

**H.R. 4398, The “DHS Acquisition Documentation Integrity Act of 2016”**

**FACT SHEET**

**As introduced by**

**Representative Bonnie Watson Coleman (D-NJ)**

**February 1, 2016**

In fiscal year 2015, the Department of Homeland Security (DHS) planned to spend \$10.7 billion on the agency’s major acquisition programs, an amount roughly equal to one-fifth of the Department’s discretionary budget authority for that period. In a review conducted of 22 major DHS acquisitions, the Government Accountability Office found that 14 of the programs suffered from cost or schedule overruns, and that six of the remaining eight programs lacked valid baselines against which to assess their performance.<sup>1</sup>

On April 22, 2015, it was revealed at a Committee on Homeland Security hearing that 25 of 72 major acquisition programs<sup>2</sup> on the Department’s “Master Acquisition Oversight List” for fiscal year 2015 had been granted waivers from requirements to produce or update critical acquisition-related documentation.<sup>3</sup> GAO found that these waivers may have contravened program guidance issued by the Office of Management and Budget. GAO’s analysis showed that all of the programs issued waivers had reached the sustainment phase of the acquisition life cycle, i.e. these programs had developed and delivered systems, and that DHS had initiated operation and maintenance of those systems.

Anything less than complete, accurate, and up-to-date acquisition documentation increases the risk of cost and schedule overruns, delays in the delivery of capabilities needed by the Department to perform critical missions, and a depletion of resources needed to address future requirements.

On September 30, 2015, at a Full Committee markup session of the Committee on Homeland Security, the “DHS Headquarters Reform and Improvement Act of 2015,” the Committee adopted an amendment to H.R. 3572 proposed by Rep. Watson Coleman to limit the Department’s authority to waive critical acquisition documentation reporting requirements based on a DHS Acquisition Decision Memorandum issued on April 20, 2015. On October 20, 2015,

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<sup>1</sup> For the Department’s plans to spend \$10.7 billion on major acquisition programs in FY 2015, and GAO’s findings on DHS acquisition management, please see GAO, *Homeland Security Acquisitions: Major Program Assessments Reveal Actions Needed to Improve Accountability*, GAO-15-171SP (Washington, D.C.: April 22, 2015). For a breakdown of the Department’s FY 2015 budget authority into mandatory and discretionary elements, please see *DHS Budget in Brief: Fiscal Year 2015*, available at <http://www.dhs.gov/sites/default/files/publications/FY15BIB.pdf>, Pages 1-3.

<sup>2</sup> DHS acquisition policy designates a program as a “major acquisition program” when it has an estimated life-cycle cost exceeding \$300 million.

<sup>3</sup> Questioning between Ranking Member Watson Coleman and Michele Mackin (Government Accountability Office) at hearing titled “Acquisition Oversight: How Effectively is DHS Safeguarding Taxpayer Dollars?”

the House passed H.R. 3572 as amended, under Suspension of the Rules. The “DHS Acquisition Documentation Integrity Act” is based on the Watson Coleman amendment to H.R. 3572.

### **The “DHS Acquisition Documentation Integrity Act”**

The “DHS Acquisition Documentation Integrity Act” amends the Homeland Security Act of 2002 to require the Secretary, through DHS component heads, to maintain “complete, accurate, timely, and valid” documentation for each major acquisition program, including, at a minimum:

- operational requirements that are validated consistent with Departmental policy and changes to those requirements, as appropriate;
- a complete life cycle cost estimate with supporting documentation;
- verification of the life cycle cost estimate against independent cost estimates, and reconciliation of any differences;
- a cost-benefit analysis with supporting documentation; and
- a schedule including, as appropriate, an integrated master schedule.

The bill further requires that cost estimates and schedules for major acquisition programs be consistent with best practices as identified by GAO, and that certain acquisition documentation be submitted by DHS component heads to the Secretary for the production of an annual comprehensive report to Congress on the status of DHS acquisitions.

Finally, the bill limits the Secretary’s authority to waive requirements that DHS component heads report to Congress on the status of major acquisition programs. The bill sets forth narrow conditions where waivers could be granted for a fiscal year. They are that (i) the program has not entered the full rate production phase in the acquisition life cycle, had a reasonable cost estimate established, or had a system configuration defined fully; or (ii) the program does not meet the definition of a “capital asset” as defined by the Director of the Office of Management and Budget. OMB Circular A-11 requires that agencies maintain a current cost estimate for their capital assets, including systems in the sustainment phase of the acquisition life cycle.

The bill requires the Secretary to report annually to the Congressional homeland-security committees on the use of waiver authority during the preceding fiscal year, including the grounds for granting each waiver; the projected cost of the program receiving the waiver; the proportion of the relevant DHS component’s annual acquisition budget attributed to such program, as available; and information on the significance of such program with respect to the component’s operations and execution of its mission.