

DEPARTMENT OF HOMELAND SECURITY ACQUISITION
 INNOVATION ACT

MARCH 20, 2017.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
 submitted the following

R E P O R T

[To accompany H.R. 1365]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1365) to amend the Homeland Security Act of 2002 to require certain acquisition innovation, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Homeland Security Acquisition Innovation Act”.

SEC. 2. ACQUISITION INNOVATION.

(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 new section:

“SEC. 710. ACQUISITION INNOVATION.

“The Under Secretary for Management may—

“(1) designate an individual within the Department to manage acquisition innovation efforts of the Department;

“(2) test emerging acquisition best practices to carrying out acquisitions, consistent with the Federal Acquisition Regulation and Department acquisition management directives, as appropriate;

“(3) develop and distribute best practices and lessons learned regarding acquisition innovation throughout the Department;

“(4) establish metrics to measure the effectiveness of acquisition innovation efforts with respect to cost, operational efficiency of the acquisition program (including timeframe for executing contracts), and collaboration with the private sector, including small businesses; and

“(5) determine impacts of acquisition innovation efforts on the private sector by—

“(A) engaging with the private sector, including small businesses, to provide information and obtain feedback on procurement practices and acquisition innovation efforts of the Department;

“(B) obtaining feedback from the private sector on the impact of acquisition innovation efforts of the Department; and

“(C) incorporating such feedback, as appropriate, into future acquisition innovation efforts of the Department.”.

(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 innovation.”.

(c) INFORMATION.—Not later than 90 days after the date on which the Secretary of Homeland Security submits the annual budget justification for the Department of Homeland Security for each of fiscal years 2018 through 2022, the Secretary shall, if appropriate, provide information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the activities undertaken in the previous fiscal year in furtherance of section 710 of the Homeland Security Act, as added by subsection (a) of this Act, on the following:

(1) Emerging acquisition best practices that were tested within the Department during such year.

(2) Efforts to distribute best practices and lessons learned within the Department, including through web-based seminars, training, and forums, during such year.

(3) Utilization by components throughout the Department of best practices distributed by the Under Secretary of Management pursuant to paragraph (3) of such section 710.

(4) Performance as measured by the metrics established under paragraph (4) of such section 710.

(5) Outcomes of efforts to distribute best practices and lessons learned within the Department, including through web-based seminars, training, and forums.

(6) Any impacts of the utilization of innovative acquisition mechanisms by the Department on the private sector, including small businesses.

(7) The criteria used to identify specific acquisition programs or activities to be included in acquisition innovation efforts and the outcomes of such programs or activities.

(8) Recommendations, as necessary, to enhance acquisition innovation in the Department.

PURPOSE AND SUMMARY

The purpose of H.R. 1365 is to amend the Homeland Security Act of 2002 to require certain acquisition innovation.

BACKGROUND AND NEED FOR LEGISLATION

The Government Accountability Office (GAO) and the DHS Office of Inspector General (OIG) have consistently reported on the long-standing challenges DHS faces in managing its major acquisition programs, which cost the Department over \$7 billion each year. Every 2 years, the Government Accountability Office (GAO) identifies areas in the Federal Government that are “high risk” due to their vulnerabilities to fraud, waste, abuse, and mismanagement. Since 2003, GAO has identified DHS’s transformation of 22 agencies into one department, and the Department’s subsequent challenges with its management functions, as high risk. In GAO’s 2017 high risk update, GAO noted that DHS has made progress in addressing its management challenges, but has not yet completed all the necessary actions to fully address acquisition management. Additionally, the DHS Office of Inspector General (OIG) reports annually on major management challenges facing the Department. In November 2016, the OIG identified challenges in DHS’s management of acquisition programs. Although DHS has taken steps to improve acquisition management, DHS struggles to ensure that the cost of major acquisition programs are in line with original estimates, are delivered on schedule, and provide the capabilities originally intended.

H.R. 1365 allows the Under Secretary for Management (USM) to designate an official to manage acquisition innovation activities in the Department. It also allows the USM to test emerging acquisition best practices, develop and distribute best practices and lessons learned, engage with private industry, and establish performance metrics to assess the effectiveness of acquisition innovation efforts. Additionally, H.R. 1365 requires the Secretary to provide a report to the House and Senate homeland security committees on the USM’s implementation of acquisition innovation activities.

HEARINGS

No hearings were specifically held on H.R. 1365. However, the Committee held oversight hearings on acquisition management, as listed below.

On February 26, 2015, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “Assessing DHS’s Performance: Watchdog Recommendations to Improve Homeland Security.” The Subcommittee received testimony from The Honorable John Roth, Inspector General, U.S. Department of Homeland Security; Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office; and Dr. Daniel M. Gerstein, Senior Policy Researcher, The RAND Corporation.

On April 22, 2015, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “Acquisition Oversight: How Effectively is DHS Safeguarding Taxpayer Dollars?” The Subcommittee received testimony from Ms. Michele Mackin, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; The Honorable Chip Fulghum, Acting Deputy Undersecretary for Management and Chief Financial Officer, U.S. Department of Homeland Security; and Dr. Cedric Sims, Partner, Evermay Consulting Group.

On September 18, 2015, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “Making DHS More Efficient: Industry Recommendations to Improve Homeland Security.” The Subcommittee received testimony from Mr. Marc Pearl, President and Chief Executive Officer, Homeland Security and Defense Business Council; Mr. Harry Totonis, Board Director, Business Executives for National Security; and Ms. Elaine Duke, Principal, Elaine Duke & Associates, LLC.

On February 16, 2017, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “Watchdog Recommendations: A Better Way Ahead to Manage the Department of Homeland Security.” The Subcommittee received testimony from The Honorable John Roth, Inspector General, U.S. Department of Homeland Security, and Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on March 8, 2017, to consider H.R. 1365, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote. The Committee took the following actions:

The following amendments were offered:

An en bloc amendment offered by MR. PERRY (#1); was AGREED TO by voice vote. Consisting of the following amendments:

An Amendment:

Page 2, line 12, strike “and” after the semicolon.

Page 2, line 18, strike the period, the closing quotes, and the second period and insert “; and”.

Page 2, beginning line 19, insert the following:

“(5) determine impacts of acquisition innovation efforts on the private sector by—
“(A) engaging with the private sector, including small businesses, to provide information and obtain feedback on procurement practices and acquisition innovation efforts of the Department;

“(B) obtaining feedback from the private sector on the impact of acquisition innovation efforts of the Department; and

“(C) incorporating such feedback, as appropriate, into future acquisition innovation efforts of the Department.”.

An Amendment:

Page 2, line 23, strike “REPORT” and insert “INFORMATION”.

Page 3, line 1, insert “for each of fiscal years 2018 through 2022” after “land Security”.

Page 3, line 1, strike “submit” and insert “provide information”.

Page 3, line 4, strike “a report”.

Page 3, beginning line 7, strike “. Each such report shall include information” and insert a comma.

Page 3, line 21, redesignate paragraph (5) as paragraph (6).

Page 3, beginning line 21, insert the following:

P(5) Outcomes of efforts to distribute best practices and lessons learned within the Department, including through web-based seminars, training, and forums.

Page 3, line 22, strike “mechanism” and insert “mechanisms”.

Page 3, line 22, insert “the private sector, including” after “by the Department on”.

Page 3, after line 23, insert the following:

P(7) The criteria used to identify specific acquisition programs or activities to be included in acquisition innovation efforts and the outcomes of such programs or activities.

P(8) Recommendations, as necessary, to enhance acquisition innovation in the Department.

Page 3, line 22, insert “the private sector, including” after “by the Department on”.

Page 3, after line 23, insert the following:

P(7) The criteria used to identify specific acquisition programs or activities to be included in acquisition innovation efforts and the outcomes of such programs or activities.

P(8) Recommendations, as necessary, to enhance acquisition innovation in the Department

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 1365.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1365, the Department of Homeland Security Acquisition Innovation Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 1365 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The purpose of H.R. 1365, the Department of Homeland Security Acquisition Innovation Act, is to provide guidance to the Department of Homeland Security regarding acquisition management.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 1365 does not contain any provision that establishes or reau-

thorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 1365 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1365 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Department of Homeland Security Acquisition Innovation Act”.

Sec. 2. Acquisition Innovation.

Section 2 amends Title VII of the Homeland Security Act of 2002 (Pub. L. 107-296) and allows for the Under Secretary for Management (USM) to designate an individual within the Department to manage acquisition innovation efforts; test, develop, and distribute acquisition best practices throughout the Department; and estab-

TITLE VII—MANAGEMENT

* * * * *

SEC. 710. ACQUISITION INNOVATION.

The Under Secretary for Management may—

(1) designate an individual within the Department to manage acquisition innovation efforts of the Department;

(2) test emerging acquisition best practices to carrying out acquisitions, consistent with the Federal Acquisition Regulation and Department acquisition management directives, as appropriate;

(3) develop and distribute best practices and lessons learned regarding acquisition innovation throughout the Department;

(4) establish metrics to measure the effectiveness of acquisition innovation efforts with respect to cost, operational efficiency of the acquisition program (including timeframe for executing contracts), and collaboration with the private sector, including small businesses; and

(5) determine impacts of acquisition innovation efforts on the private sector by—

(A) engaging with the private sector, including small businesses, to provide information and obtain feedback on procurement practices and acquisition innovation efforts of the Department;

(B) obtaining feedback from the private sector on the impact of acquisition innovation efforts of the Department; and

(C) incorporating such feedback, as appropriate, into future acquisition innovation efforts of the Department.

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