

Union Calendar No. 27

115TH CONGRESS
1ST SESSION

H. R. 1252

[Report No. 115–47]

To amend the Homeland Security Act of 2002 to provide for certain acquisition authorities for the Under Secretary of Management of the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2017

Mr. HIGGINS of Louisiana (for himself and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Homeland Security

MARCH 20, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 28, 2017]

A BILL

To amend the Homeland Security Act of 2002 to provide for certain acquisition authorities for the Under Secretary of Management of the Department of Homeland Security, 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 “DHS Acquisition Au-*
 5 *thorities Act of 2017”.*

6 **SEC. 2. ACQUISITION AUTHORITIES FOR UNDER SEC-**
 7 **RETARY FOR MANAGEMENT OF THE DEPART-**
 8 **MENT OF HOMELAND SECURITY.**

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

11 *(1) redesignating subsections (d) and (e) as sub-*
 12 *sections (e) and (f); and*

13 *(2) inserting after subsection (c) the following*
 14 *new subsection:*

15 *“(d) ACQUISITION AND RELATED RESPONSIBIL-*
 16 *ITIES.—*

17 *“(1) IN GENERAL.—Notwithstanding section*
 18 *1702(b) of title 41, United States Code, the Under*
 19 *Secretary for Management is the Chief Acquisition*
 20 *Officer of the Department. As Chief Acquisition Offi-*
 21 *cer, the Under Secretary shall have the authorities*
 22 *and perform the functions specified in section 1702(b)*
 23 *of such title, and perform all other functions and re-*
 24 *sponsibilities delegated by the Secretary or described*
 25 *in this subsection.*

1 “(2) *FUNCTIONS AND RESPONSIBILITIES.*—In
2 *addition to the authorities and functions specified in*
3 *section 1702(b) of title 41, United States Code, the*
4 *functions and responsibilities of the Under Secretary*
5 *for Management related to acquisition (as such term*
6 *is defined in section 710) include the following:*

7 “(A) *Advising the Secretary regarding ac-*
8 *quisition management activities, taking into ac-*
9 *count risks of failure to achieve cost, schedule, or*
10 *performance parameters, to ensure that the De-*
11 *partment achieves its mission through the adop-*
12 *tion of widely accepted program management*
13 *best practices (as such term is defined in section*
14 *710) and standards and, where appropriate, ac-*
15 *quisition innovation best practices.*

16 “(B) *Leading the Department’s acquisition*
17 *oversight body, the Acquisition Review Board,*
18 *and exercising the acquisition decision authority*
19 *(as such term is defined in section 710) to ap-*
20 *prove, pause, modify (including the rescission of*
21 *approvals of program milestones), or cancel*
22 *major acquisition programs (as such term is de-*
23 *finied in section 710), unless the Under Secretary*
24 *delegates such authority to a Component Acqui-*

1 *sition Executive (as such term is defined in sec-*
2 *tion 710) pursuant to paragraph (3).*

3 *“(C) Establishing policies for acquisition*
4 *that implement an approach that takes into ac-*
5 *count risks of failure to achieve cost, schedule, or*
6 *performance parameters that all components of*
7 *the Department shall comply with, including*
8 *outlining relevant authorities for program man-*
9 *agers to effectively manage acquisition programs.*

10 *“(D) Ensuring that each major acquisition*
11 *program has a Department-approved acquisition*
12 *program baseline (as such term is defined in sec-*
13 *tion 710), pursuant to the Department’s acquisi-*
14 *tion management policy.*

15 *“(E) Ensuring that the heads of components*
16 *and Component Acquisition Executives comply*
17 *with Federal law, the Federal Acquisition Regu-*
18 *lation, and Department acquisition management*
19 *directives.*

20 *“(F) Ensuring that grants and financial*
21 *assistance are provided only to individuals and*
22 *organizations that are not suspended or*
23 *debarred.*

24 *“(G) Distributing guidance throughout the*
25 *Department to ensure that contractors involved*

1 *in acquisitions, particularly contractors that ac-*
2 *cess the Department's information systems and*
3 *technologies, adhere to relevant Department poli-*
4 *cies related to physical and information security*
5 *as identified by the Under Secretary for Manage-*
6 *ment.*

7 *“(H) Overseeing the Component Acquisition*
8 *Executive organizational structure to ensure*
9 *Component Acquisition Executives have suffi-*
10 *cient capabilities and comply with Department*
11 *acquisition policies.*

12 *“(3) DELEGATION OF ACQUISITION DECISION AU-*
13 *THORITY.—*

14 *“(A) LEVEL 3 ACQUISITIONS.—The Under*
15 *Secretary for Management may delegate acquisi-*
16 *tion decision authority in writing to the relevant*
17 *Component Acquisition Executive for an acquisi-*
18 *tion program that has a life cycle cost estimate*
19 *of less than \$300,000,000.*

20 *“(B) LEVEL 2 ACQUISITIONS.—The Under*
21 *Secretary for Management may delegate acquisi-*
22 *tion decision authority in writing to the relevant*
23 *Component Acquisition Executive for a major*
24 *acquisition program that has a life cycle cost es-*
25 *timate of at least \$300,000,000 but not more*

1 *than \$1,000,000,000 if all of the following re-*
2 *quirements are met:*

3 “(i) *The component concerned possesses*
4 *working policies, processes, and procedures*
5 *that are consistent with Department-level*
6 *acquisition policy.*

7 “(ii) *The Component Acquisition Exec-*
8 *utive concerned has adequate, experienced,*
9 *and dedicated professional employees with*
10 *program management training, as applica-*
11 *ble, commensurate with the size of the ac-*
12 *quisition programs and related activities*
13 *delegated to such Component Acquisition*
14 *Executive by the Under Secretary for Man-*
15 *agement.*

16 “(iii) *Each major acquisition program*
17 *concerned has written documentation show-*
18 *ing that it has a Department-approved ac-*
19 *quisition program baseline and it is meet-*
20 *ing agreed-upon cost, schedule, and per-*
21 *formance thresholds.*

22 “(4) *RELATIONSHIP TO UNDER SECRETARY FOR*
23 *SCIENCE AND TECHNOLOGY.—*

24 “(A) *IN GENERAL.—Nothing in this sub-*
25 *section shall diminish the authority granted to*

1 *the Under Secretary for Science and Technology*
2 *under this Act. The Under Secretary for Man-*
3 *agement and the Under Secretary for Science*
4 *and Technology shall cooperate in matters re-*
5 *lated to the coordination of acquisitions across*
6 *the Department so that investments of the Direc-*
7 *torate of Science and Technology are able to sup-*
8 *port current and future requirements of the com-*
9 *ponents of the Department.*

10 *“(B) OPERATIONAL TESTING AND EVALUA-*
11 *TION.—The Under Secretary for Science and*
12 *Technology shall—*

13 *“(i) ensure, in coordination with rel-*
14 *evant component heads, that major acquisi-*
15 *tion programs—*

16 *“(I) complete operational testing*
17 *and evaluation of technologies and sys-*
18 *tems;*

19 *“(II) use independent verification*
20 *and validation of operational test and*
21 *evaluation implementation and results;*
22 *and*

23 *“(III) document whether such pro-*
24 *grams meet all performance require-*

1 ments included in their acquisition
2 program baselines;

3 “(ii) ensure that such operational test-
4 ing and evaluation includes all system com-
5 ponents and incorporates operators into the
6 testing to ensure that systems perform as
7 intended in the appropriate operational set-
8 ting; and

9 “(iii) determine if testing conducted by
10 other Federal agencies and private entities
11 is relevant and sufficient in determining
12 whether systems perform as intended in the
13 operational setting.”.

14 **SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL**
15 **OFFICER OF THE DEPARTMENT OF HOME-**
16 **LAND SECURITY.**

17 Paragraph (2) of section 702(b) of the Homeland Secu-
18 rity Act of 2002 (6 U.S.C. 342(b)) is amended by adding
19 at the end the following new subparagraph:

20 “(J) Oversee the costs of acquisition pro-
21 grams and related activities to ensure that ac-
22 tual and planned costs are in accordance with
23 budget estimates and are affordable, or can be
24 adequately funded, over the life cycle of such pro-
25 grams and activities.”.

1 **SEC. 4. ACQUISITION AUTHORITIES FOR CHIEF INFORMA-**
2 **TION OFFICER OF THE DEPARTMENT OF**
3 **HOMELAND SECURITY.**

4 *Section 703 of the Homeland Security Act of 2002 (6*
5 *U.S.C. 343) is amended—*

6 *(1) by redesignating subsection (b) as subsection*
7 *(c); and*

8 *(2) by inserting after subsection (a) the following*
9 *new subsection:*

10 *“(b) ACQUISITION RESPONSIBILITIES.—Notwith-*
11 *standing section 11315 of title 40, United States Code, the*
12 *acquisition responsibilities of the Chief Information Officer,*
13 *in consultation with the Under Secretary for Management,*
14 *shall include the following:*

15 *“(1) Oversee the management of the Homeland*
16 *Security Enterprise Architecture and ensure that, be-*
17 *fore each acquisition decision event (as such term is*
18 *defined in section 710), approved information tech-*
19 *nology acquisitions comply with departmental infor-*
20 *mation technology management processes, technical*
21 *requirements, and the Homeland Security Enterprise*
22 *Architecture, and in any case in which information*
23 *technology acquisitions do not comply with the De-*
24 *partment’s management directives, make rec-*
25 *ommendations to the Acquisition Review Board re-*
26 *garding such noncompliance.*

1 “(2) *Be responsible for providing recommenda-*
 2 *tions to the Acquisition Review Board regarding in-*
 3 *formation technology programs, and be responsible for*
 4 *developing information technology acquisition stra-*
 5 *tegic guidance.”.*

6 **SEC. 5. ACQUISITION AUTHORITIES FOR PROGRAM AC-**
 7 **COUNTABILITY AND RISK MANAGEMENT**
 8 **(PARM).**

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

12 **“SEC. 710. ACQUISITION AUTHORITIES FOR PROGRAM AC-**
 13 **COUNTABILITY AND RISK MANAGEMENT.**

14 *“(a) ESTABLISHMENT OF OFFICE.—Within the Man-*
 15 *agement Directorate, there shall be a Program Account-*
 16 *ability and Risk Management office to—*

17 *“(1) provide consistent accountability, standard-*
 18 *ization, and transparency of major acquisition pro-*
 19 *grams of the Department; and*

20 *“(2) serve as the central oversight function for*
 21 *all Department acquisition programs.*

22 *“(b) RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—*
 23 *The Program Accountability and Risk Management office*
 24 *shall be led by an Executive Director to oversee the require-*
 25 *ment under subsection (a). The Executive Director shall re-*

1 port directly to the Under Secretary for Management, and
2 shall carry out the following responsibilities:

3 “(1) Monitor regularly the performance of De-
4 partment acquisition programs between acquisition
5 decision events to identify problems with cost, per-
6 formance, or schedule that components may need to
7 address to prevent cost overruns, performance issues,
8 or schedule delays.

9 “(2) Assist the Under Secretary for Management
10 in managing the Department’s acquisition programs
11 and related activities.

12 “(3) Conduct oversight of individual acquisition
13 programs to implement Department acquisition pro-
14 gram policy, procedures, and guidance with a pri-
15 ority on ensuring the data the office collects and
16 maintains from Department components is accurate
17 and reliable.

18 “(4) Serve as the focal point and coordinator for
19 the acquisition life cycle review process and as the ex-
20 ecutive secretariat for the Acquisition Review Board.

21 “(5) Advise the persons having acquisition deci-
22 sion authority in making acquisition decisions con-
23 sistent with all applicable laws and in establishing
24 clear lines of authority, accountability, and responsi-

1 *bility for acquisition decisionmaking within the De-*
2 *partment.*

3 *“(6) Engage in the strategic planning and per-*
4 *formance evaluation process required under section*
5 *306 of title 5, United States Code, and sections*
6 *1105(a)(28), 1115, 1116, and 9703 of title 31, United*
7 *States Code, by supporting the Chief Procurement Of-*
8 *ficer in developing strategies and specific plans for*
9 *hiring, training, and professional development in*
10 *order to rectify any deficiency within the Depart-*
11 *ment’s acquisition workforce.*

12 *“(7) Develop standardized certification stand-*
13 *ards in consultation with the Component Acquisition*
14 *Executives for all acquisition program managers.*

15 *“(8) In the event that an acquisition program*
16 *manager’s certification or actions need review for*
17 *purposes of promotion or removal, provide input, in*
18 *consultation with the relevant Component Acquisition*
19 *Executive, into the relevant acquisition program*
20 *manager’s performance evaluation, and report posi-*
21 *tive or negative experiences to the relevant certifying*
22 *authority.*

23 *“(9) Provide technical support and assistance to*
24 *Department acquisitions and acquisition personnel in*
25 *conjunction with the Chief Procurement Officer.*

1 “(10) Prepare the Department’s Comprehensive
2 Acquisition Status Report, as required by title I of
3 division D of the Consolidated Appropriations Act,
4 2016 (Public Law 114–113), and make such report
5 available to the congressional homeland security com-
6 mittees.

7 “(c) RESPONSIBILITIES OF COMPONENTS.—Each head
8 of a component shall comply with Federal law, the Federal
9 Acquisition Regulation, and Department acquisition man-
10 agement directives established by the Under Secretary for
11 Management. For each major acquisition program, each
12 head of a component shall—

13 “(1) define baseline requirements and document
14 changes to such requirements, as appropriate;

15 “(2) establish a complete life cycle cost estimate
16 with supporting documentation, including an acquisi-
17 tion program baseline;

18 “(3) verify each life cycle cost estimate against
19 independent cost estimates, and reconcile any dif-
20 ferences;

21 “(4) complete a cost-benefit analysis with sup-
22 porting documentation;

23 “(5) develop and maintain a schedule that is
24 consistent with scheduling best practices as identified
25 by the Comptroller General of the United States, in-

1 *cluding, in appropriate cases, an integrated master*
2 *schedule; and*

3 *“(6) ensure that all acquisition program infor-*
4 *mation provided by the component is complete, accu-*
5 *rate, timely, and valid.*

6 *“(d) DEFINITIONS.—In this section:*

7 *“(1) ACQUISITION.—The term ‘acquisition’ has*
8 *the meaning given such term in section 131 of title*
9 *41, United States Code.*

10 *“(2) ACQUISITION DECISION AUTHORITY.—The*
11 *term ‘acquisition decision authority’ means the au-*
12 *thority, held by the Secretary acting through the Dep-*
13 *uty Secretary or Under Secretary for Management*
14 *to—*

15 *“(A) ensure compliance with Federal law,*
16 *the Federal Acquisition Regulation, and Depart-*
17 *ment acquisition management directives;*

18 *“(B) review (including approving, pausing,*
19 *modifying, or canceling) an acquisition program*
20 *through the life cycle of such program;*

21 *“(C) ensure that acquisition program man-*
22 *agers have the resources necessary to successfully*
23 *execute an approved acquisition program;*

24 *“(D) ensure good acquisition program man-*
25 *agement of cost, schedule, risk, and system per-*

1 *formance of the acquisition program at issue, in-*
2 *cluding assessing acquisition program baseline*
3 *breaches and directing any corrective action for*
4 *such breaches; and*

5 *“(E) ensure that acquisition program man-*
6 *agers, on an ongoing basis, monitor cost, sched-*
7 *ule, and performance against established base-*
8 *lines and use tools to assess risks to an acquisi-*
9 *tion program at all phases of the life cycle of*
10 *such program to avoid and mitigate acquisition*
11 *program baseline breaches.*

12 *“(3) ACQUISITION DECISION EVENT.—The term*
13 *‘acquisition decision event’, with respect to an acqui-*
14 *sition program, means a predetermined point within*
15 *each of the acquisition phases at which the acquisi-*
16 *tion decision authority determines whether such ac-*
17 *quisition program shall proceed to the next acquisi-*
18 *tion phase.*

19 *“(4) ACQUISITION PROGRAM.—The term ‘acquisi-*
20 *tion program’ means the process by which the Depart-*
21 *ment acquires, with any appropriated amounts, by*
22 *contract for purchase or lease, property or services*
23 *(including construction) that support the missions*
24 *and goals of the Department.*

1 “(5) *ACQUISITION PROGRAM BASELINE.*—*The*
2 *term ‘acquisition program baseline’, with respect to*
3 *an acquisition program, means a summary of the*
4 *cost, schedule, and performance parameters, expressed*
5 *in standard, measurable, quantitative terms, which*
6 *must be met in order to accomplish the goals of such*
7 *program.*

8 “(6) *BEST PRACTICES.*—*The term ‘best prac-*
9 *tices’, with respect to acquisition, means a knowledge-*
10 *based approach to capability development that in-*
11 *cludes—*

12 “(A) *identifying and validating needs;*

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

15 “(C) *clearly establishing well-defined re-*
16 *quirements;*

17 “(D) *developing realistic cost assessments*
18 *and schedules;*

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

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

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

1 “(H) adopting and executing standardized
2 processes with known success across programs;

3 “(I) establishing an adequate workforce that
4 is qualified and sufficient to perform necessary
5 functions; and

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

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

14 “(8) *CONGRESSIONAL HOMELAND SECURITY COM-*
15 *MITTEES*.—The term ‘congressional homeland security
16 committees’ means—

17 “(A) the Committee on Homeland Security
18 of the House of Representatives and the Com-
19 mittee on Homeland Security and Governmental
20 Affairs of the Senate; and

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

23 “(9) *COMPONENT ACQUISITION EXECUTIVE*.—The
24 term ‘Component Acquisition Executive’ means the
25 senior acquisition official within a component who is

1 *designated in writing by the Under Secretary for*
2 *Management, in consultation with the component*
3 *head, with authority and responsibility for leading a*
4 *process and staff to provide acquisition and program*
5 *management oversight, policy, and guidance to ensure*
6 *that statutory, regulatory, and higher level policy re-*
7 *quirements are fulfilled, including compliance with*
8 *Federal law, the Federal Acquisition Regulation, and*
9 *Department acquisition management directives estab-*
10 *lished by the Under Secretary for Management.*

11 “(10) *MAJOR ACQUISITION PROGRAM.*—*The term*
12 *‘major acquisition program’ means a Department ac-*
13 *quisition program that is estimated by the Secretary*
14 *to require an eventual total expenditure of at least*
15 *\$300,000,000 (based on fiscal year 2017 constant dol-*
16 *lars) over its life cycle cost.’”.*

17 “(b) *CLERICAL AMENDMENT.*—*The table of contents in*
18 *section 1(b) of the Homeland Security Act of 2002 is*
19 *amended by inserting after the item relating to section 709*
20 *the following new item:*

 “Sec. 710. *Acquisition authorities for Program Accountability and Risk Manage-*
 ment.”.

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