

113TH CONGRESS
1ST SESSION

S. 1510

To provide for auditable financial statements for the Department of Defense,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2013

Mr. COBURN (for himself, Mr. MANCHIN, Mr. GRASSLEY, Mr. JOHNSON of Wisconsin, Mr. PAUL, Ms. AYOTTE, Mr. CORNYN, Mr. CHAMBLISS, Mr. HELLER, Mrs. McCASKILL, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To provide for auditable financial statements for the
Department of Defense, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Audit the Pentagon
5 Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Section 9 of Article I of the Constitution of
9 the United States requires all agencies of the Fed-

1 eral Government, including the Department of De-
2 fense, to publish “a regular statement and account
3 of the receipts and expenditures of all public
4 money”.

5 (2) Section 3515 of title 31, United States
6 Code, requires the agencies of the Federal Govern-
7 ment, including the Department of Defense, to
8 present auditable financial statements beginning not
9 later than March 1, 1997. The Department has not
10 complied with this law.

11 (3) The Federal Financial Management Im-
12 provement Act of 1996 (31 U.S.C. 3512 note) re-
13 quires financial systems acquired by the Federal
14 Government, including the Department of Defense,
15 to be able to provide information to leaders to man-
16 age and control the cost of Government. The De-
17 partment has not complied with this law.

18 (4) The financial management of the Depart-
19 ment of Defense has been on the “High-Risk” list
20 of the Government Accountability Office, which
21 means that the Department is not consistently able
22 to “control costs; ensure basic accountability; antici-
23 pate future costs and claims on the budget; measure
24 performance; maintain funds control; [and] prevent
25 and detect fraud, waste, and abuse”.

1 (5) The National Defense Authorization Act for
2 Fiscal Year 2002 (Public Law 107–107) requires
3 the Secretary of Defense to report to Congress an-
4 nually on the reliability of the financial statements
5 of the Department of Defense, to minimize resources
6 spent on producing unreliable financial statements,
7 and to use resources saved to improve financial man-
8 agement policies, procedures, and internal controls.

9 (6) In 2005, the Department of Defense cre-
10 ated a Financial Improvement and Audit Readiness
11 (FIAR) Plan, overseen by a directorate within the
12 office of the Under Secretary of Defense (Comp-
13 troller), to improve Department business processes
14 with the goal of producing timely, reliable, and accu-
15 rate financial information that could generate an
16 audit-ready annual financial statement. In December
17 2005, that directorate, known as the FIAR Direc-
18 torate, issued the first of a series of semiannual re-
19 ports on the status of the Financial Improvement
20 and Audit Readiness Plan.

21 (7) The National Defense Authorization Act for
22 Fiscal Year 2010 (Public Law 111–84) requires reg-
23 ular status reports on the Financial Improvement
24 and Audit Readiness Plan described in paragraph
25 (6), and codified as a statutory requirement the goal

1 of the Plan in ensuring that Department of Defense
2 financial statements are validated as ready for audit
3 not later than September 30, 2017. In addition, the
4 National Defense Authorization Act for Fiscal Year
5 2013 (Public Law 112–239) requires that the state-
6 ment of budgetary resources of the Department of
7 Defense be validated as ready for audit by not later
8 than September 30, 2014.

9 (8) At a September 2010 hearing of the Senate,
10 the Government Accountability Office stated that
11 past expenditures by the Department of Defense of
12 \$5,800,000,000 to improve financial information,
13 and billions of dollars more of anticipated expendi-
14 tures on new information technology systems for
15 that purpose, may not suffice to achieve full audit
16 readiness of the financial statement of the Depart-
17 ment. At that hearing, the Government Account-
18 ability Office could not predict when the Department
19 would achieve full audit readiness of such state-
20 ments.

21 (9) At a 2013 hearing of the Senate, Secretary
22 of Defense Chuck Hagel affirmed his commitment to
23 audit-ready budget statements for the Department
24 of Defense by the end of 2014, and stated that he
25 “will do everything he can to fulfill this commit-

1 ment". At that hearing, Secretary Hagel noted that
2 auditable financial statements were essential to the
3 Department not only for improving the quality of its
4 financial information, but also for reassuring the
5 public and Congress that it is a good steward of
6 public funds.

7 **SEC. 3. CESSATION OF APPLICABILITY OF REPORTING RE-**
8 **QUIREMENTS REGARDING THE FINANCIAL**
9 **STATEMENTS OF THE DEPARTMENT OF DE-**
10 **FENSE.**

11 (a) CESSATION OF APPLICABILITY.—

12 (1) MILITARY DEPARTMENTS.—The financial
13 statements of a military department shall cease to
14 be covered by the reporting requirements specified in
15 subsection (b) upon the issuance of an unqualified
16 audit opinion on such financial statements.

17 (2) DEPARTMENT OF DEFENSE.—The reporting
18 requirements specified in subsection (b) shall cease
19 to be effective when an unqualified audit opinion is
20 issued on the financial statements of the Depart-
21 ment of Defense, including each of the military de-
22 partments and the other reporting entities defined
23 by the Office of Management and Budget.

24 (b) REPORTING REQUIREMENTS.—The reporting re-
25 quirements specified in this subsection are the following:

1 (1) The requirement for annual reports in sec-
2 tion 892(b) of the Ike Skelton National Defense Au-
3 thorization Act for Fiscal Year 2011 (Public Law
4 111–383; 124 Stat. 4311; 10 U.S.C. 2306a note).

5 (2) The requirement for semi-annual reports in
6 section 1003(b) of the National Defense Authoriza-
7 tion Act for Fiscal Year 2010 (Public Law 111–84;
8 123 Stat. 2440; 10 U.S.C. 2222 note).

9 (3) The requirement for annual reports in sec-
10 tion 817(d) of the Bob Stump National Defense Au-
11 thorization Act for Fiscal Year 2003 (10 U.S.C.
12 2306a note).

13 (4) The requirement for annual reports in sec-
14 tion 1008(a) of the National Defense Authorization
15 Act for Fiscal Year 2002 (Public Law 107–107; 115
16 Stat. 1204; 10 U.S.C. 113 note).

17 (5) The requirement for periodic reports in sec-
18 tion 908(b) of the Defense Acquisition Improvement
19 Act of 1986 (Public Law 99–500; 100 Stat. 1783–
20 140; 10 U.S.C. 2326 note) and duplicate require-
21 ments as provided for in section 6 of the Defense
22 Technical Corrections Act of 1987 (Public Law 100–
23 26; 101 Stat. 274; 10 U.S.C. 2302 note).

1 **SEC. 4. ENHANCED REPROGRAMMING AUTHORITY FOL-**
2 **LOWING ACHIEVEMENT BY DEPARTMENT OF**
3 **DEFENSE AND MILITARY DEPARTMENTS OF**
4 **AUDIT WITH UNQUALIFIED OPINION OF**
5 **STATEMENT OF BUDGETARY RESOURCES**
6 **FOR FISCAL YEARS AFTER FISCAL YEAR 2014.**

7 (a) DEPARTMENT OF DEFENSE GENERALLY.—Sub-
8 ject to section 6(1), if the Department of Defense obtains
9 an audit with an unqualified opinion on its statement of
10 budgetary resources for any fiscal year after fiscal year
11 2014, the limitation on the total amount of authorizations
12 that the Secretary of Defense may transfer pursuant to
13 general transfer authority available to the Secretary in the
14 national interest in the succeeding fiscal year shall be
15 \$8,000,000,000.

16 (b) MILITARY DEPARTMENTS, DEFENSE AGENCIES,
17 AND DEFENSE FIELD ACTIVITIES.—Subject to section
18 7(a), if a military department, Defense Agency, or defense
19 field activity obtains an audit with an unqualified opinion
20 on its statement of budgetary resources for any fiscal year
21 after fiscal year 2014, the thresholds for reprogramming
22 of funds of such military department, Defense Agency, or
23 defense field activity, as the case may be, without prior
24 notice to Congress for the succeeding fiscal year shall be
25 deemed to be the thresholds as follows:

1 (1) In the case of an increase or decrease to the
2 program base amount for a procurement program,
3 \$60,000,000.

4 (2) In the case of an increase or decrease to the
5 program base amount for a research program,
6 \$30,000,000.

7 (3) In the case of an increase or decrease to the
8 amount for a budget activity for operation and
9 maintenance, \$45,000,000.

10 (4) In the case of an increase or decrease to the
11 amount for a budget activity for military personnel,
12 \$30,000,000.

13 (c) CONSTRUCTION.—Nothing in this section shall be
14 construed to alter or revise any requirement (other than
15 a threshold amount) for notice to Congress on transfers
16 covered by subsection (a) or reprogrammings covered by
17 subsection (b) under any other provision of law.

18 (d) DEFINITIONS.—In this section, the terms “pro-
19 gram base amount”, “procurement program”, “research
20 program”, and “budget activity” have the meanings given
21 such terms in chapter 6 of volume 3 of the Financial Man-
22 agement Regulation of the Department of Defense (DoD
23 7000.14R), dated March 2011, or any successor docu-
24 ment.

1 **SEC. 5. FAILURE TO OBTAIN AUDITS WITH UNQUALIFIED**
2 **OPINION OF FISCAL YEAR 2015 GENERAL**
3 **FUND STATEMENT OF BUDGETARY RE-**
4 **SOURCES OF THE DEPARTMENT OF DE-**
5 **FENSE.**

6 (a) IN GENERAL.—If the Department of Defense
7 fails to obtain an audit with an unqualified opinion on its
8 general fund statement of budgetary resources for fiscal
9 year 2015 by December 31, 2015, the following shall take
10 effect on January 1, 2016:

11 (1) ADDITIONAL QUALIFICATIONS AND DUTIES
12 OF USD (COMPTROLLER).—

13 (A) QUALIFICATIONS.—Any individual
14 nominated for appointment to the position of
15 Under Secretary of Defense (Comptroller)
16 under section 135 of title 10, United States
17 Code, shall be an individual who has served—

18 (i) as the chief financial officer or
19 equivalent position of a Federal or State
20 agency that has received an audit with an
21 unqualified opinion on such agency's finan-
22 cial statements during the time of such in-
23 dividual's service; or

24 (ii) as the chief financial officer or
25 equivalent position of a public company
26 that has received an audit with an unquali-

1 fied opinion on such company’s financial
2 statements during the time of such individ-
3 ual’s service.

4 (B) DUTIES AND POWERS.—The duties
5 and powers of the individual serving as Under
6 Secretary of Defense (Comptroller) shall in-
7 clude, in addition to the duties and powers
8 specified in section 135(c) of title 10, United
9 States Code, such duties and powers with re-
10 spect to the financial management of the De-
11 partment of Defense as the Deputy Secretary of
12 Defense (acting in the capacity of Chief Man-
13 agement Officer of the Department of Defense)
14 or a successor official in the Department of De-
15 fense (acting in such capacity) may prescribe.

16 (2) ADDITIONAL QUALIFICATIONS AND RESPON-
17 SIBILITIES OF ASA FOR FINANCIAL MANAGEMENT.—

18 (A) QUALIFICATIONS.—Any individual
19 nominated for appointment to the position of
20 Assistant Secretary of the Army for Financial
21 Management under section 3016 of title 10,
22 United States Code, shall be an individual who
23 has served—

24 (i) as the chief financial officer or
25 equivalent position of a Federal or State

1 agency that has received an audit with an
2 unqualified opinion on such agency's finan-
3 cial statements during the time of such in-
4 dividual's service; or

5 (ii) as the chief financial officer or
6 equivalent position of a public company
7 that has received an audit with an unquali-
8 fied opinion on such company's financial
9 statements during the time of such individ-
10 ual's service.

11 (B) RESPONSIBILITIES.—The responsibil-
12 ities of the individual serving as Assistant Sec-
13 retary of the Army for Financial Management
14 shall include, in addition to the responsibilities
15 specified in section 3016(b)(4) of title 10,
16 United States Code, such responsibilities as the
17 Deputy Secretary of Defense (acting in the ca-
18 pacity of Chief Management Officer of the De-
19 partment of Defense) or a successor official in
20 the Department of Defense (acting in such ca-
21 pacity) may prescribe.

22 (3) ADDITIONAL QUALIFICATIONS AND RESPON-
23 SIBILITIES OF ASN FOR FINANCIAL MANAGEMENT.—

24 (A) QUALIFICATIONS.—Any individual
25 nominated for appointment to the position of

1 Assistant Secretary of the Navy for Financial
2 Management under section 5016 of title 10,
3 United States Code, shall be an individual who
4 has served—

5 (i) as the chief financial officer or
6 equivalent position of a Federal or State
7 agency that has received an audit with an
8 unqualified opinion on such agency's finan-
9 cial statements during the time of such in-
10 dividual's service; or

11 (ii) as the chief financial officer or
12 equivalent position of a public company
13 that has received an audit with an unquali-
14 fied opinion on such company's financial
15 statements during the time of such individ-
16 ual's service.

17 (B) RESPONSIBILITIES.—The responsibil-
18 ities of the individual serving as Assistant Sec-
19 retary of the Navy for Financial Management
20 shall include, in addition to the responsibilities
21 specified in section 5016(b)(4) of title 10,
22 United States Code, such responsibilities as the
23 Deputy Secretary of Defense (acting in the ca-
24 pacity of Chief Management Officer of the De-
25 partment of Defense) or a successor official in

1 the Department of Defense (acting in such ca-
2 pacity) may prescribe.

3 (4) ADDITIONAL QUALIFICATIONS AND RESPON-
4 SIBILITIES OF ASAF FOR FINANCIAL MANAGE-
5 MENT.—

6 (A) QUALIFICATIONS.—Any individual
7 nominated for appointment to the position of
8 Assistant Secretary of the Air Force for Finan-
9 cial Management under section 8016 of title 10,
10 United States Code, shall be an individual who
11 has served—

12 (i) as the chief financial officer or
13 equivalent position of a Federal or State
14 agency that has received an audit with an
15 unqualified opinion on such agency's finan-
16 cial statements during the time of such in-
17 dividual's service; or

18 (ii) as the chief financial officer or
19 equivalent position of a public company
20 that has received an audit with an unquali-
21 fied opinion on such company's financial
22 statements during the time of such individ-
23 ual's service.

24 (B) RESPONSIBILITIES.—The responsibil-
25 ities of the individual serving as Assistant Sec-

1 cease to be available to the Department of Defense
2 for fiscal year 2018 and any fiscal year thereafter.

3 (2) REORGANIZATION OF RESPONSIBILITIES OF
4 CHIEF MANAGEMENT OFFICER.—Effective as of
5 April 1, 2019:

6 (A) POSITION OF CHIEF MANAGEMENT OF-
7 FICER.—Section 132a of title 10, United States
8 Code, is amended to read as follows:

9 **“§ 132a. Chief Management Officer**

10 “(a) IN GENERAL.—(1) There is a Chief Manage-
11 ment Officer of the Department of Defense, appointed
12 from civilian life by the President, by and with the advice
13 and consent of the Senate.

14 “(2) Any individual nominated for appointment as
15 Chief Management Officer shall be an individual who
16 has—

17 “(A) extensive executive level leadership and
18 management experience in the public or private sec-
19 tor;

20 “(B) strong leadership skills;

21 “(C) a demonstrated ability to manage large
22 and complex organizations; and

23 “(D) a proven record in achieving positive oper-
24 ational results.

1 “(b) POWERS AND DUTIES.—The Chief Management
2 Officer shall perform such duties and exercise such powers
3 as the Secretary of Defense may prescribe.

4 “(c) SERVICE AS CHIEF MANAGEMENT OFFICER.—
5 (1) The Chief Management Officer is the Chief Manage-
6 ment Officer of the Department of Defense.

7 “(2) In serving as the Chief Management Officer of
8 the Department of Defense, the Chief Management Offi-
9 cer shall be responsible for the management and adminis-
10 tration of the Department of Defense with respect to the
11 following:

12 “(A) The expenditure of funds, accounting, and
13 finance.

14 “(B) Procurement, including procurement of
15 any enterprise resource planning (ERP) system and
16 any information technology (IT) system that is a fi-
17 nancial feeder system, human resources system, or
18 logistics system.

19 “(C) Facilities, property, nonmilitary equip-
20 ment, and other resources.

21 “(D) Strategic planning, annual performance
22 planning, and identification and tracking of perform-
23 ance measures.

1 “(E) Internal audits and management analyses
2 of the programs and activities of the Department,
3 including the Defense Contract Audit Agency.

4 “(F) Such other areas or matters as the Sec-
5 retary of Defense may designate.

6 “(3) The head of the Defense Contract Audit Agency
7 shall be under the supervision of, and shall report directly
8 to, the Chief Management Officer.

9 “(d) PRECEDENCE.—The Chief Management Officer
10 takes precedence in the Department of Defense after the
11 Secretary of Defense and the Deputy Secretary of De-
12 fense.”.

13 (B) CONFORMING AMENDMENTS.—

14 (i) Section 131(b) of title 10, United
15 States Code, is amended—

16 (I) by striking paragraph (3);

17 (II) by redesignating paragraph
18 (2) as paragraph (3); and

19 (III) by inserting after paragraph
20 (1) the following new paragraph (2):

21 “(2) The Chief Management Officer of the De-
22 partment of Defense.”.

23 (ii) Section 132 of such title is
24 amended—

1 (I) by striking subsection (c);
2 and

3 (II) by redesignating subsections
4 (d) and (e) as subsections (c) and (d),
5 respectively.

6 (iii) Section 133(e)(1) of such title is
7 amended by striking “and the Deputy Sec-
8 retary of Defense” and inserting “, the
9 Deputy Secretary of Defense, and the
10 Chief Management Officer of the Depart-
11 ment of Defense”.

12 (iv) Such title is further amended by
13 inserting “the Chief Management Officer
14 of the Department of Defense,” after “the
15 Deputy Secretary of Defense,” each place
16 it appears in the provisions as follows:

17 (I) Section 133(e)(2).

18 (II) Section 134(c).

19 (v) Section 137a(d) of such title is
20 amended by striking “the Secretaries of
21 the military departments,” and all that fol-
22 lows and inserting “the Chief Management
23 Officer of the Department of Defense, the
24 Secretaries of the military departments,
25 and the Under Secretaries of Defense.”.

1 (vi) Section 138(d) of such title is
 2 amended by striking “the Secretaries of
 3 the military departments,” and all that fol-
 4 lows through the period and inserting “the
 5 Chief Management Officer of the Depart-
 6 ment of Defense, the Secretaries of the
 7 military departments, the Under Secre-
 8 taries of Defense, and the Director of De-
 9 fense Research and Engineering.”.

10 (C) CLERICAL AMENDMENT.—The table of
 11 sections at the beginning of chapter 4 of such
 12 title is amended by striking the item relating to
 13 section 132a and inserting the following new
 14 item:

“132a. Chief Management Officer.”.

15 (D) EXECUTIVE SCHEDULE.—Section
 16 5313 of title 5, United States Code, is amended
 17 by adding at the end the following:

18 “Chief Management Officer of the Department
 19 of Defense.”.

20 (E) REFERENCE IN LAW.—Any reference
 21 in any provision of law to the Chief Manage-
 22 ment Officer of the Department of Defense
 23 shall be deemed to refer to the Chief Manage-
 24 ment Officer of the Department of Defense

1 under section 132a of title 10, United States
2 Code (as amended by this paragraph).

3 (3) JURISDICTION OF DFAS.—Effective as of
4 April 1, 2019:

5 (A) TRANSFER TO DEPARTMENT OF THE
6 TREASURY.—Jurisdiction of the Defense Fi-
7 nance and Accounting Service (DFAS) is trans-
8 ferred from the Department of Defense to the
9 Department of the Treasury.

10 (B) ADMINISTRATION.—The Secretary of
11 the Treasury shall administer the Defense Fi-
12 nance and Accounting Service following transfer
13 under this paragraph through the Financial
14 Management Service of the Department of the
15 Treasury.

16 (C) MEMORANDUM OF UNDERSTANDING.—
17 The Secretary of Defense and the Secretary of
18 the Treasury shall jointly enter into a memo-
19 randum of understanding regarding the trans-
20 fer of jurisdiction of the Defense Finance and
21 Accounting Service under this paragraph. The
22 memorandum of understanding shall provide for
23 the transfer of the personnel and other re-
24 sources of the Service to the Department of the
25 Treasury and for the assumption of responsi-

1 bility for such personnel and resources by the
2 Department of the Treasury.

3 (D) CONSTRUCTION.—Nothing in this
4 paragraph shall be construed as terminating, al-
5 tering, or revising any responsibilities or au-
6 thorities of the Defense Finance and Account-
7 ing Service (other than responsibilities and au-
8 thorities in connection with the exercise of ju-
9 risdiction of the Service following transfer
10 under this paragraph).

11 **SEC. 7. FAILURE OF THE MILITARY DEPARTMENTS TO OB-**
12 **TAIN AUDITS WITH UNQUALIFIED OPINION**
13 **OF FINANCIAL STATEMENTS FOR FISCAL**
14 **YEARS AFTER FISCAL YEAR 2017.**

15 (a) PERMANENT CESSATION OF AUTHORITIES ON
16 REPROGRAMMING OF FUNDS.—If a military department
17 fails to obtain an audit with an unqualified opinion on its
18 financial statements for fiscal year 2018 by December 31,
19 2018, effective as of January 1, 2019, the authorities in
20 section 4(b) shall cease to be available to the military de-
21 partment for fiscal year 2018 and any fiscal year there-
22 after.

23 (b) ANNUAL PROHIBITION ON EXPENDITURE OF
24 FUNDS FOR CERTAIN MDAPs PAST MILESTONE B IN
25 CONNECTION WITH FAILURE.—

1 (1) PROHIBITION.—Effective for fiscal years
2 after fiscal year 2017, if a military department fails
3 to obtain an audit with an unqualified opinion on its
4 financial statements for any fiscal year, effective as
5 of the date of the issuance of the opinion on such
6 audit, amounts available to the military department
7 for the following fiscal year may not be obligated by
8 the military department for a weapon or weapon sys-
9 tem or platform being acquired as a major defense
10 acquisition program for any activity beyond Mile-
11 stone B approval unless such program has already
12 achieved Milestone B approval of the date of the
13 issuance of the opinion on such audit.

14 (2) DEFINITIONS.—In this subsection:

15 (A) The term “major defense acquisition
16 program” has the meaning given that term in
17 section 2430 of title 10, United States Code.

18 (B) The term “Milestone B approval” has
19 the meaning given that term in section
20 2366(e)(7) of title 10, United States Code.

21 **SEC. 8. ENTERPRISE RESOURCE PLANNING.**

22 The Secretary of Defense shall amend the acquisition
23 guidance of the Department of Defense to provide for the
24 following:

1 (1) The Defense Business System Management
2 Committee may not approve procurement of any En-
3 terprise Resource Planning (ERP) business system
4 that is independently estimated to take longer than
5 three years to procure from initial obligation of
6 funds to full deployment and sustainment.

7 (2) Any contract for the acquisition of an En-
8 terprise Resource Planning business system shall in-
9 clude a provision authorizing termination of the con-
10 tract at no cost to the Government if procurement
11 of the system takes longer than three years from ini-
12 tial obligation of funds to full deployment and
13 sustainment.

14 (3) Any implementation of an Enterprise Re-
15 source Planning system shall comply with each of
16 the following:

17 (A) The current Business Enterprise Ar-
18 chitecture established by the Chief Management
19 Officer of the Department of Defense.

20 (B) The provisions of section 2222 of title
21 10, United States Code.

22 (4) The Deputy Secretary of Defense (acting in
23 the capacity of Chief Management Officer of the De-
24 partment of Defense) or a successor official in the
25 Department of Defense (acting in such capacity)

1 shall have the authority to replace any program
2 manager (whether in a military department or a De-
3 fense Agency) for the procurement of an Enterprise
4 Resource Planning business system if procurement
5 of the system takes longer than three years from ini-
6 tial obligation of funds to full deployment and
7 sustainment.

8 (5) Any integrator contract for the implementa-
9 tion of an Enterprise Resource Planning business
10 system shall only be awarded to companies that have
11 a history of successful implementation of other En-
12 terprise Resource Planning business systems for the
13 Federal Government (whether with the Department
14 of Defense or another department or agency of the
15 Federal Government), including meeting cost and
16 schedule goals.

○