

DEPARTMENT OF HOMELAND SECURITY POLICY
ISSUANCE REVIEW ACT

DECEMBER 19, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. GREEN of Tennessee, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 6231]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6231) to amend the Homeland Security Act of 2002 to require a prioritized policy issuance review process for the Department of Homeland Security, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

The “Department of Homeland Security Policy Issuance Review Act” requires the Department of Homeland Security’s (Department) Undersecretary for Management (Under Secretary) to implement a prioritized periodic review process (Review Process) of the Department’s policy issuance documents. The term “policy issuance document” is defined as a Department-level directive, instruction, designation, or delegation issued in accordance with Department policy.

H.R. 6231 assigns the Under Secretary with overseeing the Department’s process for review and approval of policy issuance documents. Furthermore, it requires the Under Secretary to provide Congress with a briefing on the Review Process within 180 days after the date of enactment and annually thereafter. The Under Secretary shall include in the briefing: a list of all policy issuance documents; a list of all policy issuance documents cancelled in the prior year; an explanation of the methodology used to prioritize the policy issuance review; the procedures used to track and coordinate with Department components about issuance, review, and cancellation of all policy issuance documents; and the number of staff and vacancies within the Management Directorate who support the Review Process.

BACKGROUND AND NEED FOR LEGISLATION

Currently, the Department has an internal policy issuance review process, which requires all policy issuances to be reviewed every two years. The Under Secretary controls the review process for the Department’s directives, instructions, designations, delegations, and other policy implementing documents. In recent years, the Department has often failed to meet their internal two-year goal for policy review and updates. By failing to meet this deadline, some policies are outdated or no longer relevant.

To ensure the Department is regularly reviewing its policy documents and corresponding with components about updated documents, this bill requires the Under Secretary to implement a prioritized policy review process and provide an annual briefing to Congress on the status of policy issuance documents. With better oversight and annual updates about the status of the Department’s policy documents, Congress can help ensure that Department policies are regularly updated in coordination with Department components.

HEARINGS

The Committee held the following hearing in the 118th Congress that informed H.R. 6231:

On April 19, 2023, the Committee on Homeland Security held a hearing entitled “A Review of the Fiscal Year 2024 Budget Request for the Department of Homeland Security.” The Committee received testimony from the Honorable Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security.

COMMITTEE CONSIDERATION

The Committee met on Wednesday, November 8, 2023, a quorum being present, to consider H.R. 6231 and ordered the measure to be favorably reported to the House by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII 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. 6231.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, 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 and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee adopts as its own the estimate of any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures contained in the cost estimate prepared by the Director of the Congressional Budget Office.

H.R. 6231, Department of Homeland Security Policy Issuance Review Act			
As ordered reported by the House Committee on Homeland Security on November 8, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate? No	
		Contains private-sector mandate? No	
* = between zero and \$500,000.			

H.R. 6231 would require the Department of Homeland Security (DHS) to review its policy issuance documents within 180 days of enactment. A policy issuance document is a department-level communication that updates policies and procedures, provides guidance, and delegates authority to DHS employees and component units. DHS uses those documents to implement and ensure compli-

ance with public laws, regulations, executive orders, and department policy. The bill also would require DHS to brief the Congress within one year of enactment and annually thereafter on the department's process for reviewing those documents.

Based on the cost of similar activities, CBO estimates that conducting the required review and briefing the Congress would cost less than \$500,000. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Jeremy Crimm. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act of 1995.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 6231 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 6231 is to require a prioritized policy issuance review process for the Department of Homeland Security.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, 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 rule XXI.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 6231 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section states the Act may be cited as the "Department of Homeland Security Policy Issuance Review Act."

Section 2. Policy issuance review process

This section makes the Under Secretary responsible for overseeing the Department's process for review and approval of policy issuance documents. Within 180 days after enactment, the Under Secretary must create a Review Process for Department policy issuance documents and provide the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a briefing on the Review Process. The Under Secretary must provide a similar briefing annually thereafter.

Each briefing by the Under Secretary must include a list of all policy issuance documents; a list of all policy issuance documents cancelled; an explanation of the methodology used to prioritize the policy issuance review; the procedures used to track and coordinate with Department components about issuance, review, and cancellation of all policy issuance documents; and the number of staff and vacancies within the Management Directorate who support the review process.

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 italics, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

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 General 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) *Overseeing the Department's process for review and approval of policy issuance documents.*

[(13)] (14) 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 vehi-

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

(d) 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) 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)] (f) 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)).

(g) POLICY ISSUANCE REVIEW PROCESS.—

(1) IN GENERAL.—*Not later than 180 days after the date of the enactment of this subsection, the Under Secretary for Management shall require a prioritized periodic review process (in this subsection referred to as the “Review Process”) of Department policy issuance documents.*

(2) CONGRESSIONAL OVERSIGHT.—*Not later than 180 days after the date of the enactment of this subsection and annually thereafter, the Under Secretary for Management shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a briefing on the Review Process, including relating to the Department’s record of reviewing and updating existing policy issuance documents. Each such briefing shall include information relating to the following:*

(A) *All policy issuance documents, including, with respect to each such document, the title, policy number, revision number, issue date, and last reviewed date.*

(B) *All policy issuance documents canceled in the prior year.*

(C) *An explanation of the methodology used to prioritize the review of policy issuance documents.*

(D) *The procedures used by the Department to track and coordinate with Department components the issuance, review, and cancellations of policy issuance documents.*

(E) The number of staff and vacancies within the Management Directorate responsible for supporting the Review Process.

(3) DEFINITION.—In this subsection the term “policy issuance document”—

(A) means a Department-level directive, instruction, designation, or delegation, issued in accordance with the process referred to in subsection (a)(13) or any process for issuing such documents consistent with Department policy as may be in effect; and

(B) does not include documents—

(i) issued in accordance with a process other than a process referred to in subsection (a)(13) or the Review Process; or

(ii) documents published in the Federal Register.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to—

(A) invalidate any policy issuance document created on, before, or after the date of the enactment of this subsection;

(B) serve as a basis for action to challenge the validity of such a policy issuance document; or

(C) create any right or benefit, whether substantive or procedural, enforceable by any person in any administrative or judicial proceeding.

* * * * *

