

116TH CONGRESS
2D SESSION

H. R. 3413

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2020

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. ACQUISITION AUTHORITIES FOR UNDER SEC-**
5 **RETARY FOR MANAGEMENT OF THE DEPART-**
6 **MENT OF HOMELAND SECURITY.**

7 Section 701 of the Homeland Security Act of 2002
8 (6 U.S.C. 341) is amended by—

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

15 (2) inserting after subsection (c) the following
16 new subsection:

17 “(d) ACQUISITION AND RELATED RESPONSIBIL-
18 ITIES.—

19 “(1) IN GENERAL.—Notwithstanding section
20 1702(a) of title 41, United States Code, the Under
21 Secretary for Management is the Chief Acquisition
22 Officer of the Department. As Chief Acquisition Of-
23 ficer, the Under Secretary shall have the authorities
24 and perform the functions specified in such section
25 1702(b), and perform all other functions and re-

1 sponsibilities delegated by the Secretary or described
2 in this subsection.

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

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

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

20 “(C) Exercising the acquisition decision
21 authority (as such term is defined in section
22 711) to approve, pause, modify (including the
23 rescission of approvals of program milestones),
24 or cancel major acquisition programs (as such
25 term is defined in section 711), unless the

1 Under Secretary delegates such authority to a
2 Component Acquisition Executive (as such term
3 is defined in section 711) pursuant to para-
4 graph (3).

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

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

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

23 “(G) Ensuring that grants and financial
24 assistance are provided only to individuals and

1 organizations that are not suspended or
2 debarred.

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

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

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

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

24 “(B) LEVEL 2 ACQUISITIONS.—The Under
25 Secretary for Management may delegate acqui-

1 sition decision authority in writing to the rel-
2 evant Component Acquisition Executive for a
3 major acquisition program that has a life cycle
4 cost estimate of at least \$300,000,000 but not
5 more than \$1,000,000,000 if all of the following
6 requirements are met:

7 “(i) The component concerned pos-
8 sesses working policies, processes, and pro-
9 cedures that are consistent with Depart-
10 ment-level acquisition policy.

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

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

1 “(C) LEVEL 1 ACQUISITIONS.—The Under
2 Secretary for Management may delegate acqui-
3 sition decision authority in writing to the rel-
4 evant Component Acquisition Executive for a
5 Level 1 major acquisition program that has a
6 life cycle cost estimate of more than
7 \$1,000,000,000 if all of the following require-
8 ments are met:

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

14 “(ii) The component concerned pos-
15 sesses working policies, processes, and pro-
16 cedures that are consistent with Depart-
17 ment-level acquisition policy.

18 “(iii) The Component Acquisition Ex-
19 ecutive concerned has adequate, experi-
20 enced, and dedicated professional employ-
21 ees with program management training, as
22 applicable, commensurate with the size of
23 the acquisition programs and related ac-
24 tivities delegated to such Component Ac-

1 quisition Executive by the Under Secretary
2 for Management.

3 “(iv) Each Level 1 major acquisition
4 program concerned has written documenta-
5 tion showing that it has a Department-ap-
6 proved acquisition program baseline and it
7 is meeting agreed-upon cost, schedule, and
8 performance thresholds.

9 “(v) The Under Secretary for Man-
10 agement provides written notification to
11 the appropriate congressional committees
12 of the decision to delegate the authority to
13 the relevant Component Acquisition Execu-
14 tive.

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

17 “(A) IN GENERAL.—Nothing in this sub-
18 section shall diminish the authority granted to
19 the Under Secretary for Science and Tech-
20 nology under this Act. The Under Secretary for
21 Management and the Under Secretary for
22 Science and Technology shall cooperate in mat-
23 ters related to the coordination of acquisitions
24 across the Department so that investments of
25 the Directorate of Science and Technology are

1 able to support current and future requirements
2 of the components of the Department.

3 “(B) OPERATIONAL TESTING AND EVALUA-
4 TION.—The Under Secretary for Science and
5 Technology shall—

6 “(i) ensure, in coordination with rel-
7 evant component heads, that major acqui-
8 sition programs—

9 “(I) complete operational testing
10 and evaluation of technologies and
11 systems to be acquired or developed
12 by major acquisition programs to as-
13 sess operational effectiveness, suit-
14 ability, and cybersecurity;

15 “(II) use independent verification
16 and validation of operational test and
17 evaluation implementation and re-
18 sults, as appropriate; and

19 “(III) document whether such
20 programs meet all performance re-
21 quirements included in their acquisi-
22 tion program baselines;

23 “(ii) ensure that such operational
24 testing and evaluation includes all system
25 components and incorporates operators

1 into the testing to ensure that systems per-
2 form as intended in the appropriate oper-
3 ational setting; and

4 “(iii) determine if testing conducted
5 by other Federal departments and agencies
6 and private entities is relevant and suffi-
7 cient in determining whether systems per-
8 form as intended in the operational set-
9 ting.”.

10 **SEC. 3. ACQUISITION AUTHORITIES FOR CHIEF FINANCIAL**
11 **OFFICER OF THE DEPARTMENT OF HOME-**
12 **LAND SECURITY.**

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

15 (1) redesignating subparagraph (I) as subpara-
16 graph (J); and

17 (2) inserting after subparagraph (H) the fol-
18 lowing new subparagraph:

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

1 **SEC. 4. ACQUISITION AUTHORITIES FOR CHIEF INFORMA-**
2 **TION OFFICER OF THE DEPARTMENT OF**
3 **HOMELAND SECURITY.**

4 Section 703 of the Homeland Security Act of 2002
5 (6 U.S.C. 343) is amended—

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

8 (2) by inserting after subsection (a) the fol-
9 lowing new subsection:

10 “(b) **ACQUISITION RESPONSIBILITIES.**—In addition
11 to the responsibilities specified in section 11315 of title
12 40, United States Code, the acquisition responsibilities of
13 the Chief Information Officer, in consultation with the
14 Under Secretary for Management, shall include the fol-
15 lowing:

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

1 Acquisition Review Board regarding such noncompli-
2 ance.

3 “(2) Providing recommendations to the Acquisi-
4 tion Review Board regarding information technology
5 programs, and developing information technology ac-
6 quisition strategic guidance.”.

7 **SEC. 5. ACQUISITION AUTHORITIES FOR UNDER SEC-**
8 **RETARY OF STRATEGY, POLICY, AND PLANS.**

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

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

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

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

20 **SEC. 6. ACQUISITION AUTHORITIES FOR PROGRAM AC-**
21 **COUNTABILITY AND RISK MANAGEMENT**
22 **(PARM).**

23 (a) **IN GENERAL.**—Title VII of the Homeland Secu-
24 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by
25 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.”.

Passed the House of Representatives February 10,
2020.

Attest: CHERYL L. JOHNSON,
Clerk.

By ROBERT F. REEVES,
Deputy Clerk.