

116TH CONGRESS
1ST SESSION

H. R. 2609

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2019

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

AN ACT

To amend the Homeland Security Act of 2002 to 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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. ACQUISITION REVIEW BOARD.**

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

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

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

12 “(1) strengthen accountability and uniformity
13 within the Department acquisition review process;

14 “(2) review major acquisition programs; and

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

16 “(b) COMPOSITION.—

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

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

23 “(3) OVERSIGHT.—The Under Secretary for
24 Management shall designate a full time employee of
25 the Department to oversee the operations of the
26 Board.

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

6 “(1) a major acquisition program—

7 “(A) requires authorization to proceed
8 from one acquisition decision event to another
9 throughout the acquisition life cycle;

10 “(B) is in breach of its approved require-
11 ments; or

12 “(C) requires additional review, as deter-
13 mined by the Under Secretary for Management;
14 or

15 “(2) a non-major acquisition program requires
16 review, as determined by the Under Secretary for
17 Management.

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

20 “(1) Determine whether a proposed acquisition
21 has met the requirements of key phases of the acqui-
22 sition life cycle framework and is able to proceed to
23 the next phase and eventual full production and de-
24 ployment.

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

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

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

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

19 “(6) Ensure that practices are adopted and im-
20 plemented to require consideration of trade-offs
21 among cost, schedule, and performance objectives as
22 part of the process for developing requirements for
23 major acquisition programs prior to the initiation of
24 the second acquisition decision event, including, at a
25 minimum, the following practices:

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

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

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

18 “(1) within 7 days after an acquisition decision
19 memorandum is signed, notify in writing the Com-
20 mittee on Homeland Security of the House of Rep-
21 resentatives and the Committee on Homeland Secu-
22 rity and Governmental Affairs of the Senate of such
23 decision; and

24 “(2) within 60 days after the acquisition deci-
25 sion memorandum is signed, submit to such commit-

1 tees a written explanation of the rationale for such
2 decision and a plan of action to address acquisition
3 program baseline requirements for such program.

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

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

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

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

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

20 “(g) DEFINITIONS.—In this section:

21 “(1) ACQUISITION.—The term ‘acquisition’ has
22 the meaning given such term in section 131 of title
23 41, United States Code.

24 “(2) ACQUISITION DECISION AUTHORITY.—The
25 term ‘acquisition decision authority’ means the au-

1 thority, held by the Secretary acting through the
2 Deputy Secretary or Under Secretary for Manage-
3 ment to—

4 “(A) ensure compliance with Federal law,
5 the Federal Acquisition Regulation, and De-
6 partment acquisition management directives;

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

10 “(C) ensure that acquisition program man-
11 agers have the resources necessary to success-
12 fully execute an approved acquisition program;

13 “(D) ensure good acquisition program
14 management of cost, schedule, risk, and system
15 performance of the acquisition program at
16 issue, including assessing acquisition program
17 baseline breaches and directing any corrective
18 action for such breaches; and

19 “(E) ensure that acquisition program man-
20 agers, on an ongoing basis, monitor cost, sched-
21 ule, and performance against established base-
22 lines and use tools to assess risks to an acquisi-
23 tion program at all phases of the life cycle of
24 such program to avoid and mitigate acquisition
25 program baseline breaches.

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

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

16 “(5) ACQUISITION PROGRAM.—The term ‘acqui-
17 sition program’ means the process by which the De-
18 partment acquires, with any appropriated amounts,
19 by contract for purchase or lease, property or serv-
20 ices (including construction) that support the mis-
21 sions and goals of the Department.

22 “(6) ACQUISITION PROGRAM BASELINE.—The
23 term ‘acquisition program baseline’, with respect to
24 an acquisition program, means a summary of the
25 cost, schedule, and performance parameters, ex-

1 pressed in standard, measurable, quantitative terms,
2 which must be met in order to accomplish the goals
3 of such program.

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

8 “(A) identifying and validating needs;

9 “(B) assessing alternatives to select the
10 most appropriate solution;

11 “(C) clearly establishing well-defined re-
12 quirements;

13 “(D) developing realistic cost assessments
14 and schedules;

15 “(E) securing stable funding that matches
16 resources to requirements;

17 “(F) demonstrating technology, design,
18 and manufacturing maturity;

19 “(G) using milestones and exit criteria or
20 specific accomplishments that demonstrate
21 progress;

22 “(H) adopting and executing standardized
23 processes with known success across programs;

“(8) 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 million (based on fiscal year 2019 constant dollars) over its life cycle cost.”.

“Sec. 836. Acquisition Review Board.”.

Attest: CHERYL L. JOHNSON,
Clerk.