

Union Calendar No. 71

116TH CONGRESS
1ST SESSION

H. R. 2609

[Report No. 116-96]

To amend the Homeland Security Act of 2002 to establish the Acquisition Review Board in the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2019

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

MAY 30, 2019

Additional sponsor: Ms. TORRES SMALL of New Mexico

MAY 30, 2019

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Homeland Security Act of 2002 to establish the Acquisition Review Board in the Department of Homeland Security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. ACQUISITION REVIEW BOARD.**

7 (a) IN GENERAL.—Subtitle D of title VIII of the
8 Homeland Security Act of 2002 (6 U.S.C. 391 et seq.)
9 is amended by adding at the end the following new section:

10 **“SEC. 836. ACQUISITION REVIEW BOARD.**

11 “(a) IN GENERAL.—The Secretary shall establish an
12 Acquisition Review Board (in this section referred to as
13 the ‘Board’) to—

14 “(1) strengthen accountability and uniformity
15 within the Department acquisition review process;

16 “(2) review major acquisition programs; and

17 “(3) review the use of best practices.

18 “(b) COMPOSITION.—

19 “(1) CHAIR.—The Under Secretary for Man-
20 agement shall serve as chair of the Board.

21 “(2) PARTICIPATION.— The Secretary shall en-
22 sure participation by other relevant Department offi-
23 cials with responsibilities related to acquisitions as
24 permanent members of the Board.

1 “(3) OVERSIGHT.—The Under Secretary for
2 Management shall designate a full time employee of
3 the Department to oversee the operations of the
4 Board.

5 “(c) MEETINGS.—The Board shall meet regularly for
6 purposes of ensuring all acquisitions processes proceed in
7 a timely fashion to achieve mission readiness. The Board
8 shall convene at the Secretary’s discretion and at any
9 time—

10 “(1) a major acquisition program—

11 “(A) requires authorization to proceed
12 from one acquisition decision event to another
13 throughout the acquisition life cycle;

14 “(B) is in breach of its approved require-
15 ments; or

16 “(C) requires additional review, as deter-
17 mined by the Under Secretary for Management;
18 or

19 “(2) a non-major acquisition program requires
20 review, as determined by the Under Secretary for
21 Management.

22 “(d) RESPONSIBILITIES.—The responsibilities of the
23 Board are as follows:

24 “(1) Determine whether a proposed acquisition
25 has met the requirements of key phases of the acqui-

1 sition life cycle framework and is able to proceed to
2 the next phase and eventual full production and de-
3 ployment.

4 “(2) Oversee whether a proposed acquisition’s
5 business strategy, resources, management, and ac-
6 countability is executable and is aligned to strategic
7 initiatives.

8 “(3) Support the person with acquisition deci-
9 sion authority for an acquisition in determining the
10 appropriate direction for such acquisition at key ac-
11 quisition decision events.

12 “(4) Conduct systematic reviews of acquisitions
13 to ensure that such acquisitions are progressing in
14 compliance with the approved documents for their
15 current acquisition phases.

16 “(5) Review the acquisition documents of each
17 major acquisition program, including the acquisition
18 program baseline and documentation reflecting con-
19 sideration of tradeoffs among cost, schedule, and
20 performance objectives, to ensure the reliability of
21 underlying data.

22 “(6) Ensure that practices are adopted and im-
23 plemented to require consideration of trade-offs
24 among cost, schedule, and performance objectives as
25 part of the process for developing requirements for

1 major acquisition programs prior to the initiation of
2 the second acquisition decision event, including, at a
3 minimum, the following practices:

4 “(A) Department officials responsible for
5 acquisition, budget, and cost estimating func-
6 tions are provided with the appropriate oppor-
7 tunity to develop estimates and raise cost and
8 schedule matters before performance objectives
9 are established for capabilities when feasible.

10 “(B) Full consideration is given to possible
11 trade-offs among cost, schedule, and perform-
12 ance objectives for each alternative.

13 “(e) ACQUISITION PROGRAM BASELINE REPORT RE-
14 QUIREMENT.—If the person exercising acquisition decision
15 authority over a major acquisition program approves such
16 program to proceed into the planning phase before such
17 program has a Department-approved acquisition program
18 baseline, the Under Secretary for Management shall cre-
19 ate and approve an acquisition program baseline report
20 regarding such approval, and the Secretary shall—

21 “(1) within 7 days after an acquisition decision
22 memorandum is signed, notify in writing the Com-
23 mittee on Homeland Security of the House of Rep-
24 resentatives and the Committee on Homeland Secu-

1 rity and Governmental Affairs of the Senate of such
2 decision; and

3 “(2) within 60 days after the acquisition deci-
4 sion memorandum is signed, submit to such commit-
5 tees a written explanation of the rationale for such
6 decision and a plan of action to address acquisition
7 program baseline requirements for such program.

8 “(f) REPORT.—The Under Secretary for Manage-
9 ment shall provide information to the Committee on
10 Homeland Security of the House of Representatives and
11 the Committee on Homeland Security and Governmental
12 Affairs of the Senate on an annual basis through fiscal
13 year 2024 on the activities of the Board for the prior fiscal
14 year that includes information relating to the following:

15 “(1) For each meeting of the Board, any acqui-
16 sition decision memoranda.

17 “(2) Results of the systematic reviews con-
18 ducted pursuant to paragraph (4) of subsection (d).

19 “(3) Results of acquisition document reviews re-
20 quired pursuant to paragraph (5) of subsection (d).

21 “(4) Activities to ensure that practices are
22 adopted and implemented throughout the Depart-
23 ment pursuant to paragraph (6) of subsection (d).

24 “(g) DEFINITIONS.—In this section:

1 “(1) ACQUISITION.—The term ‘acquisition’ has
2 the meaning given such term in section 131 of title
3 41, United States Code.

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

9 “(A) ensure compliance with Federal law,
10 the Federal Acquisition Regulation, and De-
11 partment acquisition management directives;

12 “(B) review (including approving, pausing,
13 modifying, or cancelling) an acquisition pro-
14 gram through the life cycle of such program;

15 “(C) ensure that acquisition program man-
16 agers have the resources necessary to success-
17 fully execute an approved acquisition program;

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

24 “(E) ensure that acquisition program man-
25 agers, on an ongoing basis, monitor cost, sched-

1 ule, and performance against established base-
2 lines and use tools to assess risks to an acquisi-
3 tion program at all phases of the life cycle of
4 such program to avoid and mitigate acquisition
5 program baseline breaches.

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

13 “(4) ACQUISITION DECISION MEMORANDUM.—
14 The term ‘acquisition decision memorandum’, with
15 respect to an acquisition, means the official acquisi-
16 tion decision event record that includes a docu-
17 mented record of decisions, exit criteria, and as-
18 signed actions for such acquisition, as determined by
19 the person exercising acquisition decision authority
20 for such acquisition.

21 “(5) ACQUISITION PROGRAM.—The term ‘acqui-
22 sition program’ means the process by which the De-
23 partment acquires, with any appropriated amounts,
24 by contract for purchase or lease, property or serv-

1 ices (including construction) that support the mis-
2 sions and goals of the Department.

3 “(6) ACQUISITION PROGRAM BASELINE.—The
4 term ‘acquisition program baseline’, with respect to
5 an acquisition program, means a summary of the
6 cost, schedule, and performance parameters, ex-
7 pressed in standard, measurable, quantitative terms,
8 which must be met in order to accomplish the goals
9 of such program.

10 “(7) BEST PRACTICES.—The term ‘best prac-
11 tices’, with respect to acquisition, means a knowl-
12 edge-based approach to capability development that
13 includes—

14 “(A) identifying and validating needs;

15 “(B) assessing alternatives to select the
16 most appropriate solution;

17 “(C) clearly establishing well-defined re-
18 quirements;

19 “(D) developing realistic cost assessments
20 and schedules;

21 “(E) securing stable funding that matches
22 resources to requirements;

23 “(F) demonstrating technology, design,
24 and manufacturing maturity;

1 “(G) using milestones and exit criteria or
2 specific accomplishments that demonstrate
3 progress;

4 “(H) adopting and executing standardized
5 processes with known success across programs;

6 “(I) establishing an adequate workforce
7 that is qualified and sufficient to perform nec-
8 essary functions; and

9 “(J) integrating the capabilities described
10 in subparagraphs (A) through (I) into the De-
11 partment’s mission and business operations.

12 “(8) MAJOR ACQUISITION PROGRAM.—The term
13 ‘major acquisition program’ means a Department
14 acquisition program that is estimated by the Sec-
15 retary to require an eventual total expenditure of at
16 least \$300,000,000 (based on fiscal year 2019 con-
17 stant dollars) over its life cycle cost.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in section 1(b) of the Homeland Security Act of 2002 (6
20 U.S.C. 101 et seq.) is amended by inserting after the item
21 relating to section 835 the following new item:

“Sec. 836. Acquisition Review Board.”.

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