

suspend the rules and pass the bill, H.R. 4753.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DHS ACQUISITION REFORM ACT OF 2019

Ms. TORRES SMALL of New Mexico. Mr. Speaker, I move to suspend the rules and pass 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, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “DHS Acquisition Reform Act of 2019”.

SEC. 1. ACQUISITION AUTHORITIES FOR UNDER SECRETARY FOR MANAGEMENT OF THE DEPARTMENT OF HOMELAND SECURITY.

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

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

(2) inserting after subsection (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 \$300,000,000 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.”.

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

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

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

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

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

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

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

- (1) by redesignating subsection (b) as subsection (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. 4. ACQUISITION AUTHORITIES FOR UNDER SECRETARY OF STRATEGY, POLICY, AND PLANS.

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

- (1) redesignating paragraphs (4) through (7) as (5) through (8), respectively; and
- (2) inserting after paragraph (3) the following new paragraph:

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

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

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

“SEC. 711. ACQUISITION AUTHORITIES FOR PROGRAM ACCOUNTABILITY AND RISK MANAGEMENT.

“(a) ESTABLISHMENT OF OFFICE.—Within the Management Directorate, there shall be a Program Accountability and Risk Management office to—

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

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

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

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

“(1) Monitor regularly the performance of Department major acquisition programs between acquisition decision events to identify problems with cost, performance, or schedule that components may need to address to pre-

vent 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.”.

(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.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Mexico (Ms. TORRES SMALL) and the gentleman from Texas (Mr. CRENSHAW) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Mexico.

GENERAL LEAVE

Ms. TORRES SMALL of New Mexico. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Ms. TORRES SMALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 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 and the DHS Office of Inspector General have reported on the longstanding challenges DHS faces in managing its major acquisitions program. 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

within DHS to ensure that major acquisition programs have the appropriate support and oversight needed to succeed. It will also improve accountability when major acquisition programs do not perform as well as intended.

Mr. Speaker, I want to thank Congressman CRENSHAW for yet another important DHS bill. I urge my House colleagues to support this legislation, and I reserve the balance of my time.

Mr. CRENSHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of Homeland Security is tasked with some of the most critical national security functions in the Federal Government. The Department is responsible for securing our borders, defending our cyber networks, safeguarding air travel, and protecting our ports. To carry out these important missions, it is imperative that DHS acquire the proper tools and equipment and maintain proper oversight of such acquisitions.

Both the Government Accountability Office and the DHS Office of Inspector General have reported on the persistent challenges that DHS has faced for years in managing its major acquisition programs. The Department’s shortcomings in the management of these programs come with a hefty price tag for American taxpayers, to the tune of billions of dollars annually.

GAO reviewed acquisitions at DHS in 2016 and found that 8 of 25 major acquisition programs experienced cost overruns, schedule slips, or both. On average, these programs’ cost estimates ballooned by \$1.7 billion, and the key deadlines were missed by almost a year. Only 3 out of 25 major acquisition programs were on track to meet their original schedule and cost goals.

GAO has also found that DHS components have not implemented acquisition policy consistently. In 2012, GAO determined that only 4 out of 66 programs had all the required documents approved in accordance with DHS policy, and in 2015, GAO determined that DHS did not conduct needed operational testing on all acquisition programs.

Although DHS has taken steps in recent years to improve acquisition management, this process remains ripe for waste, fraud, and abuse. The Department continues to struggle to ensure that major acquisition programs adhere to their budgets, timelines, and capability goals.

To be clear, it is taxpayers who are on the hook for all of this. We must remember that every inefficiency in government spending results in an additional financial burden that must be covered by the citizens of this country.

As egregious as the cost overruns may be, the consequences of not providing the proper tools on time are even more dire. If DHS cannot provide proper oversight of its major acquisition programs, then the Department cannot provide the tools they need to execute their missions to keep Americans safe.

This bill goes a long way to correct some of the current shortfalls in the acquisition process, which will help ensure we are being responsible stewards of taxpayer dollars and protecting the integrity of these programs. It gives new authority over these billion-dollar programs to the Under Secretary for Management as the Chief Acquisition Officer. It fosters more thoughtful management of major acquisition programs using private-sector best practices and bolsters oversight and accountability measures.

These changes will help move the necessary tools into the hands of those protecting our homeland in a timely and efficient manner without foisting a financial burden on Americans.

Mr. Speaker, I urge adoption of my bill, and I yield back the balance of my time.

Ms. TORRES SMALL of New Mexico. Mr. Speaker, H.R. 3413 is necessary to provide robust oversight of major acquisition programs to help ensure that these programs meet cost, schedule, and performance goals, and that taxpayer money is not wasted.

A previous version of this bill passed the House in the 115th Congress by a vote of 407–1.

Mr. Speaker, I urge my colleagues to, once again, pass this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Mexico (Ms. TORRES SMALL) that the House suspend the rules and pass the bill, H.R. 3413, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. TORRES SMALL of New Mexico. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

THE BUDGET MESSAGE OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 116-92)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Over the past 3 years, my Administration has worked tirelessly to restore America’s economic strength. We have ended the war on American workers and stopped the assault on American industry, launching an economic boom the likes of which we have never seen before.

While our incredible economic turnaround came as a shock to most career