Suspending the Rules and Passing H.R. 3413, With an Amendment
(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST 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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

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

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 Reform Act of 2019”.
5
SEC. 1. ACQUISITION AUTHORITIES FOR UNDER SECRETARY FOR MANAGEMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

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

(1) redesignating subsection (d), the first subsection (e) (relating to the system for award management consultation), and the second subsection (e) (relating to the definition of interoperable communications) as subsections (e), (f), and (g), respectively; and

(2) inserting after subsection (e) the following new subsection:

“(d) ACQUISITION AND RELATED RESPONSIBILITIES.—

“(1) IN GENERAL.—Notwithstanding section 1702(a) of title 41, United States Code, the Under Secretary for Management is the Chief Acquisition Officer of the Department. As Chief Acquisition Officer, the Under Secretary shall have the authorities and perform the functions specified in such section 1702(b), and perform all other functions and responsibilities delegated by the Secretary or described in this subsection.

“(2) FUNCTIONS AND RESPONSIBILITIES.—In addition to the authorities and functions specified in
section 1702(b) of title 41, United States Code, the
functions and responsibilities of the Under Secretary
for Management related to acquisition (as such term
is defined in section 711) include the following:

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

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

“(C) Exercising the acquisition decision
authority (as such term is defined in section
711) to approve, pause, modify (including the
rescission of approvals of program milestones),
or cancel major acquisition programs (as such
term is defined in section 711), unless the
Under Secretary delegates such authority to a
Component Acquisition Executive (as such term
is defined in section 711) pursuant to para-
graph (3).
“(D) Establishing policies for acquisition
that implement an approach that takes into ac-
count risks of failure to achieve cost, schedule,
or performance parameters that all components
of the Department shall comply with, including
outlining relevant authorities for program man-
agers to effectively manage acquisition pro-
grams (as such term is defined in section 711).

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

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

“(G) Ensuring that grants and financial
assistance are provided only to individuals and
organizations that are not suspended or
debanned.

“(H) Distributing guidance throughout the
Department to ensure that contractors involved
in acquisitions, particularly contractors that ac-
cess the Department’s information systems and
technologies, adhere to relevant Department
policies related to physical and information se-
curity as identified by the Under Secretary for
Management.

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

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

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

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

“(i) The component concerned possesses working policies, processes, and procedures that are consistent with Department-level acquisition policy.

“(ii) The Component Acquisition Executive concerned has adequate, experienced, and dedicated professional employees with program management training, as applicable, commensurate with the size of the acquisition programs and related activities delegated to such Component Acquisition Executive by the Under Secretary for Management.

“(iii) Each major acquisition program concerned has written documentation showing that it has a Department-approved acquisition program baseline and it is meeting agreed-upon cost, schedule, and performance thresholds.

“(C) LEVEL 1 ACQUISITIONS.—The Under Secretary for Management may delegate acquisition decision authority in writing to the relevant Component Acquisition Executive for a
Level 1 major acquisition program that has a life cycle cost estimate of more than $1,000,000,000 if all of the following requirements are met:

“(i) The Undersecretary for Management conducts a risk assessment of the planned acquisition and determines that it is appropriate to delegate authority for such major acquisition program.

“(ii) The component concerned possesses working policies, processes, and procedures that are consistent with Department-level acquisition policy.

“(iii) The Component Acquisition Executive concerned has adequate, experienced, and dedicated professional employees with program management training, as applicable, commensurate with the size of the acquisition programs and related activities delegated to such Component Acquisition Executive by the Under Secretary for Management.

“(iv) Each Level 1 major acquisition program concerned has written documentation showing that it has a Department-ap-
proved acquisition program baseline and it is meeting agreed-upon cost, schedule, and performance thresholds.

“(v) The Under Secretary for Management provides written notification to the appropriate congressional committees of the decision to delegate the authority to the relevant Component Acquisition Executive.

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

“(A) IN GENERAL.—Nothing in this subsection shall diminish the authority granted to the Under Secretary for Science and Technology under this Act. The Under Secretary for Management and the Under Secretary for Science and Technology shall cooperate in matters related to the coordination of acquisitions across the Department so that investments of the Directorate of Science and Technology are able to support current and future requirements of the components of the Department.

“(B) OPERATIONAL TESTING AND EVALUATION.—The Under Secretary for Science and Technology shall—
“(i) ensure, in coordination with relevant component heads, that major acquisition programs—

“(I) complete operational testing and evaluation of technologies and systems to be acquired or developed by major acquisition programs to assess operational effectiveness, suitability, and cybersecurity;

“(II) use independent verification and validation of operational test and evaluation implementation and results, as appropriate; and

“(III) document whether such programs meet all performance requirements included in their acquisition program baselines;

“(ii) ensure that such operational testing and evaluation includes all system components and incorporates operators into the testing to ensure that systems perform as intended in the appropriate operational setting; and

“(iii) determine if testing conducted by other Federal departments and agencies
and private entities is relevant and sufficient in determining whether systems perform as intended in the operational setting.”.

SEC. 2. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Paragraph (2) of section 702(b) of the Homeland Security Act of 2002 (6 U.S.C. 342(b)) is amended by—

(1) redesignating subparagraph (I) as subparagraph (J); and

(2) inserting after subparagraph (H) the following new subparagraph:

“(I) Oversee the costs of acquisition programs (as such term is defined in section 711) and related activities to ensure that actual and planned costs are in accordance with budget estimates and are affordable, or can be adequately funded, over the life cycle of such programs and activities.”.

SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—
(1) by redesignating subsection (b) as subsection (e); and

(2) by inserting after subsection (a) the following new subsection:

“(b) ACQUISITION RESPONSIBILITIES.—In addition to the responsibilities specified in section 11315 of title 40, United States Code, the acquisition responsibilities of the Chief Information Officer, in consultation with the Under Secretary for Management, shall include the following:

“(1) Overseeing the management of the Homeland Security Enterprise Architecture and ensuring that, before each acquisition decision event (as such term is defined in section 711), approved information technology acquisitions comply with any departmental information technology management requirements, security protocols, and the Homeland Security Enterprise Architecture, and in any case in which information technology acquisitions do not comply with the Department’s management directives, making recommendations to the Department’s Acquisition Review Board regarding such noncompliance.

“(2) Providing recommendations to the Acquisition Review Board regarding information technology
programs, and developing information technology acquisition strategic guidance.”.

SEC. 4. ACQUISITION AUTHORITIES FOR UNDER SECRETARY OF STRATEGY, POLICY, AND PLANS.

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

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

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

“(4) ensure acquisition programs (as such term is defined in section 711) support the DHS Quadrennial Homeland Security Review Report, the DHS Strategic Plan, the DHS Strategic Priorities, and other appropriate successor documents;”.

SEC. 5. ACQUISITION AUTHORITIES FOR PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT (PARM).

(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. 711. ACQUISITION AUTHORITIES FOR PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT.

“(a) Establishment of Office.—Within the Management Directorate, there shall be a Program Accountability and Risk Management office to—

“(1) provide consistent accountability, standardization, and transparency of major acquisition programs of the Department;

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

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

“(b) Responsibilities of Executive Director.—The Program Accountability and Risk Management office shall be led by an Executive Director to oversee the requirements specified in subsection (a). The Executive Director shall report directly to the Under Secretary for Management, and shall carry out the following responsibilities:

“(1) Monitor regularly the performance of Department major acquisition programs between acquisition decision events to identify problems with cost, performance, or schedule that components may need to address to prevent cost overruns, performance issues, or schedule delays.
“(2) Assist the Under Secretary for Management in managing the Department’s acquisition programs and related activities.

“(3) Conduct oversight of individual acquisition programs to implement Department acquisition program policy, procedures, and guidance with a priority on ensuring the data the office collects and maintains from Department components is accurate and reliable.

“(4) Serve as the focal point and coordinator for the acquisition life cycle review process and as the executive secretariat for the Department’s Acquisition Review Board.

“(5) Advise the persons having acquisition decision authority in making acquisition decisions consistent with all applicable laws and in establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the Department.

“(6) Assist the Chief Procurement Officer of the Department, as appropriate, in developing strategies and specific plans for hiring, training, and professional development to address any deficiency within the Department’s acquisition workforce.
“(7) Develop standardized certification standards in consultation with the Component Acquisition Executives for all acquisition program managers.

“(8) Assess the results of major acquisition programs’ post-implementation reviews and identify opportunities to improve performance throughout the acquisition process.

“(9) Provide technical support and assistance to Department acquisition programs and acquisition personnel and coordinate with the Chief Procurement Officer regarding workforce training and development activities.

“(10) Assist, as appropriate, with the preparation of the Future Years Homeland Security Program, and make such information available to the congressional homeland security committees.

“(c) Responsibilities of Components.—Each head of a component shall comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives established by the Under Secretary for Management. For each major acquisition program, each head of a component shall—

“(1) define baseline requirements and document changes to such requirements, as appropriate;
“(2) establish a complete life cycle cost estimate
with supporting documentation that is consistent
with cost estimating best practices as identified by
the Comptroller General of the United States;

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

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

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

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

“(d) DEFINITIONS.—In this section:

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

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

“(A) ensure compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives;

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

“(C) ensure that acquisition program managers have the resources necessary to successfully execute an approved acquisition program;

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

“(E) ensure that acquisition program managers, on an ongoing basis, monitor cost, schedule, and performance against established baselines and use tools to assess risks to an acquisition program at all phases of the life cycle of such program to avoid and mitigate acquisition program baseline breaches.
“(3) Acquisition Decision Event.—The term ‘acquisition decision event’, with respect to an acquisition program, means a predetermined point within each of the acquisition phases at which the acquisition decision authority determines whether such acquisition program shall proceed to the next acquisition phase.

“(4) Acquisition Program.—The term ‘acquisition program’ means the process by which the Department acquires, with any appropriated amounts or fee funding, by contract for purchase or lease, property or services (including construction) that support the missions and goals of the Department.

“(5) Acquisition Program Baseline.—The term ‘acquisition program baseline’, with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which must be met in order to accomplish the goals of such program.

“(6) Best Practices.—The term ‘best practices’, with respect to acquisition, means a knowledge-based approach to capability development that includes the following:

“(A) Identifying and validating needs.
“(B) Assessing alternatives to select the most appropriate solution.

“(C) Clearly establishing well-defined requirements.

“(D) Developing realistic cost assessments and schedules.

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

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

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

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

“(I) Establishing an adequate workforce that is qualified and sufficient to perform necessary functions.

“(J) Integrating the capabilities described in subparagraphs (A) through (I) into the Department’s mission and business operations.

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

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

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

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

“(9) COMPONENT ACQUISITION EXECUTIVE.—
The term ‘Component Acquisition Executive’ means
the senior acquisition official within a component
who is designated in writing by the Under Secretary
for Management, in consultation with the component
head, with authority and responsibility for leading a
process and staff to provide acquisition and program
management oversight, policy, and guidance to en-
sure that statutory, regulatory, and higher level pol-
icy requirements are fulfilled, including compliance
with Federal law, the Federal Acquisition Regul-
ation, and Department acquisition management direc-
tives established by the Under Secretary for Management.

“(10) **MAJOR ACQUISITION PROGRAM.**—The term ‘major acquisition program’ means a Department acquisition program that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2019 constant dollars) over its life cycle cost or a program identified by the Chief Acquisition Officer as a program of special interest.”.

(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 710 the following new item:

“Sec. 711. Acquisition authorities for Program Accountability and Risk Management.”.