

**Suspend the Rules and Pass the Bill, H.R. 3413, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

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

# H. R. 3413

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.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

Mr. CRENSHAW introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DHS Acquisition Re-  
5 form Act of 2019”.

1 **SEC. 1. ACQUISITION AUTHORITIES FOR UNDER SEC-**  
2 **RETARY FOR MANAGEMENT OF THE DEPART-**  
3 **MENT OF HOMELAND SECURITY.**

4 Section 701 of the Homeland Security Act of 2002  
5 (6 U.S.C. 341) is amended by—

6 (1) redesignating subsection (d), the first sub-  
7 section (e) (relating to the system for award man-  
8 agement consultation), and the second subsection (e)  
9 (relating to the definition of interoperable commu-  
10 nications) as subsections (e), (f), and (g), respec-  
11 tively; and

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

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

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

25 “(2) FUNCTIONS AND RESPONSIBILITIES.—In  
26 addition to the authorities and functions specified in

1 section 1702(b) of title 41, United States Code, the  
2 functions and responsibilities of the Under Secretary  
3 for Management related to acquisition (as such term  
4 is defined in section 711) include the following:

5 “(A) Advising the Secretary regarding ac-  
6 quisition management activities, taking into ac-  
7 count risks of failure to achieve cost, schedule,  
8 or performance parameters, to ensure that the  
9 Department achieves its mission through the  
10 adoption of widely accepted program manage-  
11 ment best practices (as such term is defined in  
12 section 711) and standards and, where appro-  
13 priate, acquisition innovation best practices.

14 “(B) Leading the Department’s acquisition  
15 oversight body, the Acquisition Review Board.

16 “(C) Exercising the acquisition decision  
17 authority (as such term is defined in section  
18 711) to approve, pause, modify (including the  
19 rescission of approvals of program milestones),  
20 or cancel major acquisition programs (as such  
21 term is defined in section 711), unless the  
22 Under Secretary delegates such authority to a  
23 Component Acquisition Executive (as such term  
24 is defined in section 711) pursuant to para-  
25 graph (3).

1           “(D) Establishing policies for acquisition  
2           that implement an approach that takes into ac-  
3           count risks of failure to achieve cost, schedule,  
4           or performance parameters that all components  
5           of the Department shall comply with, including  
6           outlining relevant authorities for program man-  
7           agers to effectively manage acquisition pro-  
8           grams (as such term is defined in section 711).

9           “(E) Ensuring that each major acquisition  
10          program has a Department-approved acquisi-  
11          tion program baseline (as such term is defined  
12          in section 711), pursuant to the Department’s  
13          acquisition management policy.

14          “(F) Assisting the heads of components  
15          and Component Acquisition Executives in ef-  
16          forts to comply with Federal law, the Federal  
17          Acquisition Regulation, and Department acqui-  
18          sition management directives.

19          “(G) Ensuring that grants and financial  
20          assistance are provided only to individuals and  
21          organizations that are not suspended or  
22          debarred.

23          “(H) Distributing guidance throughout the  
24          Department to ensure that contractors involved  
25          in acquisitions, particularly contractors that ac-

1           cess the Department’s information systems and  
2           technologies, adhere to relevant Department  
3           policies related to physical and information se-  
4           curity as identified by the Under Secretary for  
5           Management.

6           “(I) Overseeing the Component Acquisition  
7           Executive organizational structure to ensure  
8           Component Acquisition Executives have suffi-  
9           cient capabilities and comply with Department  
10          acquisition policies.

11          “(3) DELEGATION OF CERTAIN ACQUISITION  
12          DECISION AUTHORITY.—

13                 “(A) LEVEL 3 ACQUISITIONS.—The Under  
14                 Secretary for Management may delegate acqui-  
15                 sition decision authority to the relevant Compo-  
16                 nent Acquisition Executive for an acquisition  
17                 program that has a life cycle cost estimate of  
18                 less than \$300,000,000.

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

1 more than \$1,000,000,000 if all of the following  
2 requirements are met:

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

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

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

22 “(C) LEVEL 1 ACQUISITIONS.—The Under  
23 Secretary for Management may delegate acqui-  
24 sition decision authority in writing to the rel-  
25 evant Component Acquisition Executive for a

1 Level 1 major acquisition program that has a  
2 life cycle cost estimate of more than  
3 \$1,000,000,000 if all of the following require-  
4 ments are met:

5 “(i) The Undersecretary for Manage-  
6 ment conducts a risk assessment of the  
7 planned acquisition and determines that it  
8 is appropriate to delegate authority for  
9 such major acquisition program.

10 “(ii) The component concerned pos-  
11 sesses working policies, processes, and pro-  
12 cedures that are consistent with Depart-  
13 ment-level acquisition policy.

14 “(iii) The Component Acquisition Ex-  
15 ecutive concerned has adequate, experi-  
16 enced, and dedicated professional employ-  
17 ees with program management training, as  
18 applicable, commensurate with the size of  
19 the acquisition programs and related ac-  
20 tivities delegated to such Component Ac-  
21 quisition Executive by the Under Secretary  
22 for Management.

23 “(iv) Each Level 1 major acquisition  
24 program concerned has written documenta-  
25 tion showing that it has a Department-ap-

1           proved acquisition program baseline and it  
2           is meeting agreed-upon cost, schedule, and  
3           performance thresholds.

4                   “(v) The Under Secretary for Man-  
5           agement provides written notification to  
6           the appropriate congressional committees  
7           of the decision to delegate the authority to  
8           the relevant Component Acquisition Execu-  
9           tive.

10           “(4) RELATIONSHIP TO UNDER SECRETARY  
11           FOR SCIENCE AND TECHNOLOGY.—

12                   “(A) IN GENERAL.—Nothing in this sub-  
13           section shall diminish the authority granted to  
14           the Under Secretary for Science and Tech-  
15           nology under this Act. The Under Secretary for  
16           Management and the Under Secretary for  
17           Science and Technology shall cooperate in mat-  
18           ters related to the coordination of acquisitions  
19           across the Department so that investments of  
20           the Directorate of Science and Technology are  
21           able to support current and future requirements  
22           of the components of the Department.

23                   “(B) OPERATIONAL TESTING AND EVALUA-  
24           TION.—The Under Secretary for Science and  
25           Technology shall—



1 “(i) ensure, in coordination with rel-  
2 evant component heads, that major acqui-  
3 sition programs—

4 “(I) complete operational testing  
5 and evaluation of technologies and  
6 systems to be acquired or developed  
7 by major acquisition programs to as-  
8 sess operational effectiveness, suit-  
9 ability, and cybersecurity;

10 “(II) use independent verification  
11 and validation of operational test and  
12 evaluation implementation and re-  
13 sults, as appropriate; and

14 “(III) document whether such  
15 programs meet all performance re-  
16 quirements included in their acquisi-  
17 tion program baselines;

18 “(ii) ensure that such operational  
19 testing and evaluation includes all system  
20 components and incorporates operators  
21 into the testing to ensure that systems per-  
22 form as intended in the appropriate oper-  
23 ational setting; and

24 “(iii) determine if testing conducted  
25 by other Federal departments and agencies

1 and private entities is relevant and suffi-  
2 cient in determining whether systems per-  
3 form as intended in the operational set-  
4 ting.”.

5 **SEC. 2. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL**  
6 **OFFICER OF THE DEPARTMENT OF HOME-**  
7 **LAND SECURITY.**

8 Paragraph (2) of section 702(b) of the Homeland Se-  
9 curity Act of 2002 (6 U.S.C. 342(b)) is amended by—

10 (1) redesignating subparagraph (I) as subpara-  
11 graph (J); and

12 (2) inserting after subparagraph (H) the fol-  
13 lowing new subparagraph:

14 “(I) Oversee the costs of acquisition pro-  
15 grams (as such term is defined in section 711)  
16 and related activities to ensure that actual and  
17 planned costs are in accordance with budget es-  
18 timates and are affordable, or can be ade-  
19 quately funded, over the life cycle of such pro-  
20 grams and activities.”.

21 **SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF INFORMA-**  
22 **TION OFFICER OF THE DEPARTMENT OF**  
23 **HOMELAND SECURITY.**

24 Section 703 of the Homeland Security Act of 2002  
25 (6 U.S.C. 343) is amended—

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

3           (2) by inserting after subsection (a) the fol-  
4           lowing new subsection:

5           “(b) ACQUISITION RESPONSIBILITIES.—In addition  
6 to the responsibilities specified in section 11315 of title  
7 40, United States Code, the acquisition responsibilities of  
8 the Chief Information Officer, in consultation with the  
9 Under Secretary for Management, shall include the fol-  
10          lowing:

11           “(1) Overseeing the management of the Home-  
12          land Security Enterprise Architecture and ensuring  
13          that, before each acquisition decision event (as such  
14          term is defined in section 711), approved informa-  
15          tion technology acquisitions comply with any depart-  
16          mental information technology management require-  
17          ments, security protocols, and the Homeland Secu-  
18          rity Enterprise Architecture, and in any case in  
19          which information technology acquisitions do not  
20          comply with the Department’s management direc-  
21          tives, making recommendations to the Department’s  
22          Acquisition Review Board regarding such noncompli-  
23          ance.

24           “(2) Providing recommendations to the Acquisi-  
25          tion Review Board regarding information technology

1 programs, and developing information technology ac-  
2 quisition strategic guidance.”.

3 **SEC. 4. ACQUISITION AUTHORITIES FOR UNDER SEC-**  
4 **RETARY OF STRATEGY, POLICY, AND PLANS.**

5 Subsection (c) of section 709 of the Homeland Secu-  
6 rity Act of 2002 (6 U.S.C. 349) is amended by—

7 (1) redesignating paragraphs (4) through (7) as  
8 (5) through (8), respectively; and

9 (2) inserting after paragraph (3) the following  
10 new paragraph:

11 “(4) ensure acquisition programs (as such term  
12 is defined in section 711) support the DHS Quad-  
13 rennial Homeland Security Review Report, the DHS  
14 Strategic Plan, the DHS Strategic Priorities, and  
15 other appropriate successor documents;”.

16 **SEC. 5. ACQUISITION AUTHORITIES FOR PROGRAM AC-**  
17 **COUNTABILITY AND RISK MANAGEMENT**  
18 **(PARM).**

19 (a) **IN GENERAL.**—Title VII of the Homeland Secu-  
20 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by  
21 adding at the end the following new section:

1 **“SEC. 711. ACQUISITION AUTHORITIES FOR PROGRAM AC-**  
2 **COUNTABILITY AND RISK MANAGEMENT.**

3 “(a) ESTABLISHMENT OF OFFICE.—Within the Man-  
4 agement Directorate, there shall be a Program Account-  
5 ability and Risk Management office to—

6 “(1) provide consistent accountability, stand-  
7 ardization, and transparency of major acquisition  
8 programs of the Department;

9 “(2) serve as the central oversight function for  
10 all Department major acquisition programs; and

11 “(3) provide review and analysis of Department  
12 acquisition programs, as appropriate.

13 “(b) RESPONSIBILITIES OF EXECUTIVE DIREC-  
14 TOR.—The Program Accountability and Risk Management  
15 office shall be led by an Executive Director to oversee the  
16 requirements specified in subsection (a). The Executive  
17 Director shall report directly to the Under Secretary for  
18 Management, and shall carry out the following responsibil-  
19 ities:

20 “(1) Monitor regularly the performance of De-  
21 partment major acquisition programs between acqui-  
22 sition decision events to identify problems with cost,  
23 performance, or schedule that components may need  
24 to address to prevent cost overruns, performance  
25 issues, or schedule delays.

1           “(2) Assist the Under Secretary for Manage-  
2           ment in managing the Department’s acquisition pro-  
3           grams and related activities.

4           “(3) Conduct oversight of individual acquisition  
5           programs to implement Department acquisition pro-  
6           gram policy, procedures, and guidance with a pri-  
7           ority on ensuring the data the office collects and  
8           maintains from Department components is accurate  
9           and reliable.

10          “(4) Serve as the focal point and coordinator  
11          for the acquisition life cycle review process and as  
12          the executive secretariat for the Department’s Ac-  
13          quisition Review Board.

14          “(5) Advise the persons having acquisition deci-  
15          sion authority in making acquisition decisions con-  
16          sistent with all applicable laws and in establishing  
17          clear lines of authority, accountability, and responsi-  
18          bility for acquisition decisionmaking within the De-  
19          partment.

20          “(6) Assist the Chief Procurement Officer of  
21          the Department, as appropriate, in developing strat-  
22          egies and specific plans for hiring, training, and pro-  
23          fessional development to address any deficiency with-  
24          in the Department’s acquisition workforce.

1           “(7) Develop standardized certification stand-  
2           ards in consultation with the Component Acquisition  
3           Executives for all acquisition program managers.

4           “(8) Assess the results of major acquisition pro-  
5           grams’ post-implementation reviews and identify op-  
6           portunities to improve performance throughout the  
7           acquisition process.

8           “(9) Provide technical support and assistance  
9           to Department acquisition programs and acquisition  
10          personnel and coordinate with the Chief Procure-  
11          ment Officer regarding workforce training and devel-  
12          opment activities.

13          “(10) Assist, as appropriate, with the prepara-  
14          tion of the Future Years Homeland Security Pro-  
15          gram, and make such information available to the  
16          congressional homeland security committees.

17          “(c) RESPONSIBILITIES OF COMPONENTS.—Each  
18          head of a component shall comply with Federal law, the  
19          Federal Acquisition Regulation, and Department acquisi-  
20          tion management directives established by the Under Sec-  
21          retary for Management. For each major acquisition pro-  
22          gram, each head of a component shall—

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

1           “(2) establish a complete life cycle cost estimate  
2           with supporting documentation that is consistent  
3           with cost estimating best practices as identified by  
4           the Comptroller General of the United States;

5           “(3) verify each life cycle cost estimate against  
6           independent cost estimates or assessments, as appro-  
7           priate, and reconcile any differences;

8           “(4) complete a cost-benefit analysis with sup-  
9           porting documentation;

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

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

18          “(d) DEFINITIONS.—In this section:

19                 “(1) ACQUISITION.—The term ‘acquisition’ has  
20                 the meaning given such term in section 131 of title  
21                 41, United States Code.

22                 “(2) ACQUISITION DECISION AUTHORITY.—The  
23                 term ‘acquisition decision authority’ means the au-  
24                 thority, held by the Secretary acting through the



1 Deputy Secretary or Under Secretary for Manage-  
2 ment to—

3 “(A) ensure compliance with Federal law,  
4 the Federal Acquisition Regulation, and De-  
5 partment acquisition management directives;

6 “(B) review (including approving, pausing,  
7 modifying, or canceling) an acquisition program  
8 through the life cycle of such program;

9 “(C) ensure that acquisition program man-  
10 agers have the resources necessary to success-  
11 fully execute an approved acquisition program;

12 “(D) ensure good acquisition program  
13 management of cost, schedule, risk, and system  
14 performance of the acquisition program at  
15 issue, including assessing acquisition program  
16 baseline breaches and directing any corrective  
17 action for such breaches; and

18 “(E) ensure that acquisition program man-  
19 agers, on an ongoing basis, monitor cost, sched-  
20 ule, and performance against established base-  
21 lines and use tools to assess risks to an acquisi-  
22 tion program at all phases of the life cycle of  
23 such program to avoid and mitigate acquisition  
24 program baseline breaches.

1           “(3) ACQUISITION DECISION EVENT.—The term  
2           ‘acquisition decision event’, with respect to an acqui-  
3           sition program, means a predetermined point within  
4           each of the acquisition phases at which the acquisi-  
5           tion decision authority determines whether such ac-  
6           quisition program shall proceed to the next acquisi-  
7           tion phase.

8           “(4) ACQUISITION PROGRAM.—The term ‘acqui-  
9           sition program’ means the process by which the De-  
10          partment acquires, with any appropriated amounts  
11          or fee funding, by contract for purchase or lease,  
12          property or services (including construction) that  
13          support the missions and goals of the Department.

14          “(5) ACQUISITION PROGRAM BASELINE.—The  
15          term ‘acquisition program baseline’, with respect to  
16          an acquisition program, means a summary of the  
17          cost, schedule, and performance parameters, ex-  
18          pressed in standard, measurable, quantitative terms,  
19          which must be met in order to accomplish the goals  
20          of such program.

21          “(6) BEST PRACTICES.—The term ‘best prac-  
22          tices’, with respect to acquisition, means a knowl-  
23          edge-based approach to capability development that  
24          includes the following:

25                 “(A) Identifying and validating needs.

1           “(B) Assessing alternatives to select the  
2 most appropriate solution.

3           “(C) Clearly establishing well-defined re-  
4 quirements.

5           “(D) Developing realistic cost assessments  
6 and schedules.

7           “(E) Securing stable funding that matches  
8 resources to requirements.

9           “(F) Demonstrating technology, design,  
10 and manufacturing maturity.

11           “(G) Using milestones and exit criteria or  
12 specific accomplishments that demonstrate  
13 progress.

14           “(H) Adopting and executing standardized  
15 processes with known success across programs.

16           “(I) Establishing an adequate workforce  
17 that is qualified and sufficient to perform nec-  
18 essary functions.

19           “(J) Integrating the capabilities described  
20 in subparagraphs (A) through (I) into the De-  
21 partment’s mission and business operations.

22           “(7) BREACH.—The term ‘breach’, with respect  
23 to a major acquisition program, means a failure to  
24 meet any cost, schedule, or performance threshold

1 specified in the most recently approved acquisition  
2 program baseline.

3 “(8) CONGRESSIONAL HOMELAND SECURITY  
4 COMMITTEES.—The term ‘congressional homeland  
5 security committees’ means—

6 “(A) the Committee on Homeland Security  
7 of the House of Representatives and the Com-  
8 mittee on Homeland Security and Govern-  
9 mental Affairs of the Senate; and

10 “(B) the Committee on Appropriations of  
11 the House of Representatives and the Com-  
12 mittee on Appropriations of the Senate.

13 “(9) 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               “(10) MAJOR ACQUISITION PROGRAM.—The  
4       term ‘major acquisition program’ means a Depart-  
5       ment acquisition program that is estimated by the  
6       Secretary to require an eventual total expenditure of  
7       at least \$300,000,000 (based on fiscal year 2019  
8       constant dollars) over its life cycle cost or a program  
9       identified by the Chief Acquisition Officer as a pro-  
10      gram of special interest.”.

11      (b) CLERICAL AMENDMENT.—The table of contents  
12      in section 1(b) of the Homeland Security Act of 2002 is  
13      amended by inserting after the item relating to section  
14      710 the following new item:

      “Sec. 711. Acquisition authorities for Program Accountability and Risk Man-  
          agement.”.