

1 **Subtitle C—National Emergency**
2 **Preparedness Enhancement**

3 **SEC. 151. SHORT TITLE.**

4 This subtitle may be cited as the “National Emer-
5 gency Preparedness Enhancement Act of 2002”.

6 **SEC. 152. PREPAREDNESS INFORMATION AND EDUCATION.**

7 (a) **ESTABLISHMENT OF CLEARINGHOUSE.**—There is
8 established in the Department a National Clearinghouse
9 on Emergency Preparedness (referred to in this section
10 as the “Clearinghouse”). The Clearinghouse shall be head-
11 ed by a Director.

12 (b) **CONSULTATION.**—The Clearinghouse shall con-
13 sult with such heads of agencies, such task forces ap-
14 pointed by Federal officers or employees, and such rep-
15 resentatives of the private sector, as appropriate, to collect
16 information on emergency preparedness, including infor-
17 mation relevant to the Strategy.

18 (c) **DUTIES.**—

19 (1) **DISSEMINATION OF INFORMATION.**—The
20 Clearinghouse shall ensure efficient dissemination of
21 accurate emergency preparedness information.

22 (2) **CENTER.**—The Clearinghouse shall estab-
23 lish a one-stop center for emergency preparedness
24 information, which shall include a website, with links
25 to other relevant Federal websites, a telephone num-

1 ber, and staff, through which information shall be
2 made available on—

3 (A) ways in which States, political subdivi-
4 sions, and private entities can access Federal
5 grants;

6 (B) emergency preparedness education and
7 awareness tools that businesses, schools, and
8 the general public can use; and

9 (C) other information as appropriate.

10 (3) PUBLIC AWARENESS CAMPAIGN.—The
11 Clearinghouse shall develop a public awareness cam-
12 paign. The campaign shall be ongoing, and shall in-
13 clude an annual theme to be implemented during the
14 National Emergency Preparedness Week established
15 under section 154. The Clearinghouse shall work
16 with heads of agencies to coordinate public service
17 announcements and other information-sharing tools
18 utilizing a wide range of media.

19 (4) BEST PRACTICES INFORMATION.—The
20 Clearinghouse shall compile and disseminate infor-
21 mation on best practices for emergency preparedness
22 identified by the Secretary and the heads of other
23 agencies.

1 **SEC. 153. PILOT PROGRAM.**

2 (a) EMERGENCY PREPAREDNESS ENHANCEMENT
3 PILOT PROGRAM.—The Department shall award grants to
4 private entities to pay for the Federal share of the cost
5 of improving emergency preparedness, and educating em-
6 ployees and other individuals using the entities' facilities
7 about emergency preparedness.

8 (b) USE OF FUNDS.—An entity that receives a grant
9 under this subsection may use the funds made available
10 through the grant to—

11 (1) develop evacuation plans and drills;
12 (2) plan additional or improved security meas-
13 ures, with an emphasis on innovative technologies or
14 practices;

15 (3) deploy innovative emergency preparedness
16 technologies; or

17 (4) educate employees and customers about the
18 development and planning activities described in
19 paragraphs (1) and (2) in innovative ways.

20 (c) FEDERAL SHARE.—The Federal share of the cost
21 described in subsection (a) shall be 50 percent, up to a
22 maximum of \$250,000 per grant recipient.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated \$5,000,000 for each of
25 fiscal years 2003 through 2005 to carry out this section.

1 **SEC. 154. DESIGNATION OF NATIONAL EMERGENCY PRE-**
2 **PAREDNESS WEEK.**

3 (a) NATIONAL WEEK.—

4 (1) DESIGNATION.—Each week that includes
5 September 11 is “National Emergency Preparedness
6 Week”.

7 (2) PROCLAMATION.—The President is re-
8 quested every year to issue a proclamation calling on
9 the people of the United States (including State and
10 local governments and the private sector) to observe
11 the week with appropriate activities and programs.

12 (b) FEDERAL AGENCY ACTIVITIES.—In conjunction
13 with National Emergency Preparedness Week, the head
14 of each agency, as appropriate, shall coordinate with the
15 Department to inform and educate the private sector and
16 the general public about emergency preparedness activi-
17 ties, resources, and tools, giving a high priority to emer-
18 gency preparedness efforts designed to address terrorist
19 attacks.

20 **Subtitle D—Miscellaneous**
21 **Provisions**

22 **SEC. 161. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS**
23 **CENTER.**

24 (a) ESTABLISHMENT.—There is established within
25 the Department of Defense a National Bio-Weapons De-

1 fense Analysis Center (in this section referred to as the
2 “Center”).

3 (b) MISSION.—The mission of the Center is to de-
4 velop countermeasures to potential attacks by terrorists
5 using biological or chemical weapons that are weapons of
6 mass destruction (as defined under section 1403 of the
7 Defense Against Weapons of Mass Destruction Act of
8 1996 (50 U.S.C. 2302(1))) and conduct research and
9 analysis concerning such weapons.

10 **SEC. 162. REVIEW OF FOOD SAFETY.**

11 (a) REVIEW OF FOOD SAFETY LAWS AND FOOD
12 SAFETY ORGANIZATIONAL STRUCTURE.—The Secretary
13 shall enter into an agreement with and provide funding
14 to the National Academy of Sciences to conduct a detailed,
15 comprehensive study which shall—

16 (1) review all Federal statutes and regulations
17 affecting the safety and security of the food supply
18 to determine the effectiveness of the statutes and
19 regulations at protecting the food supply from delib-
20 erate contamination; and

21 (2) review the organizational structure of Fed-
22 eral food safety oversight to determine the efficiency
23 and effectiveness of the organizational structure at
24 protecting the food supply from deliberate contami-
25 nation.

1 (b) REPORT.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act, the National
4 Academy of Sciences shall prepare and submit to the
5 President, the Secretary, and Congress a com-
6 prehensive report containing—

7 (A) the findings and conclusions derived
8 from the reviews conducted under subsection
9 (a); and

10 (B) specific recommendations for
11 improving—

12 (i) the effectiveness and efficiency of
13 Federal food safety and security statutes
14 and regulations; and

15 (ii) the organizational structure of
16 Federal food safety oversight.

17 (2) CONTENTS.—In conjunction with the rec-
18 ommendations under paragraph (1), the report
19 under paragraph (1) shall address—

20 (A) the effectiveness with which Federal
21 food safety statutes and regulations protect
22 public health and ensure the food supply re-
23 mains free from contamination;

1 (B) the shortfalls, redundancies, and in-
2 consistencies in Federal food safety statutes
3 and regulations;

4 (C) the application of resources among
5 Federal food safety oversight agencies;

6 (D) the effectiveness and efficiency of the
7 organizational structure of Federal food safety
8 oversight;

9 (E) the shortfalls, redundancies, and in-
10 consistencies of the organizational structure of
11 Federal food safety oversight; and

12 (F) the merits of a unified, central organi-
13 zational structure of Federal food safety over-
14 sight.

15 (c) RESPONSE OF THE SECRETARY.—Not later than
16 90 days after the date on which the report under this sec-
17 tion is submitted to the Secretary, the Secretary shall pro-
18 vide to the President and Congress the response of the
19 Department to the recommendations of the report and rec-
20 ommendations of the Department to further protect the
21 food supply from contamination.

22 **SEC. 163. EXCHANGE OF EMPLOYEES BETWEEN AGENCIES**
23 **AND STATE OR LOCAL GOVERNMENTS.**

24 (a) FINDINGS.—Congress finds that—

1 (1) information sharing between Federal, State,
2 and local agencies is vital to securing the homeland
3 against terrorist attacks;

4 (2) Federal, State, and local employees working
5 cooperatively can learn from one another and resolve
6 complex issues;

7 (3) Federal, State, and local employees have
8 specialized knowledge that should be consistently
9 shared between and among agencies at all levels of
10 government; and

11 (4) providing training and other support, such
12 as staffing, to the appropriate Federal, State, and
13 local agencies can enhance the ability of an agency
14 to analyze and assess threats against the homeland,
15 develop appropriate responses, and inform the
16 United States public.

17 (b) EXCHANGE OF EMPLOYEES.—

18 (1) IN GENERAL.—The Secretary may provide
19 for the exchange of employees of the Department
20 and State and local agencies in accordance with sub-
21 chapter VI of chapter 33 of title 5, United States
22 Code.

23 (2) CONDITIONS.—With respect to exchanges
24 described under this subsection, the Secretary shall
25 ensure that—

1 (A) any assigned employee shall have ap-
2 propriate training or experience to perform the
3 work required by the assignment; and

4 (B) any assignment occurs under condi-
5 tions that appropriately safeguard classified
6 and other sensitive information.

7 **SEC. 164. WHISTLEBLOWER PROTECTION FOR FEDERAL**
8 **EMPLOYEES WHO ARE AIRPORT SECURITY**
9 **SCREENERS.**

10 Section 111(d) of the Aviation and Transportation
11 Security Act (Public Law 107–71; 115 Stat. 620; 49
12 U.S.C. 44935 note) is amended—

13 (1) by striking “(d) SCREENER PERSONNEL.—
14 Notwithstanding any other provision of law,” and in-
15 serting the following:

16 “(d) SCREENER PERSONNEL.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of law (except as provided under para-
19 graph (2)),”;

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

21 “(2) WHISTLEBLOWER PROTECTION.—

22 “(A) DEFINITION.—In this paragraph, the
23 term “security screener” means—

24 “(i) any Federal employee hired as a
25 security screener under subsection (e) of

1 section 44935 of title 49, United States
2 Code; or

3 “(ii) an applicant for the position of a
4 security screener under that subsection.

5 “(B) IN GENERAL.—Notwithstanding
6 paragraph (1)—

7 “(i) section 2302(b)(8) of title 5,
8 United States Code, shall apply with re-
9 spect to any security screener; and

10 “(ii) chapters 12, 23, and 75 of that
11 title shall apply with respect to a security
12 screener to the extent necessary to imple-
13 ment clause (i).

14 “(C) COVERED POSITION.—The President
15 may not exclude the position of security screen-
16 er as a covered position under section
17 2302(a)(2)(B)(ii) of title 5, United States Code,
18 to the extent that such exclusion would prevent
19 the implementation of subparagraph (B) of this
20 paragraph.”.

21 **SEC. 165. WHISTLEBLOWER PROTECTION FOR CERTAIN**
22 **AIRPORT EMPLOYEES.**

23 (a) IN GENERAL.—Section 42121(a) of title 49,
24 United States Code, is amended—

1 (1) by striking “(a) DISCRIMINATION AGAINST
2 AIRLINE EMPLOYEES.—No air carrier or contractor
3 or subcontractor of an air carrier” and inserting the
4 following:

5 “(a) DISCRIMINATION AGAINST EMPLOYEES.—

6 “(1) IN GENERAL.—No air carrier, contractor,
7 subcontractor, or employer described under para-
8 graph (2)”;

9 (2) by redesignating paragraphs (1) through
10 (4) as subparagraphs (A) through (D), respectively;
11 and

12 (3) by adding at the end the following:

13 “(2) APPLICABLE EMPLOYERS.—Paragraph (1)
14 shall apply to—

15 “(A) an air carrier or contractor or sub-
16 contractor of an air carrier;

17 “(B) an employer of airport security
18 screening personnel, other than the Federal
19 Government, including a State or municipal
20 government, or an airport authority, or a con-
21 tractor of such government or airport authority;

22 or

23 “(C) an employer of private screening per-
24 sonnel described in section 44919 or 44920 of
25 this title.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 42121(b)(2)(B) of title 49, United States Code,
3 is amended—

4 (1) in clause (i), by striking “paragraphs (1)
5 through (4) of subsection (a)” and inserting “sub-
6 paragraphs (A) through (D) of subsection (a)(1)”;
7 and

8 (2) in clause (iii), by striking “paragraphs (1)
9 through (4) of subsection (a)” and inserting “sub-
10 paragraphs (A) through (D) of subsection (a)(1)”.

11 **SEC. 166. BIOTERRORISM PREPAREDNESS AND RESPONSE**
12 **DIVISION.**

13 Section 319D of the Public Health Service Act (42
14 U.S.C. 2472–4) is amended—

15 (1) by redesignating subsection (c) as sub-
16 section (d); and

17 (2) by inserting after subsection (b), the fol-
18 lowing:

19 “(c) BIOTERRORISM PREPAREDNESS AND RESPONSE
20 DIVISION.—

21 “(1) ESTABLISHMENT.—There is established
22 within the Office of the Director of the Centers for
23 Disease Control and Prevention a Bioterrorism Pre-
24 paredness and Response Division (in this subsection
25 referred to as the ‘Division’).

1 “(2) MISSION.—The Division shall have the fol-
2 lowing primary missions:

3 “(A) To lead and coordinate the activities
4 and responsibilities of the Centers for Disease
5 Control and Prevention with respect to coun-
6 tering bioterrorism.

7 “(B) To coordinate and facilitate the inter-
8 action of Centers for Disease Control and Pre-
9 vention personnel with personnel from the De-
10 partment of Homeland Security and, in so
11 doing, serve as a major contact point for 2-way
12 communications between the jurisdictions of
13 homeland security and public health.

14 “(C) To train and employ a cadre of public
15 health personnel who are dedicated full-time to
16 the countering of bioterrorism.

17 “(3) RESPONSIBILITIES.—In carrying out the
18 mission under paragraph (2), the Division shall as-
19 sume the responsibilities of and budget authority for
20 the Centers for Disease Control and Prevention with
21 respect to the following programs:

22 “(A) The Bioterrorism Preparedness and
23 Response Program.

24 “(B) The Strategic National Stockpile.

1 “(C) Such other programs and responsibil-
2 ities as may be assigned to the Division by the
3 Director of the Centers for Disease Control and
4 Prevention.

5 “(4) DIRECTOR.—There shall be in the Division
6 a Director, who shall be appointed by the Director
7 of the Centers for Disease Control and Prevention,
8 in consultation with the Secretary of Health and
9 Human Services and the Secretary of Homeland Se-
10 curity.

11 “(5) STAFFING.—Under agreements reached
12 between the Director of the Centers for Disease
13 Control and Prevention and the Secretary of Home-
14 land Security—

15 “(A) the Division may be staffed, in part,
16 by personnel assigned from the Department of
17 Homeland Security by the Secretary of Home-
18 land Security; and

19 “(B) the Director of the Centers for Dis-
20 ease Control and Prevention may assign some
21 personnel from the Division to the Department
22 of Homeland Security.”.

1 **SEC. 167. COORDINATION WITH THE DEPARTMENT OF**
2 **HEALTH AND HUMAN SERVICES UNDER THE**
3 **PUBLIC HEALTH SERVICE ACT.**

4 (a) IN GENERAL.—The annual Federal response plan
5 developed by the Secretary under sections 102(b)(14) and
6 134(b)(7) shall be consistent with section 319 of the Pub-
7 lic Health Service Act (42 U.S.C. 247d).

8 (b) DISCLOSURES AMONG RELEVANT AGENCIES.—

9 (1) IN GENERAL.—Full disclosure among rel-
10 evant agencies shall be made in accordance with this
11 subsection.

12 (2) PUBLIC HEALTH EMERGENCY.—During the
13 period in which the Secretary of Health and Human
14 Services has declared the existence of a public health
15 emergency under section 319(a) of the Public
16 Health Service Act (42 U.S.C. 247d(a)), the Sec-
17 retary of Health and Human Services shall keep rel-
18 evant agencies, including the Department of Home-
19 land Security, the Department of Justice, and the
20 Federal Bureau of Investigation, fully and currently
21 informed.

22 (3) POTENTIAL PUBLIC HEALTH EMER-
23 GENCY.—In cases involving, or potentially involving,
24 a public health emergency, but in which no deter-
25 mination of an emergency by the Secretary of
26 Health and Human Services under section 319(a) of

1 the Public Health Service Act (42 U.S.C. 247d(a)),
2 has been made, all relevant agencies, including the
3 Department of Homeland Security, the Department
4 of Justice, and the Federal Bureau of Investigation,
5 shall keep the Secretary of Health and Human Serv-
6 ices and the Director of the Centers for Disease
7 Control and Prevention fully and currently informed.

8 **SEC. 168. RAIL SECURITY ENHANCEMENTS.**

9 (a) IN GENERAL.—There are authorized to be appro-
10 priated to the Department, for the benefit of Amtrak, for
11 the 2-year period beginning on the date of enactment of
12 this Act—

13 (1) \$375,000,000 for grants to finance the cost
14 of enhancements to the security and safety of Am-
15 trak rail passenger service;

16 (2) \$778,000,000 for grants for life safety im-
17 provements to 6 New York Amtrak tunnels built in
18 1910, the Baltimore and Potomac Amtrak tunnel
19 built in 1872, and the Washington, D.C. Union Sta-
20 tion Amtrak tunnels built in 1904 under the Su-
21 preme Court and House and Senate Office Build-
22 ings; and

23 (3) \$55,000,000 for the emergency repair, and
24 returning to service of Amtrak passenger cars and
25 locomotives.

1 (b) AVAILABILITY OF FUNDS.—Amounts appro-
2 priated under subsection (a) shall remain available until
3 expended.

4 (c) COORDINATION WITH EXISTING LAW.—Amounts
5 made available to Amtrak under this section shall not be
6 considered to be Federal assistance for purposes of part
7 C of subtitle V of title 49, United States Code.

8 **SEC. 169. GRANTS FOR FIREFIGHTING PERSONNEL.**

9 (a) Section 33 of the Federal Fire Prevention and
10 Control Act of 1974 (15 U.S.C. 2229) is amended—

11 (1) by redesignating subsections (c), (d), and
12 (e) as subsections (d), (e), and (f), respectively;

13 (2) by inserting after subsection (b) the fol-
14 lowing:

15 “(c) PERSONNEL GRANTS.—

16 “(1) EXCLUSION.—Grants awarded under sub-
17 section (b) to hire ‘employees engaged in fire protec-
18 tion’, as that term is defined in section 3 of the Fair
19 Labor Standards Act (29 U.S.C. 203), shall not be
20 subject to paragraphs (10) or (11) of subsection (b).

21 “(2) DURATION.—Grants awarded under para-
22 graph (1) shall be for a 3-year period.

23 “(3) MAXIMUM AMOUNT.—The total amount of
24 grants awarded under paragraph (1) shall not ex-

1 ceed \$100,000 per firefighter, indexed for inflation,
2 over the 3-year grant period.

3 “(4) FEDERAL SHARE.—

4 “(A) IN GENERAL.—Notwithstanding sub-
5 section (b)(6), the Federal share of a grant
6 under paragraph (1) shall not exceed 75 per-
7 cent of the total salary and benefits cost for ad-
8 ditional firefighters hired.

9 “(B) WAIVER.—The Director may waive
10 the 25 percent non-Federal match under sub-
11 paragraph (A) for a jurisdiction of 50,000 or
12 fewer residents or in cases of extreme hardship.

13 “(5) APPLICATION.—In addition to the infor-
14 mation under subsection (b)(5), an application for a
15 grant under paragraph (1), shall include—

16 “(A) an explanation for the need for Fed-
17 eral assistance; and

18 “(B) specific plans for obtaining necessary
19 support to retain the position following the con-
20 clusion of Federal support.

21 “(6) MAINTENANCE OF EFFORT.—Grants
22 awarded under paragraph (1) shall only be used to
23 pay the salaries and benefits of additional fire-
24 fighting personnel, and shall not be used to supplant

1 funding allocated for personnel from State and local
2 sources.”; and

3 (3) in subsection (f) (as redesignated by para-
4 graph (1)), by adding at the end the following:

5 “(3) \$1,000,000,000 for each of fiscal years
6 2003 and 2004, to be used only for grants under
7 subsection (c).”.

8 **SEC. 170. REVIEW OF TRANSPORTATION SECURITY EN-**
9 **HANCEMENTS.**

10 (a) REVIEW OF TRANSPORTATION VULNERABILITIES
11 AND FEDERAL TRANSPORTATION SECURITY EFFORTS.—

12 The Comptroller General shall conduct a detailed, com-
13 prehensive study which shall—

14 (1) review all available intelligence on terrorist
15 threats against aviation, seaport, rail and transit fa-
16 cilities;

17 (2) review all available information on
18 vulnerabilities at aviation, seaport, rail and transit
19 facilities; and

20 (3) review the steps taken by agencies since
21 September 11, 2001, to improve aviation, seaport,
22 rail, and transit security to determine their effective-
23 ness at protecting passengers and transportation in-
24 frastructure from terrorist attack.

1 (b) REPORT.—Not later than 1 year after the date
2 of enactment of this Act, the Comptroller General shall
3 prepare and submit to Congress and the Secretary a com-
4 prehensive report containing—

5 (1) the findings and conclusions from the re-
6 views conducted under subsection (a); and

7 (2) proposed steps to improve any deficiencies
8 found in aviation, seaport, rail, and transit security
9 including, to the extent possible, the cost of imple-
10 menting the steps.

11 (c) RESPONSE OF THE SECRETARY.—Not later than
12 90 days after the date on which the report under this sec-
13 tion is submitted to the Secretary, the Secretary shall pro-
14 vide to the President and Congress—

15 (1) the response of the Department to the rec-
16 ommendations of the report; and

17 (2) recommendations of the Department to fur-
18 ther protect passengers and transportation infra-
19 structure from terrorist attack.

20 **SEC. 171. INTEROPERABILITY OF INFORMATION SYSTEMS.**

21 (a) IN GENERAL.—The Director of the Office of
22 Management and Budget, in consultation with the Sec-
23 retary and affected entities, shall develop—

24 (1) a comprehensive enterprise architecture for
25 information systems, including communications sys-

1 tems, to achieve interoperability between and among
2 information systems of agencies with responsibility
3 for homeland security; and

4 (2) a plan to achieve interoperability between
5 and among information systems, including commu-
6 nications systems, of agencies with responsibility for
7 homeland security and those of State and local agen-
8 cies with responsibility for homeland security.

9 (b) TIMETABLES.—The Director of the Office of
10 Management and Budget, in consultation with the Sec-
11 retary and affected entities, shall establish timetables for
12 development and implementation of the enterprise archi-
13 tecture and plan referred to in subsection (a).

14 (c) IMPLEMENTATION.—The Director of the Office of
15 Management and Budget, in consultation with the Sec-
16 retary and acting under the responsibilities of the Director
17 under law (including the Clinger-Cohen Act of 1996), shall
18 ensure the implementation of the enterprise architecture
19 developed under subsection (a)(1), and shall coordinate,
20 oversee, and evaluate the management and acquisition of
21 information technology by agencies with responsibility for
22 homeland security to ensure interoperability consistent
23 with the enterprise architecture developed under sub-
24 section (a)(1).

1 (d) AGENCY COOPERATION.—The head of each agen-
2 cy with responsibility for homeland security shall fully co-
3 operate with the Director of the Office of Management
4 and Budget in the development of a comprehensive enter-
5 prise architecture for information systems and in the man-
6 agement and acquisition of information technology con-
7 sistent with the comprehensive enterprise architecture de-
8 veloped under subsection (a)(1).

9 (e) CONTENT.—The enterprise architecture devel-
10 oped under subsection (a)(1), and the information systems
11 managed and acquired under the enterprise architecture,
12 shall possess the characteristics of—

13 (1) rapid deployment;

14 (2) a highly secure environment, providing data
15 access only to authorized users; and

16 (3) the capability for continuous system up-
17 grades to benefit from advances in technology while
18 preserving the integrity of stored data.

19 (f) UPDATED VERSIONS.—The Director of the Office
20 of Management and Budget, in consultation with the Sec-
21 retary, shall oversee and ensure the development of up-
22 dated versions of the enterprise architecture and plan de-
23 veloped under subsection (a), as necessary.

24 (g) REPORT.—The Director of the Office of Manage-
25 ment and Budget, in consultation with the Secretary, shall

1 annually report to Congress on the development and im-
2 plementation of the enterprise architecture and plan re-
3 ferred to under subsection (a).

4 (h) CONSULTATION.—The Director of the Office of
5 Management and Budget shall consult with information
6 systems management experts in the public and private sec-
7 tors, in the development and implementation of the enter-
8 prise architecture and plan referred to under subsection
9 (a).

10 (i) PRINCIPAL OFFICER.—The Director of the Office
11 of Management and Budget shall designate, with the ap-
12 proval of the President, a principal officer in the Office
13 of Management and Budget whose primary responsibility
14 shall be to carry out the duties of the Director under this
15 section.

16 **Subtitle E—Transition Provisions**

17 **SEC. 181. DEFINITIONS.**

18 In this subtitle:

19 (1) AGENCY.—The term “agency” includes any
20 entity, organizational unit, or function transferred or
21 to be transferred under this title.

22 (2) TRANSITION PERIOD.—The term “transi-
23 tion period” means the 1-year period beginning on
24 the effective date of this division.

1 **SEC. 182. TRANSFER OF AGENCIES.**

2 The transfer of an agency to the Department, as au-
3 thorized by this title, shall occur when the President so
4 directs, but in no event later than the end of the transition
5 period.

6 **SEC. 183. TRANSITIONAL AUTHORITIES.**

7 (a) **PROVISION OF ASSISTANCE BY OFFICIALS.—**

8 Until an agency is transferred to the Department, any of-
9 ficial having authority over, or functions relating to, the
10 agency immediately before the effective date of this divi-
11 sion shall provide to the Secretary such assistance, includ-
12 ing the use of personnel and assets, as the Secretary may
13 reasonably request in preparing for the transfer and inte-
14 gration of the agency into the Department.

15 (b) **SERVICES AND PERSONNEL.—**During the transi-
16 tion period, upon the request of the Secretary, the head
17 of any agency (as defined under section 2) may, on a reim-
18 bursable basis, provide services and detail personnel to as-
19 sist with the transition.

20 (c) **ACTING OFFICIALS.—**

21 (1) **DESIGNATION.—**During the transition pe-
22 riod, pending the nomination and advice and consent
23 of the Senate to the appointment of an officer re-
24 quired by this division to be appointed by and with
25 such advice and consent, the President may des-
26 ignate any officer whose appointment was required

1 to be made by and with such advice and consent,
2 and who continues as such an officer, to act in such
3 office until the office is filled as provided in this di-
4 vision.

5 (2) COMPENSATION.—While serving as an act-
6 ing officer under paragraph (1), the officer shall re-
7 ceive compensation at the higher of the rate
8 provided—

9 (A) under this division for the office in
10 which that officer acts; or

11 (B) for the office held at the time of des-
12 ignation.

13 (3) PERIOD OF SERVICE.—The person serving
14 as an acting officer under paragraph (1) may serve
15 in the office for the periods described under section
16 3346 of title 5, United States Code, as if the office
17 became vacant on the effective date of this division.

18 (d) EXCEPTION TO ADVICE AND CONSENT REQUIRE-
19 MENT.—Nothing in this Act shall be construed to require
20 the advice and consent of the Senate to the appointment
21 by the President to a position in the Department of any
22 officer—

23 (1) whose agency is transferred to the Depart-
24 ment under this Act;

1 (2) whose appointment was by and with the ad-
2 vice and consent of the Senate;

3 (3) who is proposed to serve in a directorate or
4 office of the Department that is similar to the trans-
5 ferred agency in which the officer served; and

6 (4) whose authority and responsibilities fol-
7 lowing such transfer would be equivalent to those
8 performed prior to such transfer.

9 **SEC. 184. INCIDENTAL TRANSFERS AND TRANSFER OF RE-**
10 **LATED FUNCTIONS.**

11 (a) INCIDENTAL TRANSFERS.—The Director of the
12 Office of Management and Budget, in consultation with
13 the Secretary, shall make such additional incidental dis-
14 positions of personnel, assets, and liabilities held, used,
15 arising from, available, or to be made available, in connec-
16 tion with the functions transferred by this title, as the Di-
17 rector determines necessary to accomplish the purposes of
18 this title.

19 (b) ADJUDICATORY OR REVIEW FUNCTIONS.—

20 (1) IN GENERAL.—At the time an agency is
21 transferred to the Department, the President may
22 also transfer to the Department any agency estab-
23 lished to carry out or support adjudicatory or review
24 functions in relation to the transferred agency.

1 (2) the Comptroller General of the United
2 States.

3 (b) REPORT FREQUENCY.—

4 (1) INITIAL REPORT.—As soon as practicable,
5 and not later than 6 months after the date of enact-
6 ment of this Act, the Secretary shall submit the first
7 implementation progress report.

8 (2) SEMIANNUAL REPORTS.—Following the
9 submission of the report under paragraph (1), the
10 Secretary shall submit additional implementation
11 progress reports not less frequently than once every
12 6 months until all transfers to the Department
13 under this title have been completed.

14 (3) FINAL REPORT.—Not later than 6 months
15 after all transfers to the Department under this title
16 have been completed, the Secretary shall submit a
17 final implementation progress report.

18 (c) CONTENTS.—

19 (1) IN GENERAL.—Each implementation
20 progress report shall report on the progress made in
21 implementing titles I, II, III, and XI, including ful-
22 fillment of the functions transferred under this Act,
23 and shall include all of the information specified
24 under paragraph (2) that the Secretary has gathered
25 as of the date of submission. Information contained

1 in an earlier report may be referenced, rather than
2 set out in full, in a subsequent report. The final im-
3 plementation progress report shall include any re-
4 quired information not yet provided.

5 (2) SPECIFICATIONS.—Each implementation
6 progress report shall contain, to the extent
7 available—

8 (A) with respect to the transfer and incor-
9 poration of entities, organizational units, and
10 functions—

11 (i) the actions needed to transfer and
12 incorporate entities, organizational units,
13 and functions into the Department;

14 (ii) a projected schedule, with mile-
15 stones, for completing the various phases
16 of the transition;

17 (iii) a progress report on taking those
18 actions and meeting the schedule;

19 (iv) the organizational structure of the
20 Department, including a listing of the re-
21 spective directorates, the field offices of the
22 Department, and the executive positions
23 that will be filled by political appointees or
24 career executives;

1 (v) the location of Department head-
2 quarters, including a timeframe for relo-
3 cating to the new location, an estimate of
4 cost for the relocation, and information
5 about which elements of the various agen-
6 cies will be located at headquarters;

7 (vi) unexpended funds and assets, li-
8 abilities, and personnel that will be trans-
9 ferred, and the proposed allocations and
10 disposition within the Department; and

11 (vii) the costs of implementing the
12 transition;

13 (B) with respect to human capital
14 planning—

15 (i) a description of the workforce
16 planning undertaken for the Department,
17 including the preparation of an inventory
18 of skills and competencies available to the
19 Department, to identify any gaps, and to
20 plan for the training, recruitment, and re-
21 tention policies necessary to attract and re-
22 tain a workforce to meet the needs of the
23 Department;

1 (ii) the past and anticipated future
2 record of the Department with respect to
3 recruitment and retention of personnel;

4 (iii) plans or progress reports on the
5 utilization by the Department of existing
6 personnel flexibility, provided by law or
7 through regulations of the President and
8 the Office of Personnel Management, to
9 achieve the human capital needs of the De-
10 partment;

11 (iv) any inequitable disparities in pay
12 or other terms and conditions of employ-
13 ment among employees within the Depart-
14 ment resulting from the consolidation
15 under this division of functions, entities,
16 and personnel previously covered by dis-
17 parate personnel systems; and

18 (v) efforts to address the disparities
19 under clause (iv) using existing personnel
20 flexibility;

21 (C) with respect to information
22 technology—

23 (i) an assessment of the existing and
24 planned information systems of the De-
25 partment; and

1 (ii) a report on the development and
2 implementation of enterprise architecture
3 and of the plan to achieve interoperability;
4 (D) with respect to programmatic
5 implementation—

6 (i) the progress in implementing the
7 programmatic responsibilities of this divi-
8 sion;

9 (ii) the progress in implementing the
10 mission of each entity, organizational unit,
11 and function transferred to the Depart-
12 ment;

13 (iii) recommendations of any other
14 governmental entities, organizational units,
15 or functions that need to be incorporated
16 into the Department in order for the De-
17 partment to function effectively; and

18 (iv) recommendations of any entities,
19 organizational units, or functions not re-
20 lated to homeland security transferred to
21 the Department that need to be trans-
22 ferred from the Department or terminated
23 for the Department to function effectively.

24 (d) LEGISLATIVE RECOMMENDATIONS.—

1 (1) INCLUSION IN REPORT.—The Secretary,
2 after consultation with the appropriate committees
3 of Congress, shall include in the report under this
4 section, recommendations for legislation that the
5 Secretary determines is necessary to—

6 (A) facilitate the integration of transferred
7 entities, organizational units, and functions into
8 the Department;

9 (B) reorganize agencies, executive posi-
10 tions, and the assignment of functions within
11 the Department;

12 (C) address any inequitable disparities in
13 pay or other terms and conditions of employ-
14 ment among employees within the Department
15 resulting from the consolidation of agencies,
16 functions, and personnel previously covered by
17 disparate personnel systems;

18 (D) enable the Secretary to engage in pro-
19 curement essential to the mission of the De-
20 partment;

21 (E) otherwise help further the mission of
22 the Department; and

23 (F) make technical and conforming amend-
24 ments to existing law to reflect the changes
25 made by titles I, II, III, and XI.

1 (2) SEPARATE SUBMISSION OF PROPOSED LEG-
2 ISLATION.—The Secretary may submit the proposed
3 legislation under paragraph (1) to Congress before
4 submitting the balance of the report under this sec-
5 tion.

6 **SEC. 186. TRANSFER AND ALLOCATION.**

7 Except as otherwise provided in this title, the per-
8 sonnel employed in connection with, and the assets, liabil-
9 ities, contracts, property, records, and unexpended balance
10 of appropriations, authorizations, allocations, and other
11 funds employed, held, used, arising from, available to, or
12 to be made available in connection with the agencies trans-
13 ferred under this title, shall be transferred to the Sec-
14 retary for appropriate allocation, subject to the approval
15 of the Director of the Office of Management and Budget
16 and to section 1531 of title 31, United States Code. Unex-
17 pended funds transferred under this subsection shall be
18 used only for the purposes for which the funds were origi-
19 nally authorized and appropriated.

20 **SEC. 187. SAVINGS PROVISIONS.**

21 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
22 All orders, determinations, rules, regulations, permits,
23 agreements, grants, contracts, recognitions of labor orga-
24 nizations, collective bargaining agreements, certificates, li-

1 censures, registrations, privileges, and other administrative
2 actions—

3 (1) which have been issued, made, granted, or
4 allowed to become effective by the President, any
5 Federal agency or official thereof, or by a court of
6 competent jurisdiction, in the performance of func-
7 tions which are transferred under this title; and

8 (2) which are in effect at the time this division
9 takes effect, or were final before the effective date
10 of this division and are to become effective on or
11 after the effective date of this division,

12 shall, to the extent related to such functions, continue in
13 effect according to their terms until modified, terminated,
14 superseded, set aside, or revoked in accordance with law
15 by the President, the Secretary or other authorized offi-
16 cial, or a court of competent jurisdiction, or by operation
17 of law.

18 (b) PROCEEDINGS NOT AFFECTED.—The provisions
19 of this title shall not affect any proceedings, including no-
20 tices of proposed rulemaking, or any application for any
21 license, permit, certificate, or financial assistance pending
22 before an agency at the time this title takes effect, with
23 respect to functions transferred by this title but such pro-
24 ceedings and applications shall continue. Orders shall be
25 issued in such proceedings, appeals shall be taken there-

1 from, and payments shall be made pursuant to such or-
2 ders, as if this title had not been enacted, and orders
3 issued in any such proceedings shall continue in effect
4 until modified, terminated, superseded, or revoked by a
5 duly authorized official, by a court of competent jurisdic-
6 tion, or by operation of law. Nothing in this subsection
7 shall be deemed to prohibit the discontinuance or modi-
8 fication of any such proceeding under the same terms and
9 conditions and to the same extent that such proceeding
10 could have been discontinued or modified if this title had
11 not been enacted.

12 (c) SUITS NOT AFFECTED.—The provisions of this
13 title shall not affect suits commenced before the effective
14 date of this division, and in all such suits, proceedings
15 shall be had, appeals taken, and judgments rendered in
16 the same manner and with the same effect as if this title
17 had not been enacted.

18 (d) NONABATEMENT OF ACTIONS.—No suit, action,
19 or other proceeding commenced by or against an agency,
20 or by or against any individual in the official capacity of
21 such individual as an officer of an agency, shall abate by
22 reason of the enactment of this title.

23 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
24 MULGATION OF REGULATIONS.—Any administrative ac-
25 tion relating to the preparation or promulgation of a regu-

1 lation by an agency relating to a function transferred
2 under this title may be continued by the Department with
3 the same effect as if this title had not been enacted.

4 (f) EMPLOYMENT AND PERSONNEL.—

5 (1) EMPLOYEE RIGHTS.—

6 (A) TRANSFERRED AGENCIES.—The De-
7 partment, or a subdivision of the Department,
8 that includes an entity or organizational unit,
9 or subdivision thereof, transferred under this
10 Act, or performs functions transferred under
11 this Act shall not be excluded from coverage of
12 chapter 71 of title 5, United States Code, as a
13 result of any order issued under section
14 7103(b)(1) of title 5, United States Code, after
15 July 19, 2002.

16 (B) TRANSFERRED EMPLOYEES.—An em-
17 ployee transferred to the Department under
18 this Act, who was in an appropriate unit under
19 section 7112 of title 5, United States Code,
20 prior to the transfer, shall not be excluded from
21 a unit under subsection (b)(6) of that section
22 unless—

23 (i) the primary job duty of the em-
24 ployee is materially changed after the
25 transfer; and

1 (ii) the primary job duty of the em-
2 ployee after such change consists of intel-
3 ligence, counterintelligence, or investigative
4 duties directly related to the investigation
5 of terrorism, if it is clearly demonstrated
6 that membership in a unit and coverage
7 under chapter 71 of title 5, United States
8 Code, cannot be applied in a manner that
9 would not have a substantial adverse effect
10 on national security.

11 (C) TRANSFERRED FUNCTIONS.—An em-
12 ployee of the Department who is primarily en-
13 gaged in carrying out a function transferred to
14 the Department under this Act or a function
15 substantially similar to a function so trans-
16 ferred shall not be excluded from a unit under
17 section 7112(b)(6) of title 5, United States
18 Code, unless the function prior to the transfer
19 was performed by an employee excluded from a
20 unit under that section.

21 (D) OTHER AGENCIES, EMPLOYEES, AND
22 FUNCTIONS.—

23 (i) EXCLUSION OF SUBDIVISION.—
24 Subject to paragraph (A), a subdivision of
25 the Department shall not be excluded from

1 coverage under chapter 71 of title 5,
2 United States Code, under section
3 7103(b)(1) of that title unless—

4 (I) the subdivision has, as a pri-
5 mary function, intelligence, counter-
6 intelligence, or investigative duties di-
7 rectly related to terrorism investiga-
8 tion; and

9 (II) the provisions of that chap-
10 ter cannot be applied to that subdivi-
11 sion in a manner consistent with na-
12 tional security requirements and con-
13 siderations.

14 (ii) EXCLUSION OF EMPLOYEE.—Sub-
15 ject to subparagraphs (B) and (C), an em-
16 ployee of the Department shall not be ex-
17 cluded from a unit under section
18 7112(b)(6) of title 5, United States Code,
19 unless the primary job duty of the em-
20 ployee consists of intelligence, counterintel-
21 ligence, or investigative duties directly re-
22 lated to terrorism investigation, if it is
23 clearly demonstrated that membership in a
24 unit and coverage under chapter 71 of title
25 5, United States Code, cannot be applied

1 in a manner that would not have a sub-
2 stantial adverse effect on national security.

3 (E) PRIOR EXCLUSION.—Subparagraphs
4 (A) through (D) shall not apply to any entity
5 or organizational unit, or subdivision thereof,
6 transferred to the Department under this Act
7 that, on July 19, 2002, was excluded from cov-
8 erage under chapter 71 of title 5, United States
9 Code, under section 7103(b)(1) of that title.

10 (2) TERMS AND CONDITIONS OF EMPLOY-
11 MENT.—The transfer of an employee to the Depart-
12 ment under this Act shall not alter the terms and
13 conditions of employment, including compensation,
14 of any employee so transferred.

15 (3) CONDITIONS AND CRITERIA FOR APPOINT-
16 MENT.—Any qualifications, conditions, or criteria re-
17 quired by law for appointments to a position in an
18 agency, or subdivision thereof, transferred to the De-
19 partment under this title, including a requirement
20 that an appointment be made by the President, by
21 and with the advice and consent of the Senate, shall
22 continue to apply with respect to any appointment to
23 the position made after such transfer to the Depart-
24 ment has occurred.

1 (4) WHISTLEBLOWER PROTECTION.—The
2 President may not exclude any position transferred
3 to the Department as a covered position under sec-
4 tion 2302(a)(2)(B)(ii) of title 5, United States Code,
5 to the extent that such exclusion subject to that au-
6 thority was not made before the date of enactment
7 of this Act.

8 (g) NO EFFECT ON INTELLIGENCE AUTHORITIES.—
9 The transfer of authorities, functions, personnel, and as-
10 sets of elements of the United States Government under
11 this title, or the assumption of authorities and functions
12 by the Department under this title, shall not be construed,
13 in cases where such authorities, functions, personnel, and
14 assets are engaged in intelligence activities as defined in
15 the National Security Act of 1947, as affecting the au-
16 thorities of the Director of Central Intelligence, the Sec-
17 retary of Defense, or the heads of departments and agen-
18 cies within the intelligence community.

19 **SEC. 188. TRANSITION PLAN.**

20 (a) IN GENERAL.—Not later than September 15,
21 2002, the President shall submit to Congress a transition
22 plan as set forth in subsection (b).

23 (b) CONTENTS.—

24 (1) IN GENERAL.—The transition plan under
25 subsection (a) shall include a detailed—

1 (A) plan for the transition to the Depart-
2 ment and implementation of titles I, II, and III
3 and division B; and

4 (B) proposal for the financing of those op-
5 erations and needs of the Department that do
6 not represent solely the continuation of func-
7 tions for which appropriations already are avail-
8 able.

9 (2) FINANCING PROPOSAL.—The financing pro-
10 posal under paragraph (1)(B) may consist of any
11 combination of specific appropriations transfers, spe-
12 cific reprogrammings, and new specific appropri-
13 ations as the President considers advisable.

14 **SEC. 189. USE OF APPROPRIATED FUNDS.**

15 (a) APPLICABILITY OF THIS SECTION.—Notwith-
16 standing any other provision of this Act or any other law,
17 this section shall apply to the use of any funds, disposal
18 of property, and acceptance, use, and disposal of gifts, or
19 donations of services or property, of, for, or by the Depart-
20 ment, including any agencies, entities, or other organiza-
21 tions transferred to the Department under this Act, the
22 Office, and the National Combating Terrorism Strategy
23 Panel.

24 (b) USE OF TRANSFERRED FUNDS.—Except as may
25 be provided in an appropriations Act in accordance with

1 subsection (d), balances of appropriations and any other
2 funds or assets transferred under this Act—

3 (1) shall be available only for the purposes for
4 which they were originally available;

5 (2) shall remain subject to the same conditions
6 and limitations provided by the law originally appro-
7 priating or otherwise making available the amount,
8 including limitations and notification requirements
9 related to the reprogramming of appropriated funds;
10 and

11 (3) shall not be used to fund any new position
12 established under this Act.

13 (c) NOTIFICATION REGARDING TRANSFERS.—The
14 President shall notify Congress not less than 15 days be-
15 fore any transfer of appropriations balances, other funds,
16 or assets under this Act.

17 (d) ADDITIONAL USES OF FUNDS DURING TRANSI-
18 TION.—Subject to subsection (c), amounts transferred to,
19 or otherwise made available to, the Department may be
20 used during the transition period for purposes in addition
21 to those for which they were originally available (including
22 by transfer among accounts of the Department), but only
23 to the extent such transfer or use is specifically permitted
24 in advance in an appropriations Act and only under the

1 conditions and for the purposes specified in such appro-
2 priations Act.

3 (e) DISPOSAL OF PROPERTY.—

4 (1) STRICT COMPLIANCE.—If specifically au-
5 thorized to dispose of real property in this or any
6 other Act, the Secretary shall exercise this authority
7 in strict compliance with section 204 of the Federal
8 Property and Administrative Services Act of 1949
9 (40 U.S.C. 485).

10 (2) DEPOSIT OF PROCEEDS.—The Secretary
11 shall deposit the proceeds of any exercise of property
12 disposal authority into the miscellaneous receipts of
13 the Treasury in accordance with section 3302(b) of
14 title 31, United States Code.

15 (f) GIFTS.—Gifts or donations of services or property
16 of or for the Department, the Office, or the National Com-
17 bating Terrorism Strategy Panel may not be accepted,
18 used, or disposed of unless specifically permitted in ad-
19 vance in an appropriations Act and only under the condi-
20 tions and for the purposes specified in such appropriations
21 Act.

22 (g) BUDGET REQUEST.—Under section 1105 of title
23 31, United States Code, the President shall submit to
24 Congress a detailed budget request for the Department
25 for fiscal year 2004.

1 **Subtitle F—Administrative**
2 **Provisions**

3 **SEC. 191. REORGANIZATIONS AND DELEGATIONS.**

4 (a) REORGANIZATION AUTHORITY.—

5 (1) IN GENERAL.—The Secretary may, as nec-
6 essary and appropriate—

7 (A) allocate, or reallocate, functions among
8 officers of the Department; and

9 (B) establish, consolidate, alter, or dis-
10 continue organizational entities within the De-
11 partment.

12 (2) LIMITATION.—Paragraph (1) does not
13 apply to—

14 (A) any office, bureau, unit, or other entity
15 established by law and transferred to the De-
16 partment;

17 (B) any function vested by law in an entity
18 referred to in subparagraph (A) or vested by
19 law in an officer of such an entity; or

20 (C) the alteration of the assignment or del-
21 egation of functions assigned by this Act to any
22 officer or organizational entity of the Depart-
23 ment.

24 (b) DELEGATION AUTHORITY.—

25 (1) SECRETARY.—The Secretary may—

1 (A) delegate any of the functions of the
2 Secretary; and

3 (B) authorize successive redelegations of
4 functions of the Secretary to other officers and
5 employees of the Department.

6 (2) OFFICERS.—An officer of the Department
7 may—

8 (A) delegate any function assigned to the
9 officer by law; and

10 (B) authorize successive redelegations of
11 functions assigned to the officer by law to other
12 officers and employees of the Department.

13 (3) LIMITATIONS.—

14 (A) INTERUNIT DELEGATION.—Any func-
15 tion assigned by this title to an organizational
16 unit of the Department or to the head of an or-
17 ganizational unit of the Department may not be
18 delegated to an officer or employee outside of
19 that unit.

20 (B) FUNCTIONS.—Any function vested by
21 law in an entity established by law and trans-
22 ferred to the Department or vested by law in an
23 officer of such an entity may not be delegated
24 to an officer or employee outside of that entity.

1 **SEC. 192. REPORTING REQUIREMENTS.**

2 (a) ANNUAL EVALUATIONS.—The Comptroller Gen-
3 eral of the United States shall monitor and evaluate the
4 implementation of titles I, II, III, and XI. Not later than
5 15 months after the effective date of this division, and
6 every year thereafter for the succeeding 5 years, the
7 Comptroller General shall submit a report to Congress
8 containing—

9 (1) an evaluation of the implementation
10 progress reports submitted to Congress and the
11 Comptroller General by the Secretary under section
12 185;

13 (2) the findings and conclusions of the Comp-
14 troller General of the United States resulting from
15 the monitoring and evaluation conducted under this
16 subsection, including evaluations of how successfully
17 the Department is meeting—

18 (A) the homeland security missions of the
19 Department; and

20 (B) the other missions of the Department;
21 and

22 (3) any recommendations for legislation or ad-
23 ministrative action the Comptroller General con-
24 siders appropriate.

25 (b) BIENNIAL REPORTS.—Every 2 years the Sec-
26 retary shall submit to Congress—

1 (1) a report assessing the resources and re-
2 quirements of executive agencies relating to border
3 security and emergency preparedness issues; and

4 (2) a report certifying the preparedness of the
5 United States to prevent, protect against, and re-
6 spond to natural disasters, cyber attacks, and inci-
7 dents involving weapons of mass destruction.

8 (c) POINT OF ENTRY MANAGEMENT REPORT.—Not
9 later than 1 year after the effective date of this division,
10 the Secretary shall submit to Congress a report outlining
11 proposed steps to consolidate management authority for
12 Federal operations at key points of entry into the United
13 States.

14 (d) COMBATING TERRORISM AND HOMELAND SECU-
15 RITY.—Not later than 270 days after the date of enact-
16 ment of this Act, the Secretary and the Director shall—

17 (1) in consultation with the head of each de-
18 partment or agency affected by titles I, II, III, and
19 XI, develop definitions of the terms “combating ter-
20 rorism” and “homeland security” for purposes of
21 those titles and shall consider such definitions in de-
22 termining the mission of the Department and Office;
23 and

24 (2) submit a report to Congress on such defini-
25 tions.

1 (e) RESULTS-BASED MANAGEMENT.—

2 (1) STRATEGIC PLAN.—

3 (A) IN GENERAL.—Not later than Sep-
4 tember 30, 2003, consistent with the require-
5 ments of section 306 of title 5, United States
6 Code, the Secretary, in consultation with Con-
7 gress, shall prepare and submit to the Director
8 of the Office of Management and Budget and
9 to Congress a strategic plan for the program
10 activities of the Department.

11 (B) PERIOD; REVISIONS.—The strategic
12 plan shall cover a period of not less than 5
13 years from the fiscal year in which it is sub-
14 mitted and it shall be updated and revised at
15 least every 3 years.

16 (C) CONTENTS.—The strategic plan shall
17 describe the planned results for the non-home-
18 land security related activities of the Depart-
19 ment and the homeland security related activi-
20 ties of the Department.

21 (2) PERFORMANCE PLAN.—

22 (A) IN GENERAL.—In accordance with sec-
23 tion 1115 of title 31, United States Code, the
24 Secretary shall prepare an annual performance

1 plan covering each program activity set forth in
2 the budget of the Department.

3 (B) CONTENTS.—The performance plan
4 shall include—

5 (i) the goals to be achieved during the
6 year;

7 (ii) strategies and resources required
8 to meet the goals; and

9 (iii) the means used to verify and vali-
10 date measured values.

11 (C) SCOPE.—The performance plan should
12 describe the planned results for the non-home-
13 land security related activities of the Depart-
14 ment and the homeland security related activi-
15 ties of the Department.

16 (3) PERFORMANCE REPORT.—

17 (A) IN GENERAL.—In accordance with sec-
18 tion 1116 of title 31, United States Code, the
19 Secretary shall prepare and submit to the
20 President and Congress an annual report on
21 program performance for each fiscal year.

22 (B) CONTENTS.—The performance report
23 shall include the actual results achieved during
24 the year compared to the goals expressed in the
25 performance plan for that year.

1 **SEC. 193. ENVIRONMENTAL PROTECTION, SAFETY, AND**
2 **HEALTH REQUIREMENTS.**

3 The Secretary shall—

4 (1) ensure that the Department complies with
5 all applicable environmental, safety, and health stat-
6 utes and requirements; and

7 (2) develop procedures for meeting such re-
8 quirements.

9 **SEC. 194. LABOR STANDARDS.**

10 (a) **IN GENERAL.**—All laborers and mechanics em-
11 ployed by contractors or subcontractors in the perform-
12 ance of construction work financed in whole or in part
13 with assistance received under this Act shall be paid wages
14 at rates not less than those prevailing on similar construc-
15 tion in the locality as determined by the Secretary of
16 Labor in accordance with the Davis-Bacon Act (40 U.S.C.
17 276a et seq.).

18 (b) **SECRETARY OF LABOR.**—The Secretary of Labor
19 shall have, with respect to the enforcement of labor stand-
20 ards under subsection (a), the authority and functions set
21 forth in Reorganization Plan Number 14 of 1950 (5
22 U.S.C. App.) and section 2 of the Act of June 13, 1934
23 (48 Stat. 948, chapter 482; 40 U.S.C. 276c).

24 **SEC. 195. PROCUREMENT OF TEMPORARY AND INTERMIT-**
25 **TENT SERVICES.**

26 The Secretary may—

1 (1) procure the temporary or intermittent serv-
2 ices of experts or consultants (or organizations
3 thereof) in accordance with section 3109(b) of title
4 5, United States Code; and

5 (2) whenever necessary due to an urgent home-
6 land security need, procure temporary (not to exceed
7 1 year) or intermittent personal services, including
8 the services of experts or consultants (or organiza-
9 tions thereof), without regard to the pay limitations
10 of such section 3109.

11 **SEC. 196. PRESERVING NON-HOMELAND SECURITY MIS-**
12 **SION PERFORMANCE.**

13 (a) IN GENERAL.—For each entity transferred into
14 the Department that has non-homeland security functions,
15 the respective Under Secretary in charge, in conjunction
16 with the head of such entity, shall report to the Secretary,
17 the Comptroller General, and the appropriate committees
18 of Congress on the performance of the entity in all of its
19 missions, with a particular emphasis on examining the
20 continued level of performance of the non-homeland secu-
21 rity missions.

22 (b) CONTENTS.—The report referred to in subsection
23 (a) shall—

24 (1) to the greatest extent possible, provide an
25 inventory of the non-homeland security functions of

1 the entity and identify the capabilities of the entity
2 with respect to those functions, including—

3 (A) the number of employees who carry
4 out those functions;

5 (B) the budget for those functions; and

6 (C) the flexibilities, personnel or otherwise,
7 currently used to carry out those functions;

8 (2) contain information related to the roles, re-
9 sponsibilities, missions, organizational structure, ca-
10 pabilities, personnel assets, and annual budgets, spe-
11 cifically with respect to the capabilities of the entity
12 to accomplish its non-homeland security missions
13 without any diminishment; and

14 (3) contain information regarding whether any
15 changes are required to the roles, responsibilities,
16 missions, organizational structure, modernization
17 programs, projects, activities, recruitment and reten-
18 tion programs, and annual fiscal resources to enable
19 the entity to accomplish its non-homeland security
20 missions without diminishment.

21 (c) TIMING.—Each Under Secretary shall provide the
22 report referred to in subsection (a) annually, for the 5
23 years following the transfer of the entity to the Depart-
24 ment.

1 **SEC. 197. FUTURE YEARS HOMELAND SECURITY PROGRAM.**

2 (a) IN GENERAL.—Each budget request submitted to
3 Congress for the Department under section 1105 of title
4 31, United States Code, and each budget request sub-
5 mitted to Congress for the National Terrorism Prevention
6 and Response Program shall be accompanied by a Future
7 Years Homeland Security Program.

8 (b) CONTENTS.—The Future Years Homeland Secu-
9 rity Program under subsection (a) shall be structured, and
10 include the same type of information and level of detail,
11 as the Future Years Defense Program submitted to Con-
12 gress by the Department of Defense under section 221
13 of title 10, United States Code.

14 (c) EFFECTIVE DATE.—This section shall take effect
15 with respect to the preparation and submission of the fis-
16 cal year 2005 budget request for the Department and the
17 fiscal year 2005 budget request for the National Ter-
18 rorism Prevention and Response Program, and for any
19 subsequent fiscal year.

20 **SEC. 198. PROTECTION OF VOLUNTARILY FURNISHED CON-**
21 **FIDENTIAL INFORMATION.**

22 (a) DEFINITIONS.—In this section:

23 (1) CRITICAL INFRASTRUCTURE.—The term
24 “critical infrastructure” has the meaning given that
25 term in section 1016(e) of the USA PATRIOT ACT
26 of 2001 (42 U.S.C. 5195(e)).

1 (2) FURNISHED VOLUNTARILY.—

2 (A) DEFINITION.—The term “furnished
3 voluntarily” means a submission of a record
4 that—

5 (i) is made to the Department in the
6 absence of authority of the Department re-
7 quiring that record to be submitted; and

8 (ii) is not submitted or used to satisfy
9 any legal requirement or obligation or to
10 obtain any grant, permit, benefit (such as
11 agency forbearance, loans, or reduction or
12 modifications of agency penalties or rul-
13 ings), or other approval from the Govern-
14 ment.

15 (B) BENEFIT.—In this paragraph, the
16 term “benefit” does not include any warning,
17 alert, or other risk analysis by the Department.

18 (b) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, a record pertaining to the vulnerability of and
20 threats to critical infrastructure (such as attacks, re-
21 sponse, and recovery efforts) that is furnished voluntarily
22 to the Department shall not be made available under sec-
23 tion 552 of title 5, United States Code, if—

24 (1) the provider would not customarily make
25 the record available to the public; and

1 (2) the record is designated and certified by the
2 provider, in a manner specified by the Department,
3 as confidential and not customarily made available
4 to the public.

5 (c) RECORDS SHARED WITH OTHER AGENCIES.—

6 (1) IN GENERAL.—

7 (A) RESPONSE TO REQUEST.—An agency
8 in receipt of a record that was furnished volun-
9 tarily to the Department and subsequently
10 shared with the agency shall, upon receipt of a
11 request under section 552 of title 5, United
12 States Code, for the record—

13 (i) not make the record available; and

14 (ii) refer the request to the Depart-
15 ment for processing and response in ac-
16 cordance with this section.

17 (B) SEGREGABLE PORTION OF RECORD.—

18 Any reasonably segregable portion of a record
19 shall be provided to the person requesting the
20 record after deletion of any portion which is ex-
21 empt under this section.

22 (2) DISCLOSURE OF INDEPENDENTLY FUR-
23 NISHED RECORDS.—Notwithstanding paragraph (1),
24 nothing in this section shall prohibit an agency from
25 making available under section 552 of title 5, United

1 States Code, any record that the agency receives
2 independently of the Department, regardless of
3 whether or not the Department has a similar or
4 identical record.

5 (d) WITHDRAWAL OF CONFIDENTIAL DESIGNA-
6 TION.—The provider of a record that is furnished volun-
7 tarily to the Department under subsection (b) may at any
8 time withdraw, in a manner specified by the Department,
9 the confidential designation.

10 (e) PROCEDURES.—The Secretary shall prescribe
11 procedures for—

12 (1) the acknowledgement of receipt of records
13 furnished voluntarily;

14 (2) the designation, certification, and marking
15 of records furnished voluntarily as confidential and
16 not customarily made available to the public;

17 (3) the care and storage of records furnished
18 voluntarily;

19 (4) the protection and maintenance of the con-
20 fidentiality of records furnished voluntarily; and

21 (5) the withdrawal of the confidential designa-
22 tion of records under subsection (d).

23 (f) EFFECT ON STATE AND LOCAL LAW.—Nothing
24 in this section shall be construed as preempting or other-
25 wise modifying State or local law concerning the disclosure

1 of any information that a State or local government re-
2 ceives independently of the Department.

3 (g) REPORT.—

4 (1) REQUIREMENT.—Not later than 18 months
5 after the date of the enactment of this Act, the
6 Comptroller General of the United States shall sub-
7 mit to the committees of Congress specified in para-
8 graph (2) a report on the implementation and use
9 of this section, including—

10 (A) the number of persons in the private
11 sector, and the number of State and local agen-
12 cies, that furnished voluntarily records to the
13 Department under this section;

14 (B) the number of requests for access to
15 records granted or denied under this section;
16 and

17 (C) such recommendations as the Comp-
18 troller General considers appropriate regarding
19 improvements in the collection and analysis of
20 sensitive information held by persons in the pri-
21 vate sector, or by State and local agencies, re-
22 lating to vulnerabilities of and threats to critical
23 infrastructure, including the response to such
24 vulnerabilities and threats.

1 (2) COMMITTEES OF CONGRESS.—The commit-
2 tees of Congress specified in this paragraph are—

3 (A) the Committees on the Judiciary and
4 Governmental Affairs of the Senate; and

5 (B) the Committees on the Judiciary and
6 Government Reform and Oversight of the
7 House of Representatives.

8 (3) FORM.—The report shall be submitted in
9 unclassified form, but may include a classified
10 annex.

11 **SEC. 199. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as may be necessary to—

14 (1) enable the Secretary to administer and
15 manage the Department; and

16 (2) carry out the functions of the Department
17 other than those transferred to the Department
18 under this Act.

19 **TITLE II—NATIONAL OFFICE**
20 **FOR COMBATING TERRORISM**

21 **SEC. 201. NATIONAL OFFICE FOR COMBATING TERRORISM.**

22 (a) ESTABLISHMENT.—There is established within
23 the Executive Office of the President the National Office
24 for Combating Terrorism.

25 (b) OFFICERS.—

1 (1) DIRECTOR.—The head of the Office shall be
2 the Director of the National Office for Combating
3 Terrorism, who shall be appointed by the President,
4 by and with the advice and consent of the Senate.

5 (2) EXECUTIVE SCHEDULE LEVEL I POSI-
6 TION.—Section 5312 of title 5, United States Code,
7 is amended by adding at the end the following:

8 “Director of the National Office for Combating
9 Terrorism.”.

10 (3) OTHER OFFICERS.—The President shall as-
11 sign to the Office such other officers as the Presi-
12 dent, in consultation with the Director, considers ap-
13 propriate to discharge the responsibilities of the Of-
14 fice.

15 (c) RESPONSIBILITIES.—Subject to the direction and
16 control of the President, the responsibilities of the Office
17 shall include the following:

18 (1) To develop national objectives and policies
19 for combating terrorism.

20 (2) To direct and review the development of a
21 comprehensive national assessment of terrorist
22 threats and vulnerabilities to those threats, which
23 shall be—

24 (A) conducted by the heads of relevant
25 agencies, the National Security Advisor, the Di-

1 rector of the Office of Science and Technology
2 Policy, and other involved White House entities;
3 and

4 (B) used in preparation of the Strategy.

5 (3) To develop, with the Secretary of Homeland
6 Security, the Strategy under title III.

7 (4) To coordinate, oversee, and evaluate the im-
8 plementation and execution of the Strategy by agen-
9 cies with responsibilities for combating terrorism
10 under the Strategy, particularly those involving mili-
11 tary, intelligence, law enforcement, diplomatic, and
12 scientific and technological assets.

13 (5) To work with agencies, including the Envi-
14 ronmental Protection Agency, to ensure that appro-
15 priate actions are taken to address vulnerabilities
16 identified by the Directorate of Critical Infrastruc-
17 ture Protection within the Department.

18 (6)(A) To coordinate, with the advice of the
19 Secretary, the development of a comprehensive an-
20 nual budget for the programs and activities under
21 the Strategy, including the budgets of the military
22 departments and agencies within the National For-
23 eign Intelligence Program relating to international
24 terrorism, but excluding military programs, projects,
25 or activities relating to force protection.

1 (B) To have the lead responsibility for budget
2 recommendations relating to military, intelligence,
3 law enforcement, and diplomatic assets in support of
4 the Strategy.

5 (7) To exercise funding authority for Federal
6 terrorism prevention and response agencies in ac-
7 cordance with section 202.

8 (8) To serve as an advisor to the National Se-
9 curity Council.

10 (9) To work with the Director of the Federal
11 Bureau of Investigation to ensure that—

12 (A) the Director of the National Office for
13 Combating Terrorism receives the relevant in-
14 formation from the Federal Bureau of Inves-
15 tigation related to terrorism; and

16 (B) such information is made available to
17 the appropriate agencies and to State and local
18 law enforcement officials.

19 (d) RESOURCES.—In consultation with the Director,
20 the President shall assign or allocate to the Office such
21 resources, including funds, personnel, and other resources,
22 as the President considers appropriate and that are avail-
23 able to the President under appropriations Acts for fiscal
24 year 2002 and fiscal year 2003 in the “Office of Adminis-
25 tration” appropriations account or the “Office of Home-

1 land Security” appropriations account. Any transfer or re-
2 programming of funds made under this section shall be
3 subject to the reprogramming procedures in the Treasury
4 and General Government Appropriations Act, 2002 (Pub-
5 lic Law 107–67).

6 (e) OVERSIGHT BY CONGRESS.—The establishment
7 of the Office within the Executive Office of the President
8 shall not be construed as affecting access by Congress, or
9 any committee of Congress, to—

10 (1) any information, document, record, or paper
11 in the possession of the Office or any study con-
12 ducted by or at the direction of the Director; or

13 (2) any personnel of the Office.

14 **SEC. 202. FUNDING FOR STRATEGY PROGRAMS AND AC-**
15 **TIVITIES.**

16 (a) BUDGET REVIEW.—In consultation with the Di-
17 rector of the Office of Management and Budget, the Sec-
18 retary, and the heads of other agencies, the National Secu-
19 rity Advisor, the Director of the Office of Science and
20 Technology Policy, and other involved White House enti-
21 ties, the Director shall—

22 (1) identify programs that contribute to the
23 Strategy; and

24 (2) in the development of the budget submitted
25 by the President to Congress under section 1105 of

1 title 31, United States Code, review and provide ad-
2 vice to the heads of agencies on the amount and use
3 of funding for programs identified under paragraph
4 (1).

5 (b) SUBMITTAL OF PROPOSED BUDGETS TO THE DI-
6 RECTOR.—

7 (1) IN GENERAL.—The head of each Federal
8 terrorism prevention and response agency shall sub-
9 mit to the Director each year the proposed budget
10 of that agency for the fiscal year beginning in that
11 year for programs and activities of that agency
12 under the Strategy during that fiscal year.

13 (2) DATE FOR SUBMISSION.—The proposed
14 budget of an agency for a fiscal year under para-
15 graph (1) shall be submitted to the Director—

16 (A) not later than the date on which the
17 agency completes the collection of information
18 for purposes of the submission by the President
19 of a budget to Congress for that fiscal year
20 under section 1105 of title 31, United States
21 Code; and

22 (B) before that information is submitted to
23 the Director of the Office of Management and
24 Budget for such purposes.

1 (3) **FORMAT.**—In consultation with the Director
2 of the Office of Management and Budget, the Direc-
3 tor shall specify the format for the submittal of pro-
4 posed budgets under paragraph (1).

5 (c) **REVIEW OF PROPOSED BUDGETS.**—

6 (1) **IN GENERAL.**—The Director shall review
7 each proposed budget submitted to the Director
8 under subsection (b).

9 (2) **INADEQUATE FUNDING DETERMINATION.**—
10 If the Director determines under paragraph (1) that
11 the proposed budget of an agency for a fiscal year
12 under subsection (b) is inadequate, in whole or in
13 part, to permit the implementation by the agency
14 during the fiscal year of the goals of the Strategy
15 applicable to the agency during the fiscal year, the
16 Director shall submit to the head of the agency—

17 (A) a notice in writing of the determina-
18 tion; and

19 (B) a statement of the proposed funding,
20 and any specific initiatives, that would (as de-
21 termined by the Director) permit the implemen-
22 tation by the agency during the fiscal year of
23 the goals of the Strategy applicable to the agen-
24 cy during the fiscal year.

1 (3) ADEQUATE FUNDING DETERMINATION.—If
2 the Director determines under paragraph (1) that
3 the proposed budget of an agency for a fiscal year
4 under subsection (b) is adequate to permit the im-
5 plementation by the agency during the fiscal year of
6 the goals of the Strategy applicable to the agency
7 during the fiscal year, the Director shall submit to
8 the head of the agency a notice in writing of that
9 determination.

10 (4) MAINTENANCE OF RECORDS.—The Director
11 shall maintain a record of—

12 (A) each notice submitted under paragraph
13 (2), including any statement accompanying
14 such notice; and

15 (B) each notice submitted under paragraph
16 (3).

17 (d) AGENCY RESPONSE TO REVIEW OF PROPOSED
18 BUDGETS.—

19 (1) INCORPORATION OF PROPOSED FUNDING.—
20 The head of a Federal terrorism prevention and re-
21 sponse agency that receives a notice under sub-
22 section (c)(2) with respect to the proposed budget of
23 the agency for a fiscal year shall incorporate the
24 proposed funding, and any initiatives, set forth in
25 the statement accompanying the notice into the in-

1 formation submitted to the Office of Management
2 and Budget in support of the proposed budget for
3 the agency for the fiscal year under section 1105 of
4 title 31, United States Code.

5 (2) ADDITIONAL INFORMATION.—The head of
6 each agency described under paragraph (1) for a fis-
7 cal year shall include as an appendix to the informa-
8 tion submitted to the Office of Management and
9 Budget under that paragraph for the fiscal year the
10 following:

11 (A) A summary of any modifications in the
12 proposed budget of such agency for the fiscal
13 year under paragraph (1).

14 (B) An assessment of the effect of such
15 modifications on the capacity of such agency to
16 perform its responsibilities during the fiscal
17 year other than its responsibilities under the
18 Strategy.

19 (3) SUBMISSION TO CONGRESS.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B), the head of each agency described
22 under paragraph (1) for a fiscal year shall sub-
23 mit to Congress a copy of the appendix sub-
24 mitted to the Office of Management and Budg-
25 et for the fiscal year under paragraph (2) at

1 the same time the budget of the President for
2 the fiscal year is submitted to Congress under
3 section 1105 of title 31, United States Code.

4 (B) ELEMENTS WITHIN INTELLIGENCE
5 PROGRAMS.—In the submission of the copy of
6 the appendix to Congress under subparagraph
7 (A), those elements of the appendix which are
8 within the National Foreign Intelligence Pro-
9 gram shall be submitted to—

10 (i) the Select Committee on Intel-
11 ligence of the Senate;

12 (ii) the Permanent Select Committee
13 on Intelligence of the House of Represent-
14 atives;

15 (iii) the Committee on Appropriations
16 of the Senate; and

17 (iv) the Committee on Appropriations
18 of the House of Representatives.

19 (e) SUBMITTAL OF REVISED PROPOSED BUDGETS.—

20 (1) IN GENERAL.—At the same time the head
21 of a Federal terrorism prevention and response
22 agency submits its proposed budget for a fiscal year
23 to the Office of Management and Budget for pur-
24 poses of the submission by the President of a budget
25 to Congress for the fiscal year under section 1105

1 of title 31, United States Code, the head of the
2 agency shall submit a copy of the proposed budget
3 to the Director.

4 (2) REVIEW AND DECERTIFICATION AUTHOR-
5 ITY.—The Director of the National Office for Com-
6 bating Terrorism—

7 (A) shall review each proposed budget sub-
8 mitted under paragraph (1); and

9 (B) in the case of a proposed budget for a
10 fiscal year to which subsection (c)(2) applies in
11 the fiscal year, if the Director determines as a
12 result of the review that the proposed budget
13 does not include the proposed funding, and any
14 initiatives, set forth in the notice under that
15 subsection with respect to the proposed
16 budget—

17 (i) may decertify the proposed budget;

18 and

19 (ii) with respect to any proposed
20 budget so decertified, shall submit to
21 Congress—

22 (I) a notice of the decertification;

23 (II) a copy of the notice sub-
24 mitted to the agency concerned for

1 the fiscal year under subsection
2 (c)(2)(B); and
3 (III) the budget recommenda-
4 tions made under this section.

5 (f) NATIONAL TERRORISM PREVENTION AND RE-
6 SPONSE PROGRAM BUDGET.—

7 (1) IN GENERAL.—For each fiscal year, fol-
8 lowing the submittal of proposed budgets to the Di-
9 rector under subsection (b), the Director shall, in
10 consultation with the Secretary and the head of each
11 Federal terrorism prevention and response agency
12 concerned—

13 (A) develop a consolidated proposed budget
14 for such fiscal year for all programs and activi-
15 ties under the Strategy for such fiscal year; and

16 (B) subject to paragraph (2), submit the
17 consolidated proposed budget to the President
18 and to Congress.

19 (2) ELEMENTS WITHIN INTELLIGENCE PRO-
20 GRAMS.—In the submission of the consolidated pro-
21 posed budget to Congress under paragraph (1)(B),
22 those elements of the budget which are within the
23 National Foreign Intelligence Program shall be sub-
24 mitted to—

1 (A) the Select Committee on Intelligence of
2 the Senate;

3 (B) the Permanent Select Committee on
4 Intelligence of the House of Representatives;

5 (C) the Committee on Appropriations of
6 the Senate; and

7 (D) the Committee on Appropriations of
8 the House of Representatives.

9 (3) DESIGNATION OF CONSOLIDATED PRO-
10 POSED BUDGET.—The consolidated proposed budget
11 for a fiscal year under this subsection shall be
12 known as the National Terrorism Prevention and
13 Response Program Budget for the fiscal year.

14 (g) REPROGRAMMING AND TRANSFER REQUESTS.—

15 (1) APPROVAL BY THE DIRECTOR.—The head
16 of a Federal terrorism prevention and response
17 agency may not submit to Congress a request for
18 the reprogramming or transfer of any funds speci-
19 fied in the National Terrorism Prevention and Re-
20 sponse Program Budget for programs or activities of
21 the agency under the Strategy for a fiscal year in
22 excess of \$5,000,000 without the approval of the Di-
23 rector.

24 (2) APPROVAL BY THE PRESIDENT.—The
25 President may, upon the request of the head of the

1 agency concerned, permit the submittal to Congress
2 of a request previously disapproved by the Director
3 under paragraph (1) if the President determines
4 that the submittal of the request to Congress will
5 further the purposes of the Strategy.

6 **TITLE III—NATIONAL STRATEGY**
7 **FOR COMBATING TERRORISM**
8 **AND THE HOMELAND SECU-**
9 **RITY RESPONSE**

10 **SEC. 301. STRATEGY.**

11 (a) DEVELOPMENT.—The Secretary and the Director
12 shall develop the National Strategy for Combating Ter-
13 rorism and Homeland Security Response for detection,
14 prevention, protection, response, and recovery to counter
15 terrorist threats, including threat, vulnerability, and risk
16 assessment and analysis, and the plans, policies, training,
17 exercises, evaluation, and interagency cooperation that ad-
18 dress each such action relating to such threats.

19 (b) RESPONSIBILITIES.—

20 (1) RESPONSIBILITIES OF THE SECRETARY.—

21 The Secretary shall have responsibility for portions
22 of the Strategy addressing border security, critical
23 infrastructure protection, emergency preparation
24 and response, and integrating State and local efforts
25 with activities of the Federal Government.

1 (2) RESPONSIBILITIES OF THE DIRECTOR.—

2 The Director shall have overall responsibility for de-
3 velopment of the Strategy, and particularly for those
4 portions of the Strategy addressing intelligence, mili-
5 tary assets, law enforcement, and diplomacy.

6 (c) CONTENTS.—The contents of the Strategy shall
7 include—

8 (1) a comprehensive statement of mission,
9 goals, objectives, desired end-state, priorities and re-
10 sponsibilities;

11 (2) policies and procedures to maximize the col-
12 lection, translation, analysis, exploitation, and dis-
13 semination of information relating to combating ter-
14 rorism and the homeland security response through-
15 out the Federal Government and with State and
16 local authorities;

17 (3) plans for countering chemical, biological, ra-
18 diological, nuclear and explosives, and cyber threats;

19 (4) plans for integrating the capabilities and as-
20 sets of the United States military into all aspects of
21 the Strategy;

22 (5) plans for improving the resources of, coordi-
23 nation among, and effectiveness of health and med-
24 ical sectors for detecting and responding to terrorist
25 attacks on the homeland;

1 (6) specific measures to enhance cooperative ef-
2 forts between the public and private sectors in pro-
3 tecting against terrorist attacks;

4 (7) a review of measures needed to enhance
5 transportation security with respect to potential ter-
6 rorist attacks;

7 (8) plans for identifying, prioritizing, and meet-
8 ing research and development objectives to support
9 homeland security needs; and

10 (9) other critical areas.

11 (d) COOPERATION.—At the request of the Secretary
12 or Director, departments and agencies shall provide nec-
13 essary information or planning documents relating to the
14 Strategy.

15 (e) INTERAGENCY COUNCIL.—

16 (1) ESTABLISHMENT.—There is established the
17 National Combating Terrorism and Homeland Secu-
18 rity Response Council to assist with preparation and
19 implementation of the Strategy.

20 (2) MEMBERSHIP.—The members of the Coun-
21 cil shall be the heads of the Federal terrorism pre-
22 vention and response agencies or their designees.
23 The Secretary and Director shall designate such
24 agencies.

1 agencies to successfully implement and execute the Strat-
2 egy.

3 (b) OFFICE OF MANAGEMENT AND BUDGET RE-
4 PORT.—Not later than 180 days after the date of the sub-
5 mission of the Strategy referred to under section 301, the
6 Director of the Office of Management and Budget shall—

7 (1) submit to Congress a report describing
8 agency progress under subsection (a); and

9 (2) provide a copy of the report to the Comp-
10 troller General of the United States.

11 (c) GENERAL ACCOUNTING OFFICE REPORT.—Not
12 later than 90 days after the receipt of the report required
13 under subsection (b), the Comptroller General of the
14 United States shall submit a report to the Governmental
15 Affairs Committee of the Senate, the Government Reform
16 Committee of the House of Representatives, the Com-
17 mittee on Appropriations of the Senate, and the Com-
18 mittee on Appropriations of the House of Representatives,
19 evaluating—

20 (1) the management guidance identified under
21 subsection (a); and

22 (2) Federal agency performance in imple-
23 menting and executing the Strategy.

1 **SEC. 303. NATIONAL COMBATING TERRORISM STRATEGY**

2 **PANEL.**

3 (a) ESTABLISHMENT.—The Secretary and the Direc-
4 tor shall establish a nonpartisan, independent panel to be
5 known as the National Combating Terrorism Strategy
6 Panel (in this section referred to as the “Panel”).

7 (b) MEMBERSHIP.—

8 (1) APPOINTMENT.—The Panel shall be com-
9 posed of a chairperson and 8 other individuals ap-
10 pointed by the Secretary and the Director, in con-
11 sultation with the chairman and ranking member of
12 the Committee on Governmental Affairs of the Sen-
13 ate and the chairman and ranking member of the
14 Committee on Government Reform of the House of
15 Representatives, from among individuals in the pri-
16 vate sector who are recognized experts in matters re-
17 lating to combatting terrorism and the homeland se-
18 curity of the United States.

19 (2) TERMS.—

20 (A) IN GENERAL.—An individual shall be
21 appointed to the Panel for an 18-month term.

22 (B) TERM PERIODS.—Terms on the Panel
23 shall not be continuous. All terms shall be for
24 the 18-month period which begins 12 months
25 before each date a report is required to be sub-
26 mitted under subsection (1)(2)(A).

1 (C) MULTIPLE TERMS.—An individual may
2 serve more than 1 term.

3 (c) DUTIES.—The Panel shall—

4 (1) conduct and submit to the Secretary the as-
5 sessment of the Strategy; and

6 (2) conduct the independent, alternative assess-
7 ment of homeland security measures required under
8 this section.

9 (d) ALTERNATIVE ASSESSMENT.—The Panel shall
10 submit to the Secretary an independent assessment of the
11 optimal policies and programs to combat terrorism, includ-
12 ing homeland security measures. As part of the assess-
13 ment, the Panel shall, to the extent practicable, estimate
14 the funding required by fiscal year to achieve these opti-
15 mal approaches.

16 (e) INFORMATION FROM FEDERAL AGENCIES.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 the Panel may secure directly from any agency such
19 information as the Panel considers necessary to
20 carry out this section. Upon request of the Chair-
21 person, the head of such department or agency shall
22 furnish such information to the Panel.

23 (2) INTELLIGENCE INFORMATION.—The provi-
24 sion of information under this paragraph related to
25 intelligence shall be provided in accordance with pro-

1 cedures established by the Director of Central Intel-
2 ligence and in accordance with section 103(d)(3) of
3 the National Security Act of 1947 (50 U.S.C. 403-
4 3(d)(3)).

5 (f) COMPENSATION OF MEMBERS.—Each member of
6 the Panel shall be compensated at a rate equal to the daily
7 equivalent of the annual rate of basic pay prescribed for
8 level IV of the Executive Schedule under section 5315 of
9 title 5, United States Code, for each day (including travel
10 time) during which such member is engaged in the per-
11 formance of the duties of the Panel.

12 (g) TRAVEL EXPENSES.—The members of the Panel
13 shall be allowed travel expenses, including per diem in lieu
14 of subsistence, at rates authorized for employees of agen-
15 cies under subchapter I of chapter 57 of title 5, United
16 States Code, while away from their homes or regular
17 places of business in the performance of services for the
18 Panel.

19 (h) STAFF.—

20 (1) IN GENERAL.—The Chairperson of the
21 Panel may, without regard to the civil service laws
22 and regulations, appoint and terminate an executive
23 director and such other additional personnel as may
24 be necessary to enable the Panel to perform its du-

1 ties. The employment of an executive director shall
2 be subject to confirmation by the Panel.

3 (2) COMPENSATION.—The Chairperson of the
4 Panel may fix the compensation of the executive di-
5 rector and other personnel without regard to chapter
6 51 and subchapter III of chapter 53 of title 5,
7 United States Code, relating to classification of posi-
8 tions and General Schedule pay rates, except that
9 the rate of pay for the executive director and other
10 personnel may not exceed the rate payable for level
11 V of the Executive Schedule under section 5316 of
12 such title.

13 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

14 (A) IN GENERAL.—The executive director
15 and any personnel of the Panel who are employ-
16 ees shall be employees under section 2105 of
17 title 5, United States Code, for purposes of
18 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
19 that title.

20 (B) MEMBERS OF PANEL.—Subparagraph
21 (A) shall not be construed to apply to members
22 of the Panel.

23 (4) REDUCTION OF STAFF.—During periods
24 that members are not serving terms on the Panel,

1 the executive director shall reduce the number and
2 hours of employees to the minimum necessary to—

3 (A) provide effective continuity of the
4 Panel; and

5 (B) minimize personnel costs of the Panel.

6 (i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
7 Federal Government employee may be detailed to the
8 Panel without reimbursement, and such detail shall be
9 without interruption or loss of civil service status or privi-
10 lege.

11 (j) ADMINISTRATIVE PROVISIONS.—

12 (1) USE OF MAIL AND PRINTING.—The Panel
13 may use the United States mails and obtain printing
14 and binding services in the same manner and under
15 the same conditions as other agencies.

16 (2) SUPPORT SERVICES.—The Secretary shall
17 furnish the Panel any administrative and support
18 services requested by the Panel.

19 (3) GIFTS.—The Panel may accept, use, and
20 dispose of gifts or donations of services or property.

21 (k) PAYMENT OF PANEL EXPENSES.—The com-
22 pensation, travel expenses, and per diem allowances of
23 members and employees of the Panel shall be paid out of
24 funds available to the Department for the payment of
25 compensation, travel allowances, and per diem allowances,

1 respectively, of civilian employees of the Department. The
2 other expenses of the Panel shall be paid out of funds
3 available to the Department for the payment of similar
4 expenses incurred by the Department.

5 (l) REPORTS.—

6 (1) PRELIMINARY REPORT.—

7 (A) REPORT TO SECRETARY.—Not later
8 than July 1, 2004, the Panel shall submit to
9 the Secretary and the Director a preliminary
10 report setting forth the activities and the find-
11 ings and recommendations of the Panel under
12 subsection (d), including any recommendations
13 for legislation that the Panel considers appro-
14 priate.

15 (B) REPORT TO CONGRESS.—Not later
16 than 30 days after the submission of the report
17 under subparagraph (A), the Secretary and the
18 Director shall submit to the committees re-
19 ferred to under subsection (b), and the Commit-
20 tees on Appropriations of the Senate and the
21 House of Representatives, a copy of that report
22 with the comments of the Secretary on the re-
23 port.

24 (2) QUADRENNIAL REPORTS.—

1 (A) REPORTS TO SECRETARY.—Not later
2 than December 1, 2004, and not later than De-
3 cember 1 every 4 years thereafter, the Panel
4 shall submit to the Secretary and the Director
5 a report setting forth the activities and the
6 findings and recommendations of the Panel
7 under subsection (d), including any rec-
8 ommendations for legislation that the Panel
9 considers appropriate.

10 (B) REPORTS TO CONGRESS.—Not later
11 than 60 days after each report is submitted
12 under subparagraph (A), the Secretary shall
13 submit to the committees referred to under sub-
14 section (b), and the Committees on Appropria-
15 tions of the Senate and the House of Rep-
16 resentatives, a copy of the report with the com-
17 ments of the Secretary and the Director on the
18 report.

1 **TITLE IV—LAW ENFORCEMENT**
2 **POWERS OF INSPECTOR GEN-**
3 **ERAL AGENTS**

4 **SEC. 401. LAW ENFORCEMENT POWERS OF INSPECTOR**
5 **GENERAL AGENTS.**

6 (a) IN GENERAL.—Section 6 of the Inspector General
7 Act of 1978 (5 U.S.C. App.) is amended by adding at the
8 end the following:

9 “(e)(1) In addition to the authority otherwise pro-
10 vided by this Act, each Inspector General appointed under
11 section 3, any Assistant Inspector General for Investiga-
12 tions under such an Inspector General, and any special
13 agent supervised by such an Assistant Inspector General
14 may be authorized by the Attorney General to—

15 “(A) carry a firearm while engaged in official
16 duties as authorized under this Act or other statute,
17 or as expressly authorized by the Attorney General;

18 “(B) make an arrest without a warrant while
19 engaged in official duties as authorized under this
20 Act or other statute, or as expressly authorized by
21 the Attorney General, for any offense against the
22 United States committed in the presence of such In-
23 spector General, Assistant Inspector General, or
24 agent, or for any felony cognizable under the laws
25 of the United States if such Inspector General, As-

1 sistant Inspector General, or agent has reasonable
2 grounds to believe that the person to be arrested has
3 committed or is committing such felony; and

4 “(C) seek and execute warrants for arrest,
5 search of a premises, or seizure of evidence issued
6 under the authority of the United States upon prob-
7 able cause to believe that a violation has been com-
8 mitted.

9 “(2) The Attorney General may authorize exercise of
10 the powers under this subsection only upon an initial de-
11 termination that—

12 “(A) the affected Office of Inspector General is
13 significantly hampered in the performance of respon-
14 sibilities established by this Act as a result of the
15 lack of such powers;

16 “(B) available assistance from other law en-
17 forcement agencies is insufficient to meet the need
18 for such powers; and

19 “(C) adequate internal safeguards and manage-
20 ment procedures exist to ensure proper exercise of
21 such powers.

22 “(3) The Inspector General offices of the Department
23 of Commerce, Department of Education, Department of
24 Energy, Department of Health and Human Services, De-
25 partment of Homeland Security, Department of Housing

1 and Urban Development, Department of the Interior, De-
2 partment of Justice, Department of Labor, Department
3 of State, Department of Transportation, Department of
4 the Treasury, Department of Veterans Affairs, Agency for
5 International Development, Environmental Protection
6 Agency, Federal Deposit Insurance Corporation, Federal
7 Emergency Management Agency, General Services Admin-
8 istration, National Aeronautics and Space Administration,
9 Nuclear Regulatory Commission, Office of Personnel Man-
10 agement, Railroad Retirement Board, Small Business Ad-
11 ministration, Social Security Administration, and the Ten-
12 nessee Valley Authority are exempt from the requirement
13 of paragraph (2) of an initial determination of eligibility
14 by the Attorney General.

15 “(4) The Attorney General shall promulgate, and re-
16 vise as appropriate, guidelines which shall govern the exer-
17 cise of the law enforcement powers established under para-
18 graph (1).

19 “(5) Powers authorized for an Office of Inspector
20 General under paragraph (1) shall be rescinded or sus-
21 pended upon a determination by the Attorney General that
22 any of the requirements under paragraph (2) is no longer
23 satisfied or that the exercise of authorized powers by that
24 Office of Inspector General has not complied with the

1 guidelines promulgated by the Attorney General under
2 paragraph (4).

3 “(6) A determination by the Attorney General under
4 paragraph (2) or (5) shall not be reviewable in or by any
5 court.

6 “(7) To ensure the proper exercise of the law enforce-
7 ment powers authorized by this subsection, the Offices of
8 Inspector General described under paragraph (3) shall,
9 not later than 180 days after the date of enactment of
10 this subsection, collectively enter into a memorandum of
11 understanding to establish an external review process for
12 ensuring that adequate internal safeguards and manage-
13 ment procedures continue to exist within each Office and
14 within any Office that later receives an authorization
15 under paragraph (2). The review process shall be estab-
16 lished in consultation with the Attorney General, who shall
17 be provided with a copy of the memorandum of under-
18 standing that establishes the review process. Under the
19 review process, the exercise of the law enforcement powers
20 by each Office of Inspector General shall be reviewed peri-
21 odically by another Office of Inspector General or by a
22 committee of Inspectors General. The results of each re-
23 view shall be communicated in writing to the applicable
24 Inspector General and to the Attorney General.

1 “(8) No provision of this subsection shall limit the
2 exercise of law enforcement powers established under any
3 other statutory authority, including United States Mar-
4 shals Service special deputation.”.

5 (b) PROMULGATION OF INITIAL GUIDELINES.—

6 (1) DEFINITION.—In this subsection, the term
7 “memoranda of understanding” means the agree-
8 ments between the Department of Justice and the
9 Inspector General offices described under section
10 6(e)(3) of the Inspector General Act of 1978 (5
11 U.S.C. App) (as added by subsection (a) of this sec-
12 tion) that—

13 (A) are in effect on the date of enactment
14 of this Act; and

15 (B) authorize such offices to exercise au-
16 thority that is the same or similar to the au-
17 thority under section 6(e)(1) of such Act.

18 (2) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Attorney
20 General shall promulgate guidelines under section
21 6(e)(4) of the Inspector General Act of 1978 (5
22 U.S.C. App) (as added by subsection (a) of this sec-
23 tion) applicable to the Inspector General offices de-
24 scribed under section 6(e)(3) of that Act.

1 (3) MINIMUM REQUIREMENTS.—The guidelines
2 promulgated under this subsection shall include, at
3 a minimum, the operational and training require-
4 ments in the memoranda of understanding.

5 (4) NO LAPSE OF AUTHORITY.—The memo-
6 randa of understanding in effect on the date of en-
7 actment of this Act shall remain in effect until the
8 guidelines promulgated under this subsection take
9 effect.

10 (c) EFFECTIVE DATES.—

11 (1) IN GENERAL.—Subsection (a) shall take ef-
12 fect 180 days after the date of enactment of this
13 Act.

14 (2) INITIAL GUIDELINES.—Subsection (b) shall
15 take effect on the date of enactment of this Act.

16 **TITLE V—FEDERAL EMERGENCY**
17 **PROCUREMENT FLEXIBILITY**
18 **Subtitle A—Temporary Flexibility**
19 **for Certain Procurements**

20 **SEC. 501. DEFINITION.**

21 In this title, the term “executive agency” has the
22 meaning given that term under section 4(1) of the Office
23 of Federal Procurement Policy Act (41 U.S.C. 403(1)).

1 **SEC. 502. PROCUREMENTS FOR DEFENSE AGAINST OR RE-**
2 **COVERY FROM TERRORISM OR NUCLEAR, BI-**
3 **OLOGICAL, CHEMICAL, OR RADIOLOGICAL**
4 **ATTACK.**

5 The authorities provided in this subtitle apply to any
6 procurement of property or services by or for an executive
7 agency that, as determined by the head of the executive
8 agency, are to be used to facilitate defense against or re-
9 covery from terrorism or nuclear, biological, chemical, or
10 radiological attack, but only if a solicitation of offers for
11 the procurement is issued during the 1-year period begin-
12 ning on the date of the enactment of this Act.

13 **SEC. 503. INCREASED SIMPLIFIED ACQUISITION THRESH-**
14 **OLD FOR PROCUREMENTS IN SUPPORT OF**
15 **HUMANITARIAN OR PEACEKEEPING OPER-**
16 **ATIONS OR CONTINGENCY OPERATIONS.**

17 (a) TEMPORARY THRESHOLD AMOUNTS.—For a pro-
18 curement referred to in section 502 that is carried out
19 in support of a humanitarian or peacekeeping operation
20 or a contingency operation, the simplified acquisition
21 threshold definitions shall be applied as if the amount de-
22 termined under the exception provided for such an oper-
23 ation in those definitions were—

24 (1) in the case of a contract to be awarded and
25 performed, or purchase to be made, inside the
26 United States, \$250,000; or

1 (2) in the case of a contract to be awarded and
2 performed, or purchase to be made, outside the
3 United States, \$500,000.

4 (b) SIMPLIFIED ACQUISITION THRESHOLD DEFINI-
5 TIONS.—In this section, the term “simplified acquisition
6 threshold definitions” means the following:

7 (1) Section 4(11) of the Office of Federal Pro-
8 curement Policy Act (41 U.S.C. 403(11)).

9 (2) Section 309(d) of the Federal Property and
10 Administrative Services Act of 1949 (41 U.S.C.
11 259(d)).

12 (3) Section 2302(7) of title 10, United States
13 Code.

14 (c) SMALL BUSINESS RESERVE.—For a procurement
15 carried out pursuant to subsection (a), section 15(j) of the
16 Small Business Act (15 U.S.C. 644(j)) shall be applied
17 as if the maximum anticipated value identified therein is
18 equal to the amounts referred to in subsection (a).

19 **SEC. 504. INCREASED MICRO-PURCHASE THRESHOLD FOR**
20 **CERTAIN PROCUREMENTS.**

21 In the administration of section 32 of the Office of
22 Federal Procurement Policy Act (41 U.S.C. 428) with re-
23 spect to a procurement referred to in section 502, the
24 amount specified in subsections (c), (d), and (f) of such
25 section 32 shall be deemed to be \$10,000.

1 **SEC. 505. APPLICATION OF CERTAIN COMMERCIAL ITEMS**

2 **AUTHORITIES TO CERTAIN PROCUREMENTS.**

3 (a) **AUTHORITY.—**

4 (1) **IN GENERAL.—**The head of an executive
5 agency may apply the provisions of law listed in
6 paragraph (2) to a procurement referred to in sec-
7 tion 502 without regard to whether the property or
8 services are commercial items.

9 (2) **COMMERCIAL ITEM LAWS.—**The provisions
10 of law referred to in paragraph (1) are as follows:

11 (A) Sections 31 and 34 of the Office of
12 Federal Procurement Policy Act (41 U.S.C.
13 427, 430).

14 (B) Section 2304(g) of title 10, United
15 States Code.

16 (C) Section 303(g) of the Federal Property
17 and Administrative Services Act of 1949 (41
18 U.S.C. 253(g)).

19 (b) **INAPPLICABILITY OF LIMITATION ON USE OF**
20 **SIMPLIFIED ACQUISITION PROCEDURES.—**

21 (1) **IN GENERAL.—**The \$5,000,000 limitation
22 provided in section 31(a)(2) of the Office of Federal
23 Procurement Policy Act (41 U.S.C. 427(a)(2)), sec-
24 tion 2304(g)(1)(B) of title 10, United States Code,
25 and section 303(g)(1)(B) of the Federal Property
26 and Administrative Services Act of 1949 (41 U.S.C.

1 253(g)(1)(B)) shall not apply to purchases of prop-
2 erty or services to which any of the provisions of law
3 referred to in subsection (a) are applied under the
4 authority of this section.

5 (2) OMB GUIDANCE.—The Director of the Of-
6 fice of Management and Budget shall issue guidance
7 and procedures for the use of simplified acquisition
8 procedures for a purchase of property or services in
9 excess of \$5,000,000 under the authority of this sec-
10 tion.

11 (c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED
12 PURCHASE PROCEDURES.—Authority under a provision of
13 law referred to in subsection (a)(2) that expires under sec-
14 tion 4202(e) of the Clinger-Cohen Act of 1996 (divisions
15 D and E of Public Law 104–106; 10 U.S.C. 2304 note)
16 shall, notwithstanding such section, continue to apply for
17 use by the head of an executive agency as provided in sub-
18 sections (a) and (b).

19 **SEC. 506. USE OF STREAMLINED PROCEDURES.**

20 (a) REQUIRED USE.—The head of an executive agen-
21 cy shall, when appropriate, use streamlined acquisition au-
22 thorities and procedures authorized by law for a procure-
23 ment referred to in section 502, including authorities and
24 procedures that are provided under the following provi-
25 sions of law:

1 (1) FEDERAL PROPERTY AND ADMINISTRATIVE
2 SERVICES ACT OF 1949.—In title III of the Federal
3 Property and Administrative Services Act of 1949:

4 (A) Paragraphs (1), (2), (6), and (7) of
5 subsection (c) of section 303 (41 U.S.C. 253),
6 relating to use of procedures other than com-
7 petitive procedures under certain circumstances
8 (subject to subsection (e) of such section).

9 (B) Section 303J (41 U.S.C. 253j), relat-
10 ing to orders under task and delivery order con-
11 tracts.

12 (2) TITLE 10, UNITED STATES CODE.—In chap-
13 ter 137 of title 10, United States Code:

14 (A) Paragraphs (1), (2), (6), and (7) of
15 subsection (c) of section 2304, relating to use
16 of procedures other than competitive procedures
17 under certain circumstances (subject to sub-
18 section (e) of such section).

19 (B) Section 2304c, relating to orders
20 under task and delivery order contracts.

21 (3) OFFICE OF FEDERAL PROCUREMENT POL-
22 ICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of
23 section 18(c) of the Office of Federal Procurement
24 Policy Act (41 U.S.C. 416(c)), relating to inapplica-
25 bility of a requirement for procurement notice.

1 (b) WAIVER OF CERTAIN SMALL BUSINESS THRESH-
2 OLD REQUIREMENTS.—Subclause (II) of section
3 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C.
4 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of
5 such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the
6 use of streamlined acquisition authorities and procedures
7 referred to in paragraphs (1)(A) and (2)(A) of subsection
8 (a) for a procurement referred to in section 502.

9 **SEC. 507. REVIEW AND REPORT BY COMPTROLLER GEN-**
10 **ERAL.**

11 (a) REQUIREMENTS.—Not later than March 31,
12 2004, the Comptroller General shall—

13 (1) complete a review of the extent to which
14 procurements of property and services have been
15 made in accordance with this subtitle; and

16 (2) submit a report on the results of the review
17 to the Committee on Governmental Affairs of the
18 Senate and the Committee on Government Reform
19 of the House of Representatives.

20 (b) CONTENT OF REPORT.—The report under sub-
21 section (a)(2) shall include the following matters:

22 (1) ASSESSMENT.—The Comptroller General's
23 assessment of—

24 (A) the extent to which property and serv-
25 ices procured in accordance with this title have

1 contributed to the capacity of the workforce of
2 Federal Government employees within each ex-
3 ecutive agency to carry out the mission of the
4 executive agency; and

5 (B) the extent to which Federal Govern-
6 ment employees have been trained on the use of
7 technology.

8 (2) RECOMMENDATIONS.—Any recommenda-
9 tions of the Comptroller General resulting from the
10 assessment described in paragraph (1).

11 (c) CONSULTATION.—In preparing for the review
12 under subsection (a)(1), the Comptroller shall consult with
13 the Committee on Governmental Affairs of the Senate and
14 the Committee on Government Reform of the House of
15 Representatives on the specific issues and topics to be re-
16 viewed. The extent of coverage needed in areas such as
17 technology integration, employee training, and human
18 capital management, as well as the data requirements of
19 the study, shall be included as part of the consultation.

20 **Subtitle B—Other Matters**

21 **SEC. 511. IDENTIFICATION OF NEW ENTRANTS INTO THE** 22 **FEDERAL MARKETPLACE.**

23 The head of each executive agency shall conduct mar-
24 ket research on an ongoing basis to identify effectively the
25 capabilities, including the capabilities of small businesses

1 and new entrants into Federal contracting, that are avail-
2 able in the marketplace for meeting the requirements of
3 the executive agency in furtherance of defense against or
4 recovery from terrorism or nuclear, biological, chemical,
5 or radiological attack. The head of the executive agency
6 shall, to the maximum extent practicable, take advantage
7 of commercially available market research methods, in-
8 cluding use of commercial databases, to carry out the re-
9 search.

10 **TITLE VI—EFFECTIVE DATE**

11 **SEC. 601. EFFECTIVE DATE.**

12 This division shall take effect 30 days after the date
13 of enactment of this Act or, if enacted within 30 days be-
14 fore January 1, 2003, on January 1, 2003.