

## Union Calendar No. 26

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1249

**[Report No. 115–46]**

To amend the Homeland Security Act of 2002 to require a multiyear acquisition strategy of the Department of Homeland Security, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2017

Mr. FITZPATRICK (for himself and Mr. MCCAUL) introduced the following bill;  
which was referred to the Committee on Homeland Security

MARCH 20, 2017

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To amend the Homeland Security Act of 2002 to require a multiyear acquisition strategy 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 Multiyear Acqui-  
5 sition Strategy Act of 2017”.

6 **SEC. 2. MULTIYEAR ACQUISITION STRATEGY.**

7 Subtitle D of title VIII of the Homeland Security Act  
8 of 2002 (6 U.S.C. 391 et seq.) is amended by adding at  
9 the end the following new section:

10 **“SEC. 836. MULTIYEAR ACQUISITION STRATEGY.**

11 “(a) MULTIYEAR ACQUISITION STRATEGY RE-  
12 QUIRED.—

13 “(1) IN GENERAL.—Not later than one year  
14 after the date of the enactment of this section, the  
15 Secretary shall submit to the appropriate congress-  
16 sional committees and the Comptroller General of  
17 the United States a multiyear acquisition strategy to  
18 guide the overall direction of the acquisitions of the  
19 Department while allowing flexibility to deal with  
20 ever-changing threats and risks, and to help indus-  
21 try better understand, plan, and align resources to  
22 meet the future acquisition needs of the Depart-  
23 ment. Such strategy shall be updated and included  
24 in each Future Years Homeland Security Program  
25 required under section 874.

1           “(2) FORM.—The strategy required under para-  
2           graph (1) shall be submitted in unclassified form but  
3           may include a classified annex for any sensitive or  
4           classified information if necessary. The Secretary  
5           shall publish such strategy in an unclassified format  
6           that is publicly available.

7           “(b) CONSULTATION.—In developing the strategy re-  
8           quired under subsection (a), the Secretary shall, as the  
9           Secretary determines appropriate, consult with head-  
10          quarters, components, employees in the field, and individ-  
11          uals from industry and the academic community.

12          “(c) CONTENTS OF STRATEGY.—The strategy shall  
13          include the following:

14                 “(1) PRIORITIZED LIST.—A systematic and in-  
15                 tegrated prioritized list developed by the Under Sec-  
16                 retary for Management in coordination with all of  
17                 the Component Acquisition Executives of Depart-  
18                 ment major acquisition programs that Department  
19                 and component acquisition investments seek to ad-  
20                 dress, including the expected security and economic  
21                 benefit of the program or system that is the subject  
22                 of acquisition and an analysis of how the security  
23                 and economic benefit derived from such program or  
24                 system will be measured.

1           “(2) INVENTORY.—A plan to develop a reliable  
2 Department-wide inventory of investments and real  
3 property assets to help the Department—

4           “(A) plan, budget, schedule, and acquire  
5 upgrades of its systems and equipment; and

6           “(B) plan for the acquisition and manage-  
7 ment of future systems and equipment.

8           “(3) FUNDING GAPS.—A plan to address fund-  
9 ing gaps between funding requirements for major ac-  
10 quisition programs and known available resources,  
11 including, to the maximum extent practicable, ways  
12 of leveraging best practices to identify and eliminate  
13 overpayment for items to—

14           “(A) prevent wasteful purchasing;

15           “(B) achieve the greatest level of efficiency  
16 and cost savings by rationalizing purchases;

17           “(C) align pricing for similar items; and

18           “(D) utilize purchase timing and econo-  
19 mies of scale.

20           “(4) IDENTIFICATION OF CAPABILITIES.—An  
21 identification of test, evaluation, modeling, and sim-  
22 ulation capabilities that will be required to—

23           “(A) support the acquisition of tech-  
24 nologies to meet the needs of such strategy;

1           “(B) leverage to the greatest extent pos-  
2           sible emerging technological trends and re-  
3           search and development trends within the pub-  
4           lic and private sectors; and

5           “(C) identify ways to ensure that appro-  
6           priate technology is acquired and integrated  
7           into the Department’s operating doctrine to im-  
8           prove mission performance.

9           “(5) FOCUS ON FLEXIBLE SOLUTIONS.—An as-  
10          sessment of ways the Department can improve its  
11          ability to test and acquire innovative solutions to  
12          allow needed incentives and protections for appro-  
13          priate risk-taking in order to meet its acquisition  
14          needs with resiliency, agility, and responsiveness to  
15          assure homeland security and facilitate trade.

16          “(6) FOCUS ON INCENTIVES TO SAVE TAX-  
17          PAYER DOLLARS.—An assessment of ways the De-  
18          partment can develop incentives for program man-  
19          agers and senior Department acquisition officials  
20          to—

21                 “(A) prevent cost overruns;

22                 “(B) avoid schedule delays; and

23                 “(C) achieve cost savings in major acquisi-  
24          tion programs.

1           “(7) FOCUS ON ADDRESSING DELAYS AND BID  
2 PROTESTS.—An assessment of ways the Department  
3 can improve the acquisition process to minimize cost  
4 overruns in—

5           “(A) requirements development;

6           “(B) procurement announcements;

7           “(C) requests for proposals;

8           “(D) evaluation of proposals;

9           “(E) protests of decisions and awards; and

10          “(F) the use of best practices.

11          “(8) FOCUS ON IMPROVING OUTREACH.—An  
12 identification and assessment of ways to increase op-  
13 portunities for communication and collaboration with  
14 industry, small and disadvantaged businesses, intra-  
15 government entities, university centers of excellence,  
16 accredited certification and standards development  
17 organizations, and national laboratories to ensure  
18 that the Department understands the market for  
19 technologies, products, and innovation that is avail-  
20 able to meet its mission needs and to inform the De-  
21 partment’s requirements-setting process before en-  
22 gaging in an acquisition, including—

23          “(A) methods designed especially to engage  
24 small and disadvantaged businesses, a cost-ben-  
25 efit analysis of the tradeoffs that small and dis-

1           advantaged businesses provide, information re-  
2           lating to barriers to entry for small and dis-  
3           advantaged businesses, and information relating  
4           to unique requirements for small and disadvan-  
5           taged businesses; and

6           “(B) within the Department Vendor Com-  
7           munication Plan and Market Research Guide,  
8           instructions for interaction by acquisition pro-  
9           gram managers with such entities to—

10                   “(i) prevent misinterpretation of ac-  
11                   quisition regulations; and

12                   “(ii) permit, within legal and ethical  
13                   boundaries, interacting with such entities  
14                   with transparency.

15           “(9) COMPETITION.—A plan regarding competi-  
16           tion under subsection (d).

17           “(10) ACQUISITION WORKFORCE.—A plan re-  
18           garding the Department acquisition workforce under  
19           subsection (e).

20           “(d) COMPETITION PLAN.—The strategy required  
21           under subsection (a) shall also include a plan to address  
22           actions to ensure competition, or the option of competi-  
23           tion, for major acquisition programs. Such plan may in-  
24           clude assessments of the following measures in appro-  
25           priate cases if such measures are cost effective:

1           “(1) Competitive prototyping.

2           “(2) Dual-sourcing.

3           “(3) Unbundling of contracts.

4           “(4) Funding of next-generation prototype sys-  
5           tems or subsystems.

6           “(5) Use of modular, open architectures to en-  
7           able competition for upgrades.

8           “(6) Acquisition of complete technical data  
9           packages.

10          “(7) Periodic competitions for subsystem up-  
11          grades.

12          “(8) Licensing of additional suppliers, including  
13          small businesses.

14          “(9) Periodic system or program reviews to ad-  
15          dress long-term competitive effects of program deci-  
16          sions.

17          “(e) ACQUISITION WORKFORCE PLAN.—

18                 “(1) ACQUISITION WORKFORCE.—The strategy  
19                 required under subsection (a) shall also include a  
20                 plan to address Department acquisition workforce  
21                 accountability and talent management that identifies  
22                 the acquisition workforce needs of each component  
23                 performing acquisition functions and develops op-  
24                 tions for filling such needs with qualified individuals,

1 including a cost-benefit analysis of contracting for  
2 acquisition assistance.

3 “(2) ADDITIONAL MATTERS COVERED.—The  
4 acquisition workforce plan under this subsection  
5 shall address ways to—

6 “(A) improve the recruitment, hiring,  
7 training, and retention of Department acquisi-  
8 tion workforce personnel, including contracting  
9 officer’s representatives, in order to retain high-  
10 ly qualified individuals who have experience in  
11 the acquisition life cycle, complex procurements,  
12 and management of large programs;

13 “(B) empower program managers to have  
14 the authority to manage their programs in an  
15 accountable and transparent manner as such  
16 managers work with the acquisition workforce;

17 “(C) prevent duplication within Depart-  
18 ment acquisition workforce training and certifi-  
19 cation requirements through leveraging already-  
20 existing training within the Federal Govern-  
21 ment, academic community, or private industry;

22 “(D) achieve integration and consistency  
23 with Government-wide training and accredita-  
24 tion standards, acquisition training tools, and  
25 training facilities;

1           “(E) designate the acquisition positions  
2 that will be necessary to support the Depart-  
3 ment acquisition requirements, including in the  
4 fields of—

5                   “(i) program management;

6                   “(ii) systems engineering;

7                   “(iii) procurement, including con-  
8 tracting;

9                   “(iv) test and evaluation;

10                  “(v) life cycle logistics;

11                  “(vi) cost estimating and program fi-  
12 nancial management; and

13                  “(vii) additional disciplines appro-  
14 priate to Department mission needs;

15           “(F) strengthen the performance of con-  
16 tracting officers’ representatives (as defined in  
17 subpart 1.602–2 and subpart 2.101 of the Fed-  
18 eral Acquisition Regulation), including by—

19                   “(i) assessing the extent to which  
20 such representatives are certified and re-  
21 ceive training that is appropriate;

22                   “(ii) assessing what training is most  
23 effective with respect to the type and com-  
24 plexity of assignment; and

1                   “(iii) implementing actions to improve  
2                   training based on such assessments; and

3                   “(G) identify ways to increase training for  
4                   relevant investigators and auditors of the De-  
5                   partment to examine fraud in major acquisition  
6                   programs, including identifying opportunities to  
7                   leverage existing Government and private sector  
8                   resources in coordination with the Inspector  
9                   General of the Department.

10                  “(f) DEFINITIONS.—In this section:

11                   “(1) ACQUISITION.—The term ‘acquisition’ has  
12                   the meaning given such term in section 131 of title  
13                   41, United States Code.

14                   “(2) APPROPRIATE CONGRESSIONAL COMMIT-  
15                   TEES.—The term ‘appropriate congressional com-  
16                   mittees’ 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 the Com-  
23                   mittee on Appropriations of the Senate.

24                   “(3) BEST PRACTICES.—The term ‘best prac-  
25                   tices’, with respect to acquisition, means—

1           “(A) a knowledge-based approach to capa-  
2           bility development that includes identifying and  
3           validating needs;

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

6           “(C) clearly establishing well-defined re-  
7           quirements;

8           “(D) developing realistic cost assessments  
9           and schedules;

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

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

14          “(G) using milestones and exit criteria or  
15          specific accomplishments that demonstrate  
16          progress;

17          “(H) adopting and executing standardized  
18          processes with known success across programs;

19          “(I) establishing an adequate workforce  
20          that is qualified and sufficient to perform nec-  
21          essary functions; and

22          “(J) integrating into the mission and busi-  
23          ness operations of the Department of Homeland  
24          Security the capabilities described in subpara-  
25          graphs (A) through (I).

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

15           “(5) MAJOR ACQUISITION PROGRAM.—The term  
16          ‘major acquisition program’ means a Department  
17          acquisition program that is estimated by the Sec-  
18          retary to require an eventual total expenditure of at  
19          least \$300,000,000 (based on fiscal year 2017 con-  
20          stant dollars) over its life cycle cost.”.

21 **SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**  
22 **OF MULTIYEAR ACQUISITION STRATEGY.**

23          (a) REVIEW.—After submission of the first multiyear  
24          acquisition strategy in accordance with section 836 of the  
25          Homeland Security Act of 2002 (as added by section 2

1 of this Act) after the date of the enactment of this Act,  
2 the Comptroller General of the United States shall con-  
3 duct a review of such plan within 180 days to analyze the  
4 viability of such plan's effectiveness in the following:

5 (1) Complying with the requirements of such  
6 section 836.

7 (2) Establishing clear connections between De-  
8 partment of Homeland Security objectives and ac-  
9 quisition (as such term is defined in such section)  
10 priorities.

11 (3) Demonstrating that Department acquisition  
12 policy reflects program management best practices  
13 (as such term is defined in such section) and stand-  
14 ards.

15 (4) Ensuring competition or the option of com-  
16 petition for major acquisition programs (as such  
17 term is defined in such section).

18 (5) Considering potential cost savings through  
19 using already-existing technologies when developing  
20 acquisition program requirements.

21 (6) Preventing duplication within Department  
22 acquisition workforce training requirements through  
23 leveraging already-existing training within the Fed-  
24 eral Government, academic community, or private  
25 industry.

1           (7) Providing incentives for acquisition program  
2 managers to reduce acquisition and procurement  
3 costs through the use of best practices and dis-  
4 ciplined program management.

5           (b) REPORT.—The Comptroller General of the  
6 United States shall submit to the Committee on Homeland  
7 Security and the Committee on Appropriations of the  
8 House of Representatives and the Committee on Home-  
9 land Security and Governmental Affairs and the Com-  
10 mittee on Appropriations of the Senate a report on the  
11 review conducted under this section. Such report shall be  
12 submitted in unclassified form but may include a classified  
13 annex.



Union Calendar No. 26

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 1249**

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**A BILL**

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