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”.

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February 27, 2017 (2:42 p.m.)
SEC. 2. ACQUISITION AUTHORITIES FOR UNDER SECRETARY FOR MANAGEMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

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

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

(2) by inserting after subsection (c) the following new subsection:

“(d) ACQUISITION AND RELATED RESPONSIBILITIES.—

“(1) IN GENERAL.—Notwithstanding section 1702(b) of title 41, United States Code, the Under Secretary for Management is the Chief Acquisition Officer of the Department. As Chief Acquisition Officer, the Under Secretary shall have the authorities and perform the functions specified in section 1702(b) of such title, and perform all other functions and responsibilities delegated by the Secretary or described in this subsection.

“(2) FUNCTIONS AND RESPONSIBILITIES.—In addition to the authorities and functions specified in section 1702(b) of title 41, United States Code, the functions and responsibilities of the Under Secretary for Management related to acquisition (as such term is defined in section 710) include the following:
“(A) Advising the Secretary regarding acquisition management activities, taking into account risks of failure to achieve cost, schedule, or performance parameters, to ensure that the Department achieves its mission through the adoption of widely-accepted program management best practices (as such term is defined in section 710) and standards.

“(B) Leading the Department’s acquisition oversight body, the Acquisition Review Board, and exercising the acquisition decision authority (as such term is defined in section 710) to approve, pause, modify (including the rescission of approvals of program milestones), or cancel major acquisition programs (as such term is defined in section 710), unless the Under Secretary delegates such authority to a Component Acquisition Executive (as such term is defined in section 710) pursuant to paragraph (3).

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

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

“(E) Ensuring that the heads of components and Component Acquisition Executives comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives.

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

“(G) Distributing guidance throughout the Department to ensure that contractors involved in acquisitions, particularly contractors that access the Department’s information systems and technologies, adhere to relevant Department policies related to physical and information security as identified by the Under Secretary for Management.
“(I) Overseeing the Component Acquisition Executive organizational structure to ensure Component Acquisition Executives have sufficient capabilities and comply with Department acquisition policies.

“(3) DELEGATION OF ACQUISITION DECISION AUTHORITY.—

“(A) LEVEL 3 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for an acquisition program that has a life cycle cost estimate of less than $300,000,000.

“(B) LEVEL 2 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for a major acquisition program that has a life cycle cost estimate of at least $300,000,000 but not more than $1,000,000,000 if all of the following requirements are met:

“(i) The component concerned possesses working policies, processes, and procedures that are consistent with Department-level acquisition policy.
“(ii) The Component Acquisition Executive concerned has adequate, experienced, and dedicated professional employees with program management training, as applicable, commensurate with the size of the acquisition programs and related activities delegated to such Component Acquisition Executive by the Under Secretary for Management.

“(iii) Each major acquisition program concerned has written documentation showing that it has a Department-approved acquisition program baseline and it is meeting agreed-upon cost, schedule, and performance thresholds.

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

“(A) IN GENERAL.—Nothing in this subsection shall diminish the authority granted to the Under Secretary for Science and Technology under this Act. The Under Secretary for Management and the Under Secretary for Science and Technology shall cooperate in matters related to the coordination of acquisitions across the Department so that investments of
the Directorate of Science and Technology are able to support current and future requirements of the components of the Department.

“(B) OPERATIONAL TESTING AND EVALUATION.—The Under Secretary for Science and Technology shall—

“(i) ensure, in coordination with relevant component heads, that major acquisition programs—

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

“(II) use independent verification and validation of operational test and evaluation implementation and results; and

“(III) document whether such programs meet all performance requirements included in their acquisition program baselines;

“(ii) ensure that such operational testing and evaluation includes all system components and incorporates operators into the testing to ensure that systems per-
form as intended in the appropriate operational setting; and

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

SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

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

“(J) Oversee the costs of acquisition programs and related activities to ensure that actual and planned costs are in accordance with budget estimates and are affordable, or can be adequately funded, over the lifecycle of such programs and activities.”.

SEC. 4. ACQUISITION AUTHORITIES FOR CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—
(1) by redesignating subsection (b) as subsection (c); and

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

“(b) ACQUISITION RESPONSIBILITIES.—Notwithstanding section 11315 of title 40, United States Code, the acquisition responsibilities of the Chief Information Officer, in consultation with the Under Secretary for Management, shall include the following:

“(1) Oversee the management of the Homeland Security Enterprise Architecture and ensure that, before each acquisition decision event (as such term is defined in section 710), approved information technology acquisitions comply with departmental information technology management processes, technical requirements, and the Homeland Security Enterprise Architecture, and in any case in which information technology acquisitions do not comply with the Department’s management directives, make recommendations to the Acquisition Review Board regarding such noncompliance.

“(2) Be responsible for providing recommendations to the Acquisition Review Board regarding information technology programs, and be responsible
for developing information technology acquisition strategic guidance.”.

SEC. 5. ACQUISITION AUTHORITIES FOR PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT (PARM).

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

“ACQUISITION AUTHORITIES FOR PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT

“Sec. 710.

“(a) ESTABLISHMENT OF OFFICE.—Within the Management Directorate, there shall be a Program Accountability and Risk Management office to—

“(1) provide consistent accountability, standardization, and transparency of major acquisition programs of the Department; and

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

“(b) RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—The Program Accountability and Risk Management office shall be led by an Executive Director to oversee the requirement under subsection (a). The Executive Director shall report directly to the Under Secretary for Management, and shall carry out the following responsibilities:
“(1) Monitor regularly the performance of Department acquisition programs between acquisition decision events to identify problems with cost, performance, or schedule that components may need to address to prevent cost overruns, performance issues, or schedule delays.

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

“(3) Conduct oversight of individual acquisition programs to implement Department acquisition program policy, procedures, and guidance with a priority on ensuring the data the office collects and maintains from Department components is accurate and reliable.

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

“(5) Advise the persons having acquisition decision authority in making acquisition decisions consistent with all applicable laws and in establishing clear lines of authority, accountability, and responsibility for acquisition decision-making within the Department.
“(6) Engage in the strategic planning and performance evaluation process required under section 306 of title 5, United States Code, and sections 1105(a)(28), 1115, 1116, and 9703 of title 31, United States Code, by supporting the Chief Procurement Officer in developing strategies and specific plans for hiring, training, and professional development in order to rectify any deficiency within the Department’s acquisition workforce.

“(7) Develop standardized certification standards in consultation with the Component Acquisition Executives for all acquisition program managers.

“(8) In the event that an acquisition program manager’s certification or actions need review for purposes of promotion or removal, provide input, in consultation with the relevant Component Acquisition Executive, into the relevant acquisition program manager’s performance evaluation, and report positive or negative experiences to the relevant certifying authority.

“(9) Provide technical support and assistance to Department acquisitions and acquisition personnel in conjunction with the Chief Procurement Officer.
“(10) Prepare the Department’s Comprehensive Acquisition Status Report, as required by title I of division D of the Consolidated Appropriations Act, 2016, (Public Law 114–113) and make such report available to the congressional homeland security committees.

“(c) Responsibilities of Components.—Each head of a component shall comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management. For each major acquisition program, each head of a component shall—

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

“(2) establish a complete life cycle cost estimate with supporting documentation, including an acquisition program baseline;

“(3) verify each life cycle cost estimate against independent cost estimates, and reconcile any differences;

“(4) complete a cost-benefit analysis with supporting documentation;

“(5) develop and maintain a schedule that is consistent with scheduling best practices as identified by the Comptroller General of the United
States, including, in appropriate cases, an integrated
master schedule; and

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

“(d) DEFINITIONS.—In this section:

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

“(2) Acquisition decision authority.—The
term ‘acquisition decision authority’ means the au-
thority, held by the Secretary acting through the
Deputy Secretary or Under Secretary for Manage-
ment to—

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

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

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

“(D) ensure good acquisition program
management of cost, schedule, risk, and system
performance of the acquisition program at
issue, including assessing acquisition program
baseline breaches and directing any corrective
action for such breaches; and

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

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

“(4) ACQUISITION PROGRAM.—The term ‘acqui-
sition program’ means the process by which the De-
partment acquires, with any appropriated amounts,
by contract for purchase or lease, property or serv-
ices (including construction) that support the mis-
sions and goals of the Department.
“(5) ACQUISITION PROGRAM BASELINE.—The term ‘acquisition program baseline’, with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which must be met in order to accomplish the goals of such program.

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

“(A) identifying and validating needs;

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

“(C) clearly establishing well-defined requirements;

“(D) developing realistic cost assessments and schedules;

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

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

“(G) using milestones and exit criteria or specific accomplishments that demonstrate progress;
“(H) adopting and executing standardized
processes with known success across programs;
“(I) establishing an adequate workforce
that is qualified and sufficient to perform nec-
essary functions; and
“(J) integrating the capabilities described
in subparagraphs (A) through (I) into the De-
partment’s mission and business operations.
“(7) BREACH.—The term ‘breach’, with respect
to a major acquisition program, means a failure to
meet any cost, schedule, or performance threshold
specified in the most recently approved acquisition
program baseline.
“(8) CONGRESSIONAL HOMELAND SECURITY
COMMITTEES.—The term ‘congressional homeland
security committees’ means—
“(A) the Committee on Homeland Security
of the House of Representatives and the Com-
mittee on Homeland Security and Government-
mental Affairs of the Senate; and
“(B) the Committee on Appropriations of
the House of Representatives and of the Sen-
ate.
“(9) COMPONENT ACQUISITION EXECUTIVE.—
The term ‘Component Acquisition Executive’ means
the senior acquisition official within a component
who is designated in writing by the Under Secretary
for Management, in consultation with the component
head, with authority and responsibility for leading a
process and staff to provide acquisition and program
management oversight, policy, and guidance to en-
sure that statutory, regulatory, and higher level pol-
icy requirements are fulfilled, including compliance
with Federal law, the Federal Acquisition Regula-
tion, and Department acquisition management direc-
tives established by the Under Secretary for Man-
age ment.

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

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

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