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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 1252

To amend the Homeland Security 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

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

A BILL

To amend the Homeland Security 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”.

1 **SEC. 2. ACQUISITION AUTHORITIES FOR UNDER SEC-**
2 **RETARY FOR MANAGEMENT OF THE DEPART-**
3 **MENT OF HOMELAND SECURITY.**

4 Section 701 of the Homeland Security Act of 2002
5 (6 U.S.C. 341) is amended by—

6 (1) redesignating subsection (d) as subsection
7 (e); and

8 (2) by inserting after subsection (c) the fol-
9 lowing new subsection:

10 “(d) ACQUISITION AND RELATED RESPONSIBIL-
11 ITIES.—

12 “(1) IN GENERAL.—Notwithstanding section
13 1702(b) of title 41, United States Code, the Under
14 Secretary for Management is the Chief Acquisition
15 Officer of the Department. As Chief Acquisition Of-
16 ficer, the Under Secretary shall have the authorities
17 and perform the functions specified in section
18 1702(b) of such title, and perform all other func-
19 tions and responsibilities delegated by the Secretary
20 or described in this subsection.

21 “(2) FUNCTIONS AND RESPONSIBILITIES.—In
22 addition to the authorities and functions specified in
23 section 1702(b) of title 41, United States Code, the
24 functions and responsibilities of the Under Secretary
25 for Management related to acquisition (as such term
26 is defined in section 710) include the following:

1 “(A) Advising the Secretary regarding ac-
2 quisition management activities, taking into ac-
3 count risks of failure to achieve cost, schedule,
4 or performance parameters, to ensure that the
5 Department achieves its mission through the
6 adoption of widely-accepted program manage-
7 ment best practices (as such term is defined in
8 section 710) and standards.

9 “(B) Leading the Department’s acquisition
10 oversight body, the Acquisition Review Board,
11 and exercising the acquisition decision authority
12 (as such term is defined in section 710) to ap-
13 prove, pause, modify (including the rescission of
14 approvals of program milestones), or cancel
15 major acquisition programs (as such term is de-
16 fined in section 710), unless the Under Sec-
17 retary delegates such authority to a Component
18 Acquisition Executive (as such term is defined
19 in section 710) pursuant to paragraph (3).

20 “(C) Establishing policies for acquisition
21 that implement an approach that takes into ac-
22 count risks of failure to achieve cost, schedule,
23 or performance parameters that all components
24 of the Department shall comply with, including
25 outlining relevant authorities for program man-

1 agers to effectively manage acquisition pro-
2 grams.

3 “(D) Ensuring that each major acquisition
4 program has a Department-approved acquisi-
5 tion program baseline (as such term is defined
6 in section 710), pursuant to the Department’s
7 acquisition management policy.

8 “(E) Ensuring that the heads of compo-
9 nents and Component Acquisition Executives
10 comply with Federal law, the Federal Acquisi-
11 tion Regulation, and Department acquisition
12 management directives.

13 “(F) Ensuring that grants and financial
14 assistance are provided only to individuals and
15 organizations that are not suspended or
16 debarred.

17 “(G) Distributing guidance throughout the
18 Department to ensure that contractors involved
19 in acquisitions, particularly contractors that ac-
20 cess the Department’s information systems and
21 technologies, adhere to relevant Department
22 policies related to physical and information se-
23 curity as identified by the Under Secretary for
24 Management.

1 “(I) Overseeing the Component Acquisition
2 Executive organizational structure to ensure
3 Component Acquisition Executives have suffi-
4 cient capabilities and comply with Department
5 acquisition policies.

6 “(3) DELEGATION OF ACQUISITION DECISION
7 AUTHORITY.—

8 “(A) LEVEL 3 ACQUISITIONS.—The Under
9 Secretary for Management may delegate acqui-
10 sition decision authority in writing to the rel-
11 evant Component Acquisition Executive for an
12 acquisition program that has a life cycle cost
13 estimate of less than \$300,000,000.

14 “(B) LEVEL 2 ACQUISITIONS.—The Under
15 Secretary for Management may delegate acqui-
16 sition decision authority in writing to the rel-
17 evant Component Acquisition Executive for a
18 major acquisition program that has a life cycle
19 cost estimate of at least \$300,000,000 but not
20 more than \$1,000,000,000 if all of the following
21 requirements are met:

22 “(i) The component concerned pos-
23 sesses working policies, processes, and pro-
24 cedures that are consistent with Depart-
25 ment-level acquisition policy.

1 “(ii) The Component Acquisition Ex-
2 ecutive concerned has adequate, experi-
3 enced, and dedicated professional employ-
4 ees with program management training, as
5 applicable, commensurate with the size of
6 the acquisition programs and related ac-
7 tivities delegated to such Component Ac-
8 quisition Executive by the Under Secretary
9 for Management.

10 “(iii) Each major acquisition program
11 concerned has written documentation
12 showing that it has a Department-ap-
13 proved acquisition program baseline and it
14 is meeting agreed-upon cost, schedule, and
15 performance thresholds.

16 “(4) RELATIONSHIP TO UNDER SECRETARY
17 FOR SCIENCE AND TECHNOLOGY.—

18 “(A) IN GENERAL.—Nothing in this sub-
19 section shall diminish the authority granted to
20 the Under Secretary for Science and Tech-
21 nology under this Act. The Under Secretary for
22 Management and the Under Secretary for
23 Science and Technology shall cooperate in mat-
24 ters related to the coordination of acquisitions
25 across the Department so that investments of

1 the Directorate of Science and Technology are
2 able to support current and future requirements
3 of the components of the Department.

4 “(B) OPERATIONAL TESTING AND EVALUA-
5 TION.—The Under Secretary for Science and
6 Technology shall—

7 “(i) ensure, in coordination with rel-
8 evant component heads, that major acqui-
9 sition programs—

10 “(I) complete operational testing
11 and evaluation of technologies and
12 systems;

13 “(II) use independent verification
14 and validation of operational test and
15 evaluation implementation and re-
16 sults; and

17 “(III) document whether such
18 programs meet all performance re-
19 quirements included in their acquisi-
20 tion program baselines;

21 “(ii) ensure that such operational
22 testing and evaluation includes all system
23 components and incorporates operators
24 into the testing to ensure that systems per-

1 form as intended in the appropriate oper-
2 ational setting; and

3 “(iii) determine if testing conducted
4 by other Federal agencies and private enti-
5 ties is relevant and sufficient in deter-
6 mining whether systems perform as in-
7 tended in the operational setting.”.

8 **SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL**
9 **OFFICER OF THE DEPARTMENT OF HOME-**
10 **LAND SECURITY.**

11 Paragraph (2) of section 702(b) of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. 342(b)) is amended by add-
13 ing at the end the following new subparagraph:

14 “(J) Oversee the costs of acquisition pro-
15 grams and related activities to ensure that ac-
16 tual and planned costs are in accordance with
17 budget estimates and are affordable, or can be
18 adequately funded, over the lifecycle of such
19 programs and activities.”.

20 **SEC. 4. . ACQUISITION AUTHORITIES FOR CHIEF INFORMA-**
21 **TION OFFICER OF THE DEPARTMENT OF**
22 **HOMELAND SECURITY.**

23 Section 703 of the Homeland Security Act of 2002
24 (6 U.S.C. 343) is amended—

1 (1) by redesignating subsection (b) as sub-
2 section (c); and

3 (2) by inserting after subsection (a) the fol-
4 lowing new subsection:

5 “(b) ACQUISITION RESPONSIBILITIES.—Notwith-
6 standing section 11315 of title 40, United States Code,
7 the acquisition responsibilities of the Chief Information
8 Officer, in consultation with the Under Secretary for Man-
9 agement, shall include the following:

10 “(1) Oversee the management of the Homeland
11 Security Enterprise Architecture and ensure that,
12 before each acquisition decision event (as such term
13 is defined in section 710), approved information
14 technology acquisitions comply with departmental in-
15 formation technology management processes, tech-
16 nical requirements, and the Homeland Security En-
17 terprise Architecture, and in any case in which infor-
18 mation technology acquisitions do not comply with
19 the Department’s management directives, make rec-
20 ommendations to the Acquisition Review Board re-
21 garding such noncompliance.

22 “(2) Be responsible for providing recommenda-
23 tions to the Acquisition Review Board regarding in-
24 formation technology programs, and be responsible

1 for developing information technology acquisition
2 strategic guidance.”.

3 **SEC. 5. ACQUISITION AUTHORITIES FOR PROGRAM AC-**
4 **COUNTABILITY AND RISK MANAGEMENT**
5 **(PARM).**

6 (a) IN GENERAL.—Title VII of the Homeland Secu-
7 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by
8 adding at the end the following:

9 “ACQUISITION AUTHORITIES FOR PROGRAM
10 ACCOUNTABILITY AND RISK MANAGEMENT

11 “SEC. 710.

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

15 “(1) provide consistent accountability, stand-
16 ardization, and transparency of major acquisition
17 programs of the Department; and

18 “(2) serve as the central oversight function for
19 all Department acquisition programs.

20 “(b) RESPONSIBILITIES OF EXECUTIVE DIREC-
21 TOR.—The Program Accountability and Risk Management
22 office shall be led by an Executive Director to oversee the
23 requirement under subsection (a). The Executive Director
24 shall report directly to the Under Secretary for Manage-
25 ment, and shall carry out the following responsibilities:

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

7 “(2) Assist the Under Secretary for Manage-
8 ment in managing the Department’s acquisition pro-
9 grams and related activities.

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

16 “(4) Serve as the focal point and coordinator
17 for the acquisition life cycle review process and as
18 the executive secretariat for the Acquisition Review
19 Board.

20 “(5) Advise the persons having acquisition deci-
21 sion authority in making acquisition decisions con-
22 sistent with all applicable laws and in establishing
23 clear lines of authority, accountability, and responsi-
24 bility for acquisition decision-making within the De-
25 partment.

1 “(6) Engage in the strategic planning and per-
2 formance evaluation process required under section
3 306 of title 5, United States Code, and sections
4 1105(a)(28), 1115, 1116, and 9703 of title 31,
5 United States Code, by supporting the Chief Pro-
6 curement Officer in developing strategies and spe-
7 cific plans for hiring, training, and professional de-
8 velopment in order to rectify any deficiency within
9 the Department’s acquisition workforce.

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

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

21 “(9) Provide technical support and assistance
22 to Department acquisitions and acquisition per-
23 sonnel in conjunction with the Chief Procurement
24 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
6 committees.

7 “(c) RESPONSIBILITIES OF COMPONENTS.—Each
8 head of a component shall comply with Federal law, the
9 Federal Acquisition Regulation, and Department acquisi-
10 tion management directives established by the Under Sec-
11 retary for Management. For each major acquisition pro-
12 gram, each 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 identi-
25 fied by the Comptroller General of the United

1 States, including, in appropriate cases, an integrated
2 master 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
13 Deputy Secretary or Under Secretary for Manage-
14 ment to—

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

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

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

24 “(D) ensure good acquisition program
25 management of cost, schedule, risk, and system

1 performance of the acquisition program at
2 issue, including assessing acquisition program
3 baseline breaches and directing any corrective
4 action for 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 ‘acqui-
20 sition program’ means the process by which the De-
21 partment acquires, with any appropriated amounts,
22 by contract for purchase or lease, property or serv-
23 ices (including construction) that support the mis-
24 sions 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, ex-
5 pressed in standard, measurable, quantitative terms,
6 which must be met in order to accomplish the goals
7 of such program.

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

12 “(A) identifying and validating needs;

13 “(B) assessing alternatives to select the
14 most 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,
22 and 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
4 that is qualified and sufficient to perform nec-
5 essary 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
15 COMMITTEES.—The term ‘congressional homeland
16 security committees’ means—

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

21 “(B) the Committee on Appropriations of
22 the House of Representatives and of the Sen-
23 ate.

24 “(9) COMPONENT ACQUISITION EXECUTIVE.—
25 The term ‘Component Acquisition Executive’ means

1 the senior acquisition official within a component
2 who is designated in writing by the Under Secretary
3 for Management, in consultation with the component
4 head, with authority and responsibility for leading a
5 process and staff to provide acquisition and program
6 management oversight, policy, and guidance to en-
7 sure that statutory, regulatory, and higher level pol-
8 icy requirements are fulfilled, including compliance
9 with Federal law, the Federal Acquisition Regula-
10 tion, and Department acquisition management direc-
11 tives established by the Under Secretary for Man-
12 agement.

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

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of the Homeland Security Act of 2002 is
21 amended by inserting after the item relating to section
22 709 the following new item:

“Sec. 710. Acquisition authorities for Program Accountability and Risk Man-
agement.”.