

115TH CONGRESS  
1ST SESSION

# S. 887

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Mr. DAINES (for himself and Mrs. MCCASKILL) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend the Homeland Security Act of 2002 to require a multiyear acquisition strategy for 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 (a) IN GENERAL.—Subtitle D of title VIII of the  
8 Homeland Security Act of 2002 (6 U.S.C. 391 et seq.)  
9 is amended by adding at the end the following:

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

2 “(a) DEFINITIONS.—In this section:

3 “(1) ACQUISITION.—The term ‘acquisition’ has  
4 the meaning given the term in section 131 of title  
5 41, United States Code.

6 “(2) APPROPRIATE COMMITTEES OF CON-  
7 GRESS.—The term ‘appropriate committees of Con-  
8 gress’ has the meaning given the term in section  
9 226(a).

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

12 “(A) a knowledge-based approach to capa-  
13 bility development that includes identifying and  
14 validating needs;

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

17 “(C) clearly establishing well-defined re-  
18 quirements;

19 “(D) developing realistic cost assessments  
20 and schedules;

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

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

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

4           “(H) adopting and executing standardized  
5           processes with known success across programs;

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

9           “(J) integrating the capabilities described  
10          in subparagraphs (A) through (I) into the mis-  
11          sion and business operations of the Depart-  
12          ment.

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

1 tives established by the Under Secretary for Man-  
2 agement.

3 “(5) MAJOR ACQUISITION PROGRAM.—The term  
4 ‘major acquisition program’ means an acquisition  
5 program of the Department that is estimated by the  
6 Secretary to require an eventual total expenditure of  
7 not less than \$300,000,000 (based on fiscal year  
8 2017 constant dollars) over the life cycle cost of the  
9 program.

10 “(b) MULTIYEAR ACQUISITION STRATEGY RE-  
11 QUIRED.—

12 “(1) IN GENERAL.—Not later than 1 year after  
13 the date of enactment of this section, the Secretary  
14 shall submit to the appropriate committees of Con-  
15 gress and the Comptroller General of the United  
16 States a multiyear acquisition strategy to—

17 “(A) guide the overall direction of the ac-  
18 quisitions of the Department while allowing  
19 flexibility to deal with ever-changing threats  
20 and risks; and

21 “(B) help industry better understand,  
22 plan, and align resources to meet the future ac-  
23 quisition needs of the Department.

24 “(2) UPDATES.—The strategy required under  
25 paragraph (1) shall be updated and included in each

1 Future Years Homeland Security Program required  
2 under section 874.

3 “(3) FORM.—The Secretary shall—

4 “(A) submit the strategy required under  
5 paragraph (1) in unclassified form, but may in-  
6 clude a classified annex for any sensitive or  
7 classified information if necessary; and

8 “(B) publish the strategy required under  
9 paragraph (1) in an unclassified format that is  
10 publicly available.

11 “(c) CONSULTATION.—In developing the strategy re-  
12 quired under subsection (b), the Secretary shall, as the  
13 Secretary determines appropriate, consult with head-  
14 quarters, components, employees in the field, and individ-  
15 uals from industry and the academic community.

16 “(d) CONTENTS OF STRATEGY.—The strategy re-  
17 quired under subsection (b) shall include the following:

18 “(1) PRIORITIZED LIST.—A systematic and in-  
19 tegrated prioritized list developed by the Under Sec-  
20 retary for Management in coordination with all of  
21 the Component Acquisition Executives of major ac-  
22 quisition programs that Department and component  
23 acquisition investments seek to address, including  
24 the expected security and economic benefit of the  
25 program or system that is the subject of acquisition

1 and an analysis of how the security and economic  
2 benefit derived from the program or system will be  
3 measured.

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

7 “(A) plan, budget, schedule, and acquire  
8 upgrades of the systems and equipment of the  
9 Department; and

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

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

18 “(A) prevent wasteful purchasing;

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

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

22 “(D) utilize purchase timing and econo-  
23 mies of scale.

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

4           “(A) support the acquisition of tech-  
5 nologies to meet the needs of the strategy;

6           “(B) leverage to the greatest extent pos-  
7 sible emerging technological trends and re-  
8 search and development trends within the pub-  
9 lic and private sectors; and

10          “(C) identify ways to ensure that appro-  
11 priate technology is acquired and integrated  
12 into the operating doctrine of the Department  
13 to improve mission performance.

14          “(5) FOCUS ON FLEXIBLE SOLUTIONS.—An as-  
15 sessment of ways the Department can improve the  
16 ability of the Department to test and acquire innova-  
17 tive solutions to allow needed incentives and protec-  
18 tions for appropriate risk-taking in order to meet the  
19 acquisition needs of the Department with resiliency,  
20 agility, and responsiveness to assure homeland secu-  
21 rity and facilitate trade.

22          “(6) FOCUS ON INCENTIVES TO SAVE TAX-  
23 PAYER DOLLARS.—An assessment of ways the De-  
24 partment can develop incentives for program man-

1       agers and senior acquisition officials of the Depart-  
2       ment to—

3               “(A) prevent cost overruns;

4               “(B) avoid schedule delays; and

5               “(C) achieve cost savings in major acquisi-  
6       tion programs.

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

11              “(A) requirements development;

12              “(B) procurement announcements;

13              “(C) requests for proposals;

14              “(D) evaluations of proposals;

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

16              “(F) the use of best practices.

17              “(8) FOCUS ON IMPROVING OUTREACH.—An  
18      identification and assessment of ways to increase op-  
19      portunities for communication and collaboration with  
20      industry, small and disadvantaged businesses, intra-  
21      government entities, university centers of excellence,  
22      accredited certification and standards development  
23      organizations, and national laboratories to ensure  
24      that the Department understands the market for  
25      technologies, products, and innovation that is avail-



1 able to meet the mission needs of the Department  
2 and to inform the requirements-setting process of  
3 the Department before engaging in an acquisition,  
4 including—

5 “(A) methods designed especially to engage  
6 small and disadvantaged businesses, a cost-ben-  
7 efit analysis of the tradeoffs that small and dis-  
8 advantaged businesses provide, information re-  
9 lating to barriers to entry for small and dis-  
10 advantaged businesses, and information relating  
11 to unique requirements for small and disadvan-  
12 taged businesses; and

13 “(B) within the Department Vendor Com-  
14 munication Plan and Market Research Guide,  
15 instructions for interaction by acquisition pro-  
16 gram managers with those entities to—

17 “(i) prevent misinterpretation of ac-  
18 quisition regulations; and

19 “(ii) permit, within legal and ethical  
20 boundaries, interacting with those entities  
21 with transparency.

22 “(9) COMPETITION.—A plan regarding competi-  
23 tion under subsection (e).

1           “(10) ACQUISITION WORKFORCE.—A plan re-  
2           garding the Department acquisition workforce under  
3           subsection (f).

4           “(e) COMPETITION PLAN.—The strategy required  
5           under subsection (b) shall include a plan to address ac-  
6           tions to ensure competition, or the option of competition,  
7           for major acquisition programs, which may include assess-  
8           ments of the following measures in appropriate cases if  
9           the measures are cost effective:

10           “(1) Competitive prototyping.

11           “(2) Dual-sourcing.

12           “(3) Unbundling of contracts.

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

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

17           “(6) Acquisition of complete technical data  
18           packages.

19           “(7) Periodic competitions for subsystem up-  
20           grades.

21           “(8) Licensing of additional suppliers, including  
22           small businesses.

23           “(9) Periodic system or program reviews to ad-  
24           dress long-term competitive effects of program deci-  
25           sions.

1 “(f) ACQUISITION WORKFORCE PLAN.—

2 “(1) ACQUISITION WORKFORCE.—The strategy  
3 required under subsection (b) shall include a plan to  
4 address Department acquisition workforce account-  
5 ability and talent management that—

6 “(A) identifies the acquisition workforce  
7 needs of each component performing acquisition  
8 functions; and

9 “(B) develops options for filling those  
10 needs with qualified individuals, including a  
11 cost-benefit analysis of contracting for acquisi-  
12 tion assistance.

13 “(2) ADDITIONAL MATTERS COVERED.—The  
14 acquisition workforce plan under this subsection  
15 shall address ways to—

16 “(A) improve the recruitment, hiring,  
17 training, and retention of Department acquisi-  
18 tion workforce personnel, including contracting  
19 officers’ representatives, in order to retain high-  
20 ly qualified individuals who have experience in  
21 the acquisition life cycle, complex procurements,  
22 and management of large programs;

23 “(B) empower program managers to have  
24 the authority to manage their programs in an

1           accountable and transparent manner as such  
2           managers work with the acquisition workforce;

3           “(C) prevent duplication within Depart-  
4           ment acquisition workforce training and certifi-  
5           cation requirements through leveraging existing  
6           training within the Federal Government, aca-  
7           demic community, or private industry;

8           “(D) achieve integration and consistency  
9           with Government-wide training and accredita-  
10          tion standards, acquisition training tools, and  
11          training facilities;

12          “(E) designate the acquisition positions  
13          that will be necessary to support the acquisition  
14          requirements of the Department, including in  
15          the fields of—

16                  “(i) program management;

17                  “(ii) systems engineering;

18                  “(iii) procurement, including con-  
19          tracting;

20                  “(iv) test and evaluation;

21                  “(v) life cycle logistics;

22                  “(vi) cost estimating and program fi-  
23          nancial management; and

1           “(vii) additional disciplines appro-  
2           priate to the mission needs of the Depart-  
3           ment;

4           “(F) strengthen the performance of con-  
5           tracting officers’ representatives (as defined in  
6           subpart 1.602–2 and subpart 2.101 of the Fed-  
7           eral Acquisition Regulation), including by—

8                   “(i) assessing the extent to which  
9                   those representatives are certified and re-  
10                  ceive training that is appropriate;

11                   “(ii) assessing what training is most  
12                  effective with respect to the type and com-  
13                  plexity of assignment; and

14                   “(iii) implementing actions to improve  
15                  training based on those assessments; and

16           “(G) identify ways to increase training for  
17           relevant investigators and auditors of the De-  
18           partment to examine fraud in major acquisition  
19           programs, including identifying opportunities to  
20           leverage existing Federal Government and pri-  
21           vate sector resources in coordination with the  
22           Inspector General of the Department.”.

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

1 (Public Law 107–296; 116 Stat. 2135) is amended by in-  
2 serting after the item relating to section 835 the following:

“Sec. 836. Multiyear acquisition strategy.”.

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

5 (a) DEFINITIONS.—In this section—

6 (1) the terms “acquisition”, “best practices”,  
7 and “major acquisition program” have the meanings  
8 given those terms in section 836 of the Homeland  
9 Security Act of 2002, as added by section 2 of this  
10 Act; and

11 (2) the term “Department” means the Depart-  
12 ment of Homeland Security.

13 (b) REVIEW.—Not later than 180 days after the date  
14 on which the Secretary of Homeland Security submits the  
15 first multiyear acquisition strategy required under section  
16 836 of the Homeland Security Act of 2002, as added by  
17 section 2 of this Act, after the date of enactment of this  
18 Act, the Comptroller General of the United States shall  
19 conduct a review of the strategy and analyze the viability  
20 of the effectiveness of the strategy in—

21 (1) complying with the requirements of such  
22 section 836;

23 (2) establishing clear connections between De-  
24 partment objectives and acquisition priorities;

1           (3) demonstrating that Department acquisition  
2 policy reflects program management best practices  
3 and standards;

4           (4) ensuring competition or the option of com-  
5 petition for major acquisition programs;

6           (5) considering potential cost savings through  
7 using existing technologies when developing acquisi-  
8 tion program requirements;

9           (6) preventing duplication within Department  
10 acquisition workforce training requirements through  
11 leveraging already-existing training within the Fed-  
12 eral Government, academic community, or private  
13 industry; and

14           (7) providing incentives for acquisition program  
15 managers to reduce acquisition and procurement  
16 costs through the use of best practices and dis-  
17 ciplined program management.

18       (c) REPORT.—The Comptroller General of the United  
19 States shall submit to the Committee on Homeland Secu-  
20 rity and Governmental Affairs and the Committee on Ap-  
21 propriations of the Senate and the Committee on Home-  
22 land Security and the Committee on Appropriations of the  
23 House of Representatives a report on the review conducted

- 1 under subsection (b), which shall be submitted in unclassi-
- 2 fied form but may include a classified annex.

○