

115TH CONGRESS
1ST SESSION

H. R. 1252

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2017

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “DHS Acquisition Au-
3 thorities Act of 2017”.

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

7 Section 701 of the Homeland Security Act of 2002
8 (6 U.S.C. 341) is amended by—

9 (1) redesignating subsections (d) and (e) as
10 subsections (e) and (f); and

11 (2) inserting after subsection (c) the following
12 new subsection:

13 “(d) ACQUISITION AND RELATED RESPONSIBIL-
14 ITIES.—

15 “(1) IN GENERAL.—Notwithstanding section
16 1702(b) of title 41, United States Code, the Under
17 Secretary for Management is the Chief Acquisition
18 Officer of the Department. As Chief Acquisition Of-
19 ficer, the Under Secretary shall have the authorities
20 and perform the functions specified in section
21 1702(b) of such title, and perform all other func-
22 tions and responsibilities delegated by the Secretary
23 or described in this subsection.

24 “(2) FUNCTIONS AND RESPONSIBILITIES.—In
25 addition to the authorities and functions specified in
26 section 1702(b) of title 41, United States Code, the

1 functions and responsibilities of the Under Secretary
2 for Management related to acquisition (as such term
3 is defined in section 710) include the following:

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

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

24 “(C) Establishing policies for acquisition
25 that implement an approach that takes into ac-

1 count risks of failure to achieve cost, schedule,
2 or performance parameters that all components
3 of the Department shall comply with, including
4 outlining relevant authorities for program man-
5 agers to effectively manage acquisition pro-
6 grams.

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

12 “(E) Ensuring that the heads of compo-
13 nents and Component Acquisition Executives
14 comply with Federal law, the Federal Acquisi-
15 tion Regulation, and Department acquisition
16 management directives.

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

21 “(G) Distributing guidance throughout the
22 Department to ensure that contractors involved
23 in acquisitions, particularly contractors that ac-
24 cess the Department’s information systems and
25 technologies, adhere to relevant Department

1 policies related to physical and information se-
2 curity as identified by the Under Secretary for
3 Management.

4 “(H) Overseeing the Component Acquisi-
5 tion Executive organizational structure to en-
6 sure Component Acquisition Executives have
7 sufficient capabilities and comply with Depart-
8 ment acquisition policies.

9 “(3) DELEGATION OF ACQUISITION DECISION
10 AUTHORITY.—

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

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

1 “(i) The component concerned pos-
2 sesses working policies, processes, and pro-
3 cedures that are consistent with Depart-
4 ment-level acquisition policy.

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

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

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

22 “(A) IN GENERAL.—Nothing in this sub-
23 section shall diminish the authority granted to
24 the Under Secretary for Science and Tech-
25 nology under this Act. The Under Secretary for

1 Management and the Under Secretary for
2 Science and Technology shall cooperate in mat-
3 ters related to the coordination of acquisitions
4 across the Department so that investments of
5 the Directorate of Science and Technology are
6 able to support current and future requirements
7 of the components of the Department.

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

11 “(i) ensure, in coordination with rel-
12 evant component heads, that major acqui-
13 sition programs—

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

17 “(II) use independent verification
18 and validation of operational test and
19 evaluation implementation and re-
20 sults; and

21 “(III) document whether such
22 programs meet all performance re-
23 quirements included in their acquisi-
24 tion program baselines;

1 “(ii) ensure that such operational
2 testing and evaluation includes all system
3 components and incorporates operators
4 into the testing to ensure that systems per-
5 form as intended in the appropriate oper-
6 ational setting; and

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

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

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

18 “(J) Oversee the costs of acquisition pro-
19 grams and related activities to ensure that ac-
20 tual and planned costs are in accordance with
21 budget estimates and are affordable, or can be
22 adequately funded, over the life cycle of such
23 programs 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
5 (6 U.S.C. 343) is amended—

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

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

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

15 “(1) Oversee the management of the Homeland
16 Security Enterprise Architecture and ensure that,
17 before each acquisition decision event (as such term
18 is defined in section 710), approved information
19 technology acquisitions comply with departmental in-
20 formation technology management processes, tech-
21 nical requirements, and the Homeland Security En-
22 terprise Architecture, and in any case in which infor-
23 mation technology acquisitions do not comply with
24 the Department’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
 4 for developing information technology acquisition
 5 strategic 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 Secu-
 10 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by
 11 adding 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, stand-
 18 ardization, and transparency of major acquisition
 19 programs of the Department; and

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

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

1 shall report directly to the Under Secretary for Manage-
2 ment, and 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
8 issues, or schedule delays.

9 “(2) Assist the Under Secretary for Manage-
10 ment in managing the Department’s acquisition pro-
11 grams 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
19 for the acquisition life cycle review process and as
20 the executive secretariat for the Acquisition Review
21 Board.

22 “(5) Advise the persons having acquisition deci-
23 sion authority in making acquisition decisions con-
24 sistent with all applicable laws and in establishing
25 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,
7 United States Code, by supporting the Chief Pro-
8 curement Officer in developing strategies and spe-
9 cific plans for hiring, training, and professional de-
10 velopment in order to rectify any deficiency within
11 the Department’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 Acquisi-
19 tion 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
24 to Department acquisitions and acquisition per-

1 sonnel in conjunction with the Chief Procurement
2 Officer.

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

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

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

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

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

23 “(4) complete a cost-benefit analysis with sup-
24 porting documentation;

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

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

9 “(d) DEFINITIONS.—In this section:

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

13 “(2) ACQUISITION DECISION AUTHORITY.—The
14 term ‘acquisition decision authority’ means the au-
15 thority, held by the Secretary acting through the
16 Deputy Secretary or Under Secretary for Manage-
17 ment to—

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

21 “(B) review (including approving, pausing,
22 modifying, or canceling) an acquisition program
23 through the life cycle of such program;

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

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

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

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

24 “(4) ACQUISITION PROGRAM.—The term ‘acqui-
25 sition program’ means the process by which the De-

1 partment acquires, with any appropriated amounts,
2 by contract for purchase or lease, property or serv-
3 ices (including construction) that support the mis-
4 sions and goals of the Department.

5 “(5) ACQUISITION PROGRAM BASELINE.—The
6 term ‘acquisition program baseline’, with respect to
7 an acquisition program, means a summary of the
8 cost, schedule, and performance parameters, ex-
9 pressed in standard, measurable, quantitative terms,
10 which must be met in order to accomplish the goals
11 of such program.

12 “(6) BEST PRACTICES.—The term ‘best prac-
13 tices’, with respect to acquisition, means a knowl-
14 edge-based approach to capability development that
15 includes—

16 “(A) identifying and validating needs;

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

19 “(C) clearly establishing well-defined re-
20 quirements;

21 “(D) developing realistic cost assessments
22 and schedules;

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

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

3 “(G) using milestones and exit criteria or
4 specific accomplishments that demonstrate
5 progress;

6 “(H) adopting and executing standardized
7 processes with known success across programs;

8 “(I) establishing an adequate workforce
9 that is qualified and sufficient to perform nec-
10 essary functions; and

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

14 “(7) BREACH.—The term ‘breach’, with respect
15 to a major acquisition program, means a failure to
16 meet any cost, schedule, or performance threshold
17 specified in the most recently approved acquisition
18 program baseline.

19 “(8) CONGRESSIONAL HOMELAND SECURITY
20 COMMITTEES.—The term ‘congressional homeland
21 security committees’ means—

22 “(A) the Committee on Homeland Security
23 of the House of Representatives and the Com-
24 mittee on Homeland Security and Govern-
25 mental Affairs of the Senate; and

1 “(B) the Committee on Appropriations of
2 the House of Representatives and of the Sen-
3 ate.

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

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

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002 is

1 amended by inserting after the item relating to section
2 709 the following new item:

“Sec. 710. Acquisition authorities for Program Accountability and Risk Management.”.

Passed the House of Representatives March 20,
2017.

Attest:

KAREN L. HAAS,
Clerk.