (A) through (I) into the mission and business operations of the Department.

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

“(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 direc-
atives established by the Under Secretary for Management.

“(8) MAJOR ACQUISITION PROGRAM.—The term ‘major acquisition program’ means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2017 constant dollars) over the life cycle cost of the program.

“(b) REQUIREMENTS WITHIN DEPARTMENT IN EVENT OF BREACH.—

“(1) NOTIFICATIONS.—

“(A) NOTIFICATION OF BREACH.—If a breach occurs in a major acquisition program, the program manager for the program shall notify the Component Acquisition Executive for the program, the head of the component concerned, the Executive Director of the Program Accountability and Risk Management division, the Under Secretary for Management, and the Deputy Secretary not later than 30 calendar days after the date on which the breach is identified.

“(B) NOTIFICATION TO SECRETARY.—If a breach occurs in a major acquisition program
and the breach results in a cost overrun greater
than 15 percent, a schedule delay greater than
180 days, or a failure to meet any of the per-
formance thresholds from the cost, schedule, or
performance parameters specified in the most
recently approved acquisition program baseline
for the program, the Component Acquisition
Executive for the program shall notify the Sec-
etary and the Inspector General of the Depart-
ment not later than 5 business days after the
date on which the Component Acquisition Exec-
utive for the program, the head of the compo-
nent concerned, the Executive Director of the
Program Accountability and Risk Management
Division, the Under Secretary for Management,
and the Deputy Secretary are notified of the
breach under subparagraph (A).

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

“(A) IN GENERAL.—If a breach occurs in
a major acquisition program, the program man-
ager for the program shall submit in writing to
the head of the component concerned, the Exec-
utive Director of the Program Accountability
and Risk Management division, and the Under
Secretary for Management, at a date established by the Under Secretary for Management, a remediation plan and root cause analysis relating to the breach and program.

"(B) REMEDIATION PLAN.—The remediation plan required under subparagraph (A) shall—

"(i) explain the circumstances of the breach at issue;

"(ii) provide prior cost estimating information;

"(iii) include a root cause analysis that determines the underlying cause or causes of shortcomings in cost, schedule, or performance of the major acquisition program with respect to which the breach has occurred, including the role, if any, of—

"(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 to the scope of the program;

“(VI) inadequate program funding or changes in planned out-year funding from one 5-year funding plan to the next 5-year funding plan as outlined in the Future Years Homeland Security Program required under section 874;

“(VII) legislative, legal, or regulatory changes; or

“(VIII) inadequate program management personnel, including lack of sufficient number of staff, training, credentials, certifications, or use of best practices;
“(iv) propose corrective action to address cost growth, schedule delays, or performance issues;

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

“(vi) in coordination with the Component Acquisition Executive for the program, discuss all options considered, including—

“(I) the estimated impact on cost, schedule, or performance of the program if no changes are made to current requirements;

“(II) the estimated cost of the program if requirements are modified; and

“(III) the extent to which funding from other programs will need to be reduced to cover the cost growth of the program.

“(3) REVIEW OF CORRECTIVE ACTIONS.—

“(A) IN GENERAL.—The Under Secretary for Management—
“(i) shall review each remediation plan required under paragraph (2); and

“(ii) not later than 30 days after submission of a remediation plan under paragraph (2), may approve the plan or provide an alternative proposed corrective action.

“(B) Submission to Congress.—Not later than 30 days after the date on which the Under Secretary for Management completes a review of a remediation plan under subparagraph (A), the Under Secretary for Management shall submit to the appropriate committees of Congress—

“(i) a copy of the remediation plan;

and

“(ii) a statement describing the corrective action or actions that have occurred pursuant to paragraph (2)(B)(iv) for the major acquisition program at issue, with a justification for each action.

“(c) Requirements Relating to Congressional Notification if Breach Occurs.—

“(1) Notification to Congress.—If a notification to the Secretary is made under subsection (b)(1)(B) relating to a breach in a major acquisition
program, the Under Secretary for Management shall notify the appropriate committees of Congress of the breach in the next quarterly Comprehensive Acquisition Status Report, as required in the matter under the heading ‘OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT’ in title I of division F of the Consolidated Appropriations Act, 2016 (Public Law 114–113; 129 Stat. 2493), after receipt by the Under Secretary for Management of notification under that subsection.

“(2) SIGNIFICANT 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 specified in the acquisition program baseline for a major acquisition program, the Under Secretary for Management shall include in the notification required in paragraph (1) a written certification, with supporting explanation, that—

“(A) the program is essential to the accomplishment of the mission of the Department;

“(B) there are no alternatives to the capability or asset provided by the program that will
provide equal or greater capability in a more
cost-effective and timely manner;

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

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

(b) CLERICAL AMENDMENT.—The table of contents
in section 1(b) of the Homeland Security Act of 2002
(Public Law 107–296; 116 Stat. 2135) is amended by in-
serting after the item relating to section 835 the following:

“Sec. 836. Congressional notification and other requirements for major acquisi-
tion program breach.”. 