

DHS ACQUISITION REFORM ACT OF 2019

AUGUST 30, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

[To accompany H.R. 3413]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	6
Background and Need for Legislation	6
Hearings	7
Committee Consideration	8
Committee Votes	8
Committee Oversight Findings	8
C.B.O. Estimate, New Budget Authority, Entitlement Authority, and Tax Expenditures	8
Federal Mandates Statement	10
Statement of General Performance Goals and Objectives	10
Duplicative Federal Programs	10
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits Advisory Committee Statement	10
Applicability to Legislative Branch	10
Section-by-Section Analysis of the Legislation	10
Changes in Existing Law Made by the Bill, as Reported	12

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 “DHS Acquisition Reform Act of 2019”.

SEC. 2. 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 (c) 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 acquisition management activities, taking into account 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 management best practices (as such term is defined in section 711) and standards and, where appropriate, 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 paragraph (3).

“(D) Establishing policies for acquisition that implement an approach that takes into account 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 managers to effectively manage acquisition programs (as such term is defined in section 711).

“(E) Ensuring that each major acquisition program has a Department-approved acquisition 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 efforts to comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives.

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

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

“(I) Overseeing the Component Acquisition Executive organizational structure to ensure Component Acquisition Executives have sufficient 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 acquisition decision authority to the relevant Component 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 acquisition decision authority in writing to the relevant Component Acquisition Executive for a major acquisition program that has a life cycle cost estimate of at least \$300,000 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 man-

agement 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-approved 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. 3. 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. 4. 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 (c); 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. 5. 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. 6. 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 decision-making 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 appropriate, and reconcile any differences;

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

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

“(6) ensure that all acquisition program information provided by the component is complete, accurate, 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 authority, 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 Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Appropriations of the House of Representatives and the Committee 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 ensure that statutory, regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives 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.”.

PURPOSE AND SUMMARY

The purpose of H.R. 3413, the “DHS Acquisition Reform Act of 2019,” is to provide certain acquisition authorities for the Under Secretary of Management (USM) of the Department of Homeland Security. Specifically, H.R. 3413 designates the USM as the Department’s Chief Acquisition Officer responsible for approving, pausing, modifying, or canceling major acquisition programs, as needed. The bill authorizes the USM to lead the Department’s acquisition oversight body, the Acquisition Review Board, which oversees major acquisition programs, as well as establish acquisition policies to which all Department components shall comply.

BACKGROUND AND NEED FOR LEGISLATION

The Department of Homeland Security (DHS) invests billions of dollars in major acquisition programs annually to execute its critical missions. These programs acquire systems vital to homeland security, including ships for the U.S. Coast Guard and baggage screening systems for the Transportation Security Administration. However, the Government Accountability Office (GAO) and the DHS Office of Inspector General (OIG) have consistently reported

on the longstanding challenges DHS faces in managing its major acquisition programs.

Every two years, GAO identifies areas in the Federal Government that are “high risk” due to their vulnerabilities to fraud, waste, abuse, and mismanagement. DHS’s acquisition activities are on GAO’s “high-risk list” because of management and funding concerns. In GAO’s 2019 high risk update, GAO reported that DHS continues to face challenges in funding its acquisition portfolio.¹ Specifically, only 10 of 24 major acquisition programs with approved schedule and cost goals were on track to meet those goals. Additionally, the OIG reports annually on major management challenges facing the Department. In November 2018, the OIG identified challenges in DHS’s management of acquisition programs.² Although DHS has taken steps to improve acquisition management, DHS struggles to ensure that major acquisition programs cost what was originally estimated, are delivered on schedule, and provide the capabilities originally intended.

H.R. 3413 clarifies responsibilities for acquisition management activities in the Department that will improve accountability when major acquisition programs do not perform as well as intended.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearings were used to develop or consider H.R. 3413:

On April 3, 2019, the Subcommittee on Oversight, Management, and Accountability held a hearing entitled “Ensuring Effective and Efficient Operations: A Review of the Fiscal Year 2020 DHS Management Directorate Budget Request”. The Subcommittee received testimony from Mr. Chip Fulghum, Deputy Under Secretary for Management, Department of Homeland Security; and Mr. Chris Currie, Director, Homeland Security and Justice Team, Government Accountability Office.

On September 26, 2017, the Subcommittee on Oversight and Management Efficiency held a hearing entitled “DHS Financial Systems: Will Modernization Ever Be Achieved. The Subcommittee received testimony from Ms. Elizabeth Angerman, Executive Director, Unified Shared Services Management, Office of Government-wide Policy, General Services Administration; Mr. Chip Fulghum, Deputy Under Secretary for Management, Department of Homeland Security; Mr. Asif Khan, Director, Financial Management and Assurance, Government Accountability Office; and Ms. Michele Singer, Director, Interior Business Center, Department of the Interior.

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

¹Government Accountability Office. *High Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, GAO-19-157SP. March 2019.

²Department of Homeland Security Office of Inspector General. *Major Management and Performance Challenges Facing the Department of Homeland Security*, OIG-19-01. November 9, 2018.

Homeland Security; and Ms. Rebecca Gambler, Director, Homeland Security and Justice, Government Accountability Office.

COMMITTEE CONSIDERATION

The Committee met on July 17, 2019, with a quorum being present, to consider H.R. 3413 and ordered the measure to be reported to the House with a favorable recommendation, with amendment, by unanimous consent.

The following Amendments were offered and accepted by unanimous consent:

An amendment offered by Ms. Torres Small.

Insert after section 4 the following:

SEC. 5. ACQUISITION AUTHORITIES FOR UNDER SECRETARY OF STRATEGY, POLICY, AND PLANS

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. 3413.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2019.

Hon. BENNIE G. THOMPSON,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for Department of Homeland Security Legislation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

Department of Homeland Security Legislation			
As ordered reported by the House Committee on Homeland Security on July 17, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = less than \$500,000; the table above applies to each bill described below.			

On July 17, 2019, the House Committee on Homeland Security ordered reported the following bills:

- H.R. 3320, the Securing the Homeland Security Supply Chain Act of 2019, which would authorize the Department of Homeland Security (DHS) to take certain actions to improve the security of information and telecommunications systems acquired by the department;
- H.R. 3413, DHS Acquisition Reform Act of 2019, which would specify which offices in DHS headquarters have responsibility for acquisition programs;
- H.R. 3526, the Counter Terrorist Network Act, which would authorize Customs and Border Protection to assign personnel to other agencies to support partnerships for sharing global information to enhance border security; and
- H.R. 3722, the Joint Task Force to Combat Opioid Trafficking Act of 2019, which would confirm the authority of DHS to establish a task force to disrupt drug trafficking.

DHS is currently carrying out activities similar to those required by the bills listed above, and any new activities required under the legislation would not require substantial action by the department. Thus, CBO estimates that implementing each bill would not have a significant cost; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3413 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3413 would codify certain acquisition management responsibilities for the Under Secretary for Management in law, and assign additional acquisition responsibilities to the Chief Financial Officer; Chief Information Officer; and Under Secretary of Strategy, Policy, and Plans. This act also establishes the Program Accountability and Risk Management office to provide consistent standardization and transparency of major acquisition programs.

ADVISORY ON EARMARKS

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(d), 9(e), or 9(f) of the rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the “DHS Acquisition Reform Act of 2019”.

Sec. 2. Acquisition authorities for Under Secretary for Management of the Department of Homeland Security

Section 2 amends section 701 of the Homeland Security Act of 2002 (Pub. L. 107–296) and codifies existing authorities for the Under Secretary for Management (USM) related to acquisition management. Specifically, this section authorizes the USM to perform the functions and responsibilities of the Department’s Chief Acquisition Officer as delegated by the Secretary of Homeland Security, and those authorities and functions specified in section 1702(b) of title 41, United States Code. In addition, the USM is responsible for, among other things:

- (a) advising the Secretary on acquisition management activities and acquisition innovation best practices;
- (b) establishing acquisition policies that implement an approach that considers risks of failure to achieve cost, schedule, or performance parameters that all components of the Department shall comply with;
- (c) ensuring that each major acquisition program has an approved Acquisition Program Baseline (APB); and

(d) assisting component heads to comply with Federal law, Federal Acquisition Regulation, and Departmental acquisition directives.

Section 2 also requires the USM to cooperate with the Under Secretary for Science and Technology (S&T) so that S&T can support components' current and future requirements. Section 2 requires the Under Secretary for S&T to ensure major acquisition programs:

- (a) complete operational testing and evaluation;
- (b) use independent validation and verification of test results;
- (c) document whether all programs meet performance requirements included in their respective APBs; and
- (d) includes operators in operational testing and evaluation.

This requirement is intended to reduce instances where the Department deploys technologies without adequately testing them to ensure they meet operators' needs.

Sec. 3. Acquisition authorities for Chief Financial Officer of the Department of Homeland Security

Section 3 amends section 702 of the Homeland Security Act to require the Department's Chief Financial Officer to oversee acquisition program costs to ensure that acquisition programs are affordable and within budget over the program's life-cycle. This provision seeks to address findings from the Government Accountability Office that the Department's major acquisition programs are unaffordable.

Sec. 4. Acquisition authorities for Chief Information Officer of the Department of Homeland Security

Section 4 amends section 703 of the Homeland Security Act to authorize the Chief Information Officer (CIO) to oversee the compliance of information technology (IT) acquisition programs with the Department's IT management requirements, security protocols, and Homeland Security Enterprise Architecture. Given that most of the Department's major acquisition programs have significant IT components, Section 4 ensures that the CIO is involved, as appropriate, in ensuring that these programs meet IT policies and technical requirements.

Sec. 5. Acquisition authorities for Under Secretary of Strategy, Policy and Plans

Section 5 amends section 709 of the Homeland Security Act to authorize the Under Secretary of Strategy, Policy, and Plans to ensure acquisition programs support the DHS Quadrennial Homeland Security Review Report, the DHS Strategic Plan, and DHS Strategic Priorities.

Sec. 6. Acquisition authorities for Program Accountability and Risk Management (PARM)

Section 6 amends Title VII of the Homeland Security Act and establishes the Program Accountability and Risk Management (PARM) office within the Department to provide consistent accountability to components' major acquisition programs, as well as serve as the central oversight function for the Department and sup-

port the Acquisition Review Board. This section does not create a new office within DHS, as PARM is the current entity within DHS with these responsibilities.

Section 6 authorizes the PARM Executive Director to oversee PARM's role in monitoring the performance of DHS acquisition programs, assisting the Under Secretary for Management in managing acquisition programs, and developing certification standards in consultation with Component Acquisition Executives for all acquisition program managers. This section also authorizes PARM to prepare and make available to Congress the DHS Comprehensive Acquisition Status Report.

Section 6 also requires components to follow Federal law, the Federal Acquisition Regulation, and DHS acquisition management directives, among other things. This should mitigate instances of components pursuing major acquisition programs without following Departmental acquisition policy.

Finally, Section 6 defines relevant terms related to acquisition management.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

TITLE VII—MANAGEMENT

Sec. 701. Under Secretary for Management.

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

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TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) **IN GENERAL.**—The Under Secretary for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs. The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

- (1) The budget, appropriations, expenditures of funds, accounting, and finance.
- (2) Procurement.
- (3) Human resources and personnel.
- (4) Information technology and communications systems, including policies and directives to achieve and maintain interoperable communications among the components of the Department.
- (5) Facilities, property, equipment, vehicle fleets (under subsection (c)), and other material resources.
- (6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.
- (7) Strategic management planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.
- (8) Grants and other assistance management programs.
- (9) The management integration and transformation within each functional management discipline of the Department, including information technology, financial management, acquisition management, and human capital management, to ensure an efficient and orderly consolidation of functions and personnel in the Department, including—
 - (A) the development of centralized data sources and connectivity of information systems to the greatest extent practicable to enhance program visibility, transparency, and operational effectiveness and coordination;
 - (B) the development of standardized and automated management information to manage and oversee programs and make informed decisions to improve the efficiency of the Department;
 - (C) the development of effective program management and regular oversight mechanisms, including clear roles and processes for program governance, sharing of best practices, and access to timely, reliable, and evaluated data on all acquisitions and investments; and
 - (D) the overall supervision, including the conduct of internal audits and management analyses, of the programs and activities of the Department, including establishment of oversight procedures to ensure a full and effective review of the efforts by components of the Department to implement policies and procedures of the Department for management integration and transformation.
- (10) The development of a transition and succession plan, before December 1 of each year in which a Presidential election is held, to guide the transition of Department functions to a new Presidential administration, and making such plan available to the next Secretary and Under Secretary for Management and to the congressional homeland security committees.
- (11) Reporting to the Government Accountability Office every six months to demonstrate measurable, sustainable progress made in implementing the corrective action plans of the Department to address the designation of the management functions of the Department on the bi-annual high risk list of the Government Accountability Office, until the Comptroller Gen-

eral of the United States submits to the appropriate congressional committees written notification of removal of the high-risk designation.

(12) The conduct of internal audits and management analyses of the programs and activities of the Department.

(13) Any other management duties that the Secretary may designate.

(b) **WAIVERS FOR CONDUCTING BUSINESS WITH SUSPENDED OR DEBARRED CONTRACTORS.**—Not later than five days after the date on which the Chief Procurement Officer or Chief Financial Officer of the Department issues a waiver of the requirement that an agency not engage in business with a contractor or other recipient of funds listed as a party suspended or debarred from receiving contracts, grants, or other types of Federal assistance in the System for Award Management maintained by the General Services Administration, or any successor thereto, the Under Secretary for Management shall submit to the congressional homeland security committees and the Inspector General of the Department notice of the waiver and an explanation of the finding by the Under Secretary that a compelling reason exists for the waiver.

(c) **VEHICLE FLEETS.**—

(1) **IN GENERAL.**—In carrying out responsibilities regarding vehicle fleets pursuant to subsection (a)(5), the Under Secretary for Management shall be responsible for overseeing and managing vehicle fleets throughout the Department. The Under Secretary shall also be responsible for the following:

(A) Ensuring that components are in compliance with Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) relating to fleet management and use of vehicles from home to work.

(B) Developing and distributing a standardized vehicle allocation methodology and fleet management plan for components to use to determine optimal fleet size in accordance with paragraph (4).

(C) Ensuring that components formally document fleet management decisions.

(D) Approving component fleet management plans, vehicle leases, and vehicle acquisitions.

(2) **COMPONENT RESPONSIBILITIES.**—

(A) **IN GENERAL.**—Component heads—

(i) shall—

(I) comply with Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) relating to fleet management and use of vehicles from home to work;

(II) ensure that data related to fleet management is accurate and reliable;

(III) use such data to develop a vehicle allocation tool derived by using the standardized vehicle allocation methodology provided by the Under Secretary for Management to determine the optimal fleet size for the next fiscal year and a fleet management plan; and

(IV) use vehicle allocation methodologies and fleet management plans to develop annual requests for funding to support vehicle fleets pursuant to paragraph (6); and

(ii) may not, except as provided in subparagraph (B), lease or acquire new vehicles or replace existing vehicles without prior approval from the Under Secretary for Management pursuant to paragraph (5)(B).

(B) EXCEPTION REGARDING CERTAIN LEASING AND ACQUISITIONS.—If exigent circumstances warrant such, a component head may lease or acquire a new vehicle or replace an existing vehicle without prior approval from the Under Secretary for Management. If under such exigent circumstances a component head so leases, acquires, or replaces a vehicle, such component head shall provide to the Under Secretary an explanation of such circumstances.

(3) ONGOING OVERSIGHT.—

(A) QUARTERLY MONITORING.—In accordance with paragraph (4), the Under Secretary for Management shall collect, on a quarterly basis, information regarding component vehicle fleets, including information on fleet size, composition, cost, and vehicle utilization.

(B) AUTOMATED INFORMATION.—The Under Secretary for Management shall seek to achieve a capability to collect, on a quarterly basis, automated information regarding component vehicle fleets, including the number of trips, miles driven, hours and days used, and the associated costs of such mileage for leased vehicles.

(C) MONITORING.—The Under Secretary for Management shall track and monitor component information provided pursuant to subparagraph (A) and, as appropriate, subparagraph (B), to ensure that component vehicle fleets are the optimal fleet size and cost effective. The Under Secretary shall use such information to inform the annual component fleet analyses referred to in paragraph (4).

(4) ANNUAL REVIEW OF COMPONENT FLEET ANALYSES.—

(A) IN GENERAL.—To determine the optimal fleet size and associated resources needed for each fiscal year beginning with fiscal year 2018, component heads shall annually submit to the Under Secretary for Management a vehicle allocation tool and fleet management plan using information described in paragraph (3)(A). Such tools and plans may be submitted in classified form if a component head determines that such is necessary to protect operations or mission requirements.

(B) VEHICLE ALLOCATION TOOL.—Component heads shall develop a vehicle allocation tool in accordance with subclause (III) of paragraph (2)(A)(i) that includes an analysis of the following:

(i) Vehicle utilization data, including the number of trips, miles driven, hours and days used, and the associated costs of such mileage for leased vehicles, in accordance with such paragraph.

(ii) The role of vehicle fleets in supporting mission requirements for each component.

(iii) Any other information determined relevant by such component heads.

(C) FLEET MANAGEMENT PLANS.—Component heads shall use information described in subparagraph (B) to develop a fleet management plan for each such component. Such fleet management plans shall include the following:

(i) A plan for how each such component may achieve optimal fleet size determined by the vehicle allocation tool required under such subparagraph, including the elimination of excess vehicles in accordance with paragraph (5), if applicable.

(ii) A cost benefit analysis supporting such plan.

(iii) A schedule each such component will follow to obtain optimal fleet size.

(iv) Any other information determined relevant by component heads.

(D) REVIEW.—The Under Secretary for Management shall review and make a determination on the results of each component's vehicle allocation tool and fleet management plan under this paragraph to ensure each such component's vehicle fleets are the optimal fleet size and that components are in compliance with applicable Federal law, Federal regulations, executive branch guidance, and Department policy (including associated guidance) pursuant to paragraph (2) relating to fleet management and use of vehicles from home to work. The Under Secretary shall use such tools and plans when reviewing annual component requests for vehicle fleet funding in accordance with paragraph (6).

(5) GUIDANCE TO DEVELOP FLEET MANAGEMENT PLANS.—The Under Secretary for Management shall provide guidance, pursuant to paragraph (1)(B) on how component heads may achieve optimal fleet size in accordance with paragraph (4), including processes for the following:

(A) Leasing or acquiring additional vehicles or replacing existing vehicles, if determined necessary.

(B) Disposing of excess vehicles that the Under Secretary determines should not be reallocated under subparagraph (C).

(C) Reallocating excess vehicles to other components that may need temporary or long-term use of additional vehicles.

(6) ANNUAL REVIEW OF VEHICLE FLEET FUNDING REQUESTS.—As part of the annual budget process, the Under Secretary for Management shall review and make determinations regarding annual component requests for funding for vehicle fleets. If component heads have not taken steps in furtherance of achieving optimal fleet size in the prior fiscal year pursuant to paragraphs (4) and (5), the Under Secretary shall provide rescission recommendations to the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives and the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate regarding such component vehicle fleets.

(7) ACCOUNTABILITY FOR VEHICLE FLEET MANAGEMENT.—

(A) PROHIBITION ON CERTAIN NEW VEHICLE LEASES AND ACQUISITIONS.—The Under Secretary for Management and component heads may not approve in any fiscal year beginning with fiscal year 2019 a vehicle lease, acquisition, or replacement request if such component heads did not comply in the prior fiscal year with paragraph (4).

(B) PROHIBITION ON CERTAIN PERFORMANCE COMPENSATION.—No Department official with vehicle fleet management responsibilities may receive annual performance compensation in pay in any fiscal year beginning with fiscal year 2019 if such official did not comply in the prior fiscal year with paragraph (4).

(C) PROHIBITION ON CERTAIN CAR SERVICES.—Notwithstanding any other provision of law, no senior executive service official of the Department whose office has a vehicle fleet may receive access to a car service in any fiscal year beginning with fiscal year 2019 if such official did not comply in the prior fiscal year with paragraph (4).

(8) MOTOR POOL.—

(A) IN GENERAL.—The Under Secretary for Management may determine the feasibility of operating a vehicle motor pool to permit components to share vehicles as necessary to support mission requirements to reduce the number of excess vehicles in the Department.

(B) REQUIREMENTS.—The determination of feasibility of operating a vehicle motor pool under subparagraph (A) shall—

(i) include—

(I) regions in the United States in which multiple components with vehicle fleets are located in proximity to one another, or a significant number of employees with authorization to use vehicles are located; and

(II) law enforcement vehicles;

(ii) cover the National Capital Region; and

(iii) take into account different mission requirements.

(C) REPORT.—The Secretary shall include in the Department's next annual performance report required under current law the results of the determination under this paragraph.

(9) DEFINITIONS.—In this subsection:

(A) COMPONENT HEAD.—The term “component head” means the head of any component of the Department with a vehicle fleet.

(B) EXCESS VEHICLE.—The term “excess vehicle” means any vehicle that is not essential to support mission requirements of a component.

(C) OPTIMAL FLEET SIZE.—The term “optimal fleet size” means, with respect to a particular component, the appropriate number of vehicles to support mission requirements of such component.

(D) VEHICLE FLEET.—The term “vehicle fleet” means all owned, commercially leased, or Government-leased vehicles of the Department or of a component of the Depart-

ment, as the case may be, including vehicles used for law enforcement and other purposes.

(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 acquisition management activities, taking into account 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 management best practices (as such term is defined in section 711) and standards and, where appropriate, 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 paragraph (3).*

(D) *Establishing policies for acquisition that implement an approach that takes into account 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 managers to effectively manage acquisition programs (as such term is defined in section 711).*

(E) *Ensuring that each major acquisition program has a Department-approved acquisition 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 efforts to comply with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives.*

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

(H) *Distributing guidance throughout the Department to ensure that contractors involved in acquisitions, particularly contractors that access the Department's information systems and technologies, adhere to relevant Department*

policies related to physical and information security as identified by the Under Secretary for Management.

(I) Overseeing the Component Acquisition Executive organizational structure to ensure Component Acquisition Executives have sufficient 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 acquisition decision authority to the relevant Component 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 acquisition decision authority in writing to the relevant Component Acquisition Executive for a major acquisition program that has a life cycle cost estimate of at least \$300,000 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-approved 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.*

[(d)] (e) **APPOINTMENT AND EVALUATION.**—*The Under Secretary for Management shall—*

(1) *be appointed by the President, by and with the advice and consent of the Senate, from among persons who have—*

(A) *extensive executive level leadership and management experience in the public or private sector;*

(B) *strong leadership skills;*

(C) *a demonstrated ability to manage large and complex organizations; and*

(D) *a proven record in achieving positive operational results;*

(2) enter into an annual performance agreement with the Secretary that shall set forth measurable individual and organizational goals; and

(3) be subject to an annual performance evaluation by the Secretary, who shall determine as part of each such evaluation whether the Under Secretary for Management has made satisfactory progress toward achieving the goals set out in the performance agreement required under paragraph (2).

[(e)] (f) SYSTEM FOR AWARD MANAGEMENT CONSULTATION.—The Under Secretary for Management shall require that all Department contracting and grant officials consult the System for Award Management (or successor system) as maintained by the General Services Administration prior to awarding a contract or grant or entering into other transactions to ascertain whether the selected contractor is excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

[(e)] (g) INTEROPERABLE COMMUNICATIONS DEFINED.—In this section, the term “interoperable communications” has the meaning given that term in section 7303(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)).

SEC. 702. CHIEF FINANCIAL OFFICER.

(a) In General.—The Chief Financial Officer shall perform functions as specified in chapter 9 of title 31, United States Code, and, with respect to all such functions and other responsibilities that may be assigned to the Chief Financial Officer from time to time, shall also report to the Under Secretary for Management.

(b) PROGRAM ANALYSIS AND EVALUATION FUNCTION.—

(1) ESTABLISHMENT OF OFFICE OF PROGRAM ANALYSIS AND EVALUATION.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish an Office of Program Analysis and Evaluation within the Department (in this section referred to as the “Office”).

(2) RESPONSIBILITIES.—The Office shall perform the following functions:

(A) Analyze and evaluate plans, programs, and budgets of the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

(B) Develop and perform analyses and evaluations of alternative plans, programs, personnel levels, and budget submissions for the Department in relation to United States homeland security objectives, projected threats, vulnerability assessments, estimated costs, resource constraints, and the most recent homeland security strategy developed pursuant to section 874(b)(2).

(C) Establish policies for, and oversee the integration of, the planning, programming, and budgeting system of the Department.

(D) Review and ensure that the Department meets performance-based budget requirements established by the Office of Management and Budget.

(E) Provide guidance for, and oversee the development of, the Future Years Homeland Security Program of the Department, as specified under section 874.

(F) Ensure that the costs of Department programs, including classified programs, are presented accurately and completely.

(G) Oversee the preparation of the annual performance plan for the Department and the program and performance section of the annual report on program performance for the Department, consistent with sections 1115 and 1116, respectively, of title 31, United States Code.

(H) Provide leadership in developing and promoting improved analytical tools and methods for analyzing homeland security planning and the allocation of resources.

(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.*

[(I)] (J) Any other responsibilities delegated by the Secretary consistent with an effective program analysis and evaluation function.

(3) DIRECTOR OF PROGRAM ANALYSIS AND EVALUATION.—There shall be a Director of Program Analysis and Evaluation, who—

(A) shall be a principal staff assistant to the Chief Financial Officer of the Department for program analysis and evaluation; and

(B) shall report to an official no lower than the Chief Financial Officer.

(4) REORGANIZATION.—

(A) IN GENERAL.—The Secretary may allocate or reallocate the functions of the Office, or discontinue the Office, in accordance with section 872(a).

(B) EXEMPTION FROM LIMITATIONS.—Section 872(b) shall not apply to any action by the Secretary under this paragraph.

(c) NOTIFICATION REGARDING TRANSFER OR REPROGRAMMING OF FUNDS.—In any case in which appropriations available to the Department or any officer of the Department are transferred or reprogrammed and notice of such transfer or reprogramming is submitted to the Congress (including any officer, office, or Committee of the Congress), the Chief Financial Officer of the Department shall simultaneously submit such notice to the Select Committee on Homeland Security (or any successor to the jurisdiction of that committee) and the Committee on Government Reform of the House of Representatives, and to the Committee on Governmental Affairs of the Senate.

SEC. 703. CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

(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.*

[(b)] (c) GEOSPATIAL INFORMATION FUNCTIONS.—

(1) DEFINITIONS.—As used in this subsection:

(A) GEOSPATIAL INFORMATION.—The term “geospatial information” means graphical or digital data depicting natural or manmade physical features, phenomena, or boundaries of the earth and any information related thereto, including surveys, maps, charts, remote sensing data, and images.

(B) GEOSPATIAL TECHNOLOGY.—The term “geospatial technology” means any technology utilized by analysts, specialists, surveyors, photogrammetrists, hydrographers, geodesists, cartographers, architects, or engineers for the collection, storage, retrieval, or dissemination of geospatial information, including—

- (i) global satellite surveillance systems;
- (ii) global position systems;
- (iii) geographic information systems;
- (iv) mapping equipment;
- (v) geocoding technology; and
- (vi) remote sensing devices.

(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

(B) GEOSPATIAL INFORMATION OFFICER.—

(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geospatial information needs of the Department.

(C) COORDINATION OF GEOSPATIAL INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geospatial information, which shall include—

(i) providing such geospatial information as may be necessary to implement the critical infrastructure protection programs;

(ii) providing leadership and coordination in meeting the geospatial information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

(iii) coordinating with users of geospatial information within the Department to assure interoperability and prevent unnecessary duplication.

(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

(i) coordinating the geospatial information needs and activities of the Department;

(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geospatial information pertaining to homeland security among all users of such information within—

(I) the Department;

(II) State and local government; and

(III) the private sector;

(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A-16 and Executive Order 12906; and

(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

(I) fund the creation of geospatial data; and

(II) execute information sharing agreements regarding geospatial data with State, local, and tribal governments.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.

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SEC. 709. OFFICE OF STRATEGY, POLICY, AND PLANS.

(a) IN GENERAL.—There is established in the Department an Office of Strategy, Policy, and Plans.

(b) HEAD OF OFFICE.—The Office of Strategy, Policy, and Plans shall be headed by an Under Secretary for Strategy, Policy, and Plans, who shall serve as the principal policy advisor to the Secretary. The Under Secretary for Strategy, Policy, and Plans shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS.—The Under Secretary for Strategy, Policy, and Plans shall—

(1) lead, conduct, and coordinate Department-wide policy development and implementation and strategic planning;

(2) develop and coordinate policies to promote and ensure quality, consistency, and integration for the programs, components, offices, and activities across the Department;

(3) develop and coordinate strategic plans and long-term goals of the Department with risk-based analysis and planning to improve operational mission effectiveness, including consultation with the Secretary regarding the quadrennial homeland security review under section 707;

(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;*

[(4)] (5) manage Department leadership councils and provide analytics and support to such councils;

[(5)] (6) manage international coordination and engagement for the Department;

[(6)] (7) review and incorporate, as appropriate, external stakeholder feedback into Department policy; and

[(7)] (8) carry out such other responsibilities as the Secretary determines appropriate.

(d) DEPUTY UNDER SECRETARY.—

(1) IN GENERAL.—The Secretary may—

(A) establish within the Office of Strategy, Policy, and Plans a position of Deputy Under Secretary to support the Under Secretary for Strategy, Policy, and Plans in carrying out the Under Secretary's responsibilities; and

(B) appoint a career employee to such position.

(2) LIMITATION ON ESTABLISHMENT OF DEPUTY UNDER SECRETARY POSITIONS.—A Deputy Under Secretary position (or any substantially similar position) within the Office of Strategy, Policy, and Plans may not be established except for the position provided for by paragraph (1), unless the Secretary receives prior authorization from Congress.

(3) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term “career employee” means any employee (as such term is defined in section 2105 of title 5, United States Code), but does not include a political appointee; and

(B) the term “political appointee” means any employee who occupies a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(e) COORDINATION BY DEPARTMENT COMPONENTS.—To ensure consistency with the policy priorities of the Department, the head of each component of the Department shall coordinate with the Office of Strategy, Policy, and Plans in establishing or modifying policies or strategic planning guidance with respect to each such component.

(f) HOMELAND SECURITY STATISTICS AND JOINT ANALYSIS.—

(1) HOMELAND SECURITY STATISTICS.—The Under Secretary for Strategy, Policy, and Plans shall—

(A) establish standards of reliability and validity for statistical data collected and analyzed by the Department;

(B) be provided by the heads of all components of the Department with statistical data maintained by the Department regarding the operations of the Department;

(C) conduct or oversee analysis and reporting of such data by the Department as required by law or as directed by the Secretary; and

(D) ensure the accuracy of metrics and statistical data provided to Congress.

(2) **TRANSFER OF RESPONSIBILITIES.**—There shall be transferred to the Under Secretary for Strategy, Policy, and Plans the maintenance of all immigration statistical information of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and United States Citizenship and Immigration Services, which shall include information and statistics of the type contained in the publication entitled “Yearbook of Immigration Statistics” prepared by the Office of Immigration Statistics, including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(g) **LIMITATION.**—Nothing in this section overrides or otherwise affects the requirements specified in section 888.

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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 appropriate, and reconcile any differences;*

(4) *complete a cost-benefit analysis with supporting documentation;*

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

(6) *ensure that all acquisition program information provided by the component is complete, accurate, 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 authority, 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 Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Appropriations of the House of Representatives and the Committee 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 ensure that statutory, regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives 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.*

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