

Thank you for your consideration in this matter.

Sincerely,

TREY GOWDY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, June 21, 2017.

Hon. TREY GOWDY,
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN GOWDY: Thank you for your letter regarding H.R. 2131, the "Fixing Internal Response to Misconduct Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Oversight and Government will forego seeking a sequential referral of the bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration on this bill at this time, the Committee on Oversight and Government Reform does not waive any jurisdiction it may have over the subject matter contained in this bill or similar legislation in the future.

Additionally, the Committee expects that any table of offenses or penalties created by the Director of the Office of Personnel Management for government-wide application shall supersede any table created at any component of the Department, including any Department-wide guidance on such tables, and shall be used at all entities of the Department, although the Department or its components may provide an additional table of offenses and penalties subject to the requirements of subparagraphs (A) and (B) entitled "Pre-Existing Tables" and "New Component Tables" respectively, for offenses not listed in the government-wide table.

Furthermore, this legislation authorizes the Inspector General of the Department, within their existing authorities under the Inspector General Act of 1978, to issue management alerts regarding misconduct to the Secretary. The Committee does not intend to create any negative inference related to the authority of other Inspector Generals with this provision. The Committee intends to reinforce authorities already existing in the Inspector General Act of 1978. The Committee strongly opposes the citation of this provision to cast any inference on Inspector Generals at other departments and agencies that would negatively impact their ability to accomplish their missions.

I will insert copies of this exchange in the report or in the Congressional Record during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,

MICHAEL T. MCCAUL.

Mr. CORREA. Mr. Speaker, I rise in support of H.R. 2131, the DHS FIRM Act, and I yield myself such time as I may consume.

Mr. Speaker, H.R. 2131, or the DHS FIRM Act, seeks to ensure greater consistency and transparency in how discipline is administered across the Department of Homeland Security. Discipline administered in a fair and equitable manner has a huge implication on job satisfaction.

Since 2003, DHS, a diverse, multimission Federal Department, has struggled with low morale. At the end of the prior administration, there was evidence that the DHS workforce was starting to feel a more fair and cooper-

ative and supportive DHS. In 2016, the Office of Personnel Management reported a 3 percent increase in the annual Employee Viewpoint Survey, which indicated that DHS supported fairness and protection of employees from arbitrary action.

While the OPM survey results are positive indicators, more must be done by the current DHS leadership. This bill seeks to give the Department's Chief Human Capital Officer a more prominent role in ensuring that discipline is handled in an equitable and fair manner. Specifically, this bill charges the Chief Human Capital Officer with oversight of how employee misconduct is managed across all components.

To ensure fairness and transparency, the bill requires each component to accomplish a matrix of offenses and penalties that is tailored to the needs of that organization, and upon approval by the Department's Chief Human Capital Officer, such information to be shared with the workforce.

While it is essential that senior-level human capital personnel at DHS have a structure to address discipline, it is equally important that such discipline be administered in a fair and equitable manner. This is what this bill actually does.

Mr. Speaker, the implementation of a Departmentwide discipline and adverse action policy should improve employer and employee relations and communication. Enacting this legislation will send a message of support for the Department's workforce who, every day, do things big and small to guard our country against terrorists and other bad actors. These Department personnel are entrusted with the security of our Nation.

Mr. Speaker, I urge passage of H.R. 2131, and I yield back the balance of my time.

Mr. HIGGINS of Louisiana. Mr. Speaker, I thank my colleague for his wisdom and counsel.

I once again urge my colleagues to support H.R. 2131, as amended.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. HIGGINS) that the House suspend the rules and pass the bill, H.R. 2131, as amended.

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

A motion to reconsider was laid on the table.

DHS ACQUISITION REVIEW BOARD ACT OF 2017

Mr. GARRETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1282) to amend the Homeland Security Act of 2002 to establish Acquisition Review Boards in 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. 1282

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 Review Board Act of 2017".

SEC. 2. ACQUISITION REVIEW BOARD.

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

"SEC. 836. ACQUISITION REVIEW BOARD.

"(a) IN GENERAL.—The Secretary shall establish an Acquisition Review Board (in this section referred to as the 'Board') to—

"(1) strengthen accountability and uniformity within the Department acquisition review process;

"(2) review major acquisition programs; and

"(3) review the use of best practices.

"(b) COMPOSITION.—The Under Secretary for Management shall serve as chair of the Board. The Secretary shall also ensure participation by other relevant Department officials, including at least two component heads or their designees, as permanent members of the Board.

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

"(1) a major acquisition program—

"(A) requires authorization to proceed from one acquisition decision event to another throughout the acquisition life cycle;

"(B) is in breach of its approved requirements; or

"(C) requires additional review, as determined by the Under Secretary for Management; or

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

"(d) RESPONSIBILITIES.—The responsibilities of the Board are as follows:

"(1) Determine whether a proposed acquisition has met the requirements of key phases of the acquisition life cycle framework and is able to proceed to the next phase and eventual full production and deployment.

"(2) Oversee whether a proposed acquisition's business strategy, resources, management, and accountability is executable and is aligned to strategic initiatives.

"(3) Support the person with acquisition decision authority for an acquisition in determining the appropriate direction for such acquisition at key acquisition decision events.

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

"(5) Review the acquisition documents of each major acquisition program, including the acquisition program baseline and documentation reflecting consideration of trade-offs among cost, schedule, and performance objectives, to ensure the reliability of underlying data.

"(6) Ensure that practices are adopted and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the second acquisition decision event, including, at a minimum, the following practices:

"(A) Department officials responsible for acquisition, budget, and cost estimating

functions are provided with the appropriate opportunity to develop estimates and raise cost and schedule matters before performance objectives are established for capabilities when feasible.

“(B) Full consideration is given to possible trade-offs among cost, schedule, and performance objectives for each alternative.

“(e) ACQUISITION PROGRAM BASELINE REPORT REQUIREMENT.—If the person exercising acquisition decision authority over a major acquisition program approves such program to proceed into the planning phase before such program has a Department-approved acquisition program baseline, the Under Secretary for Management shall create and approve an acquisition program baseline report regarding such approval, and the Secretary shall—

“(1) within seven days after an acquisition decision memorandum is signed, notify in writing the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of such decision; and

“(2) within 60 days after the acquisition decision memorandum is signed, submit to such committees a report stating the rationale for such decision and a plan of action to require an acquisition program baseline for such program.

“(f) REPORT.—The Under Secretary for Management shall provide information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on an annual basis through fiscal year 2022 on the activities of the Board for the prior fiscal year that includes information relating to the following:

“(1) For each meeting of the Board, any acquisition decision memoranda.

“(2) Results of the systematic reviews conducted pursuant to paragraph (4) of subsection (d).

“(3) Results of acquisition document reviews required pursuant to paragraph (5) of subsection (d).

“(4) Activities to ensure that practices are adopted and implemented throughout the Department pursuant to paragraph (6) of subsection (d).

“(g) 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 cancelling) 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 DECISION MEMORANDUM.—The term ‘acquisition decision memorandum’, with respect to an acquisition, means the official acquisition decision event record that includes a documented record of decisions, exit criteria, and assigned actions for such acquisition, as determined by the person exercising acquisition decision authority for such acquisition.

“(5) ACQUISITION PROGRAM.—The term ‘acquisition program’ means the process by which the Department acquires, with any appropriated amounts, by contract for purchase or lease, property or services (including construction) that support the missions and goals of the Department.

“(6) 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.

“(7) BEST PRACTICES.—The term ‘best practices’, with respect to acquisition, means a knowledge-based approach to capability development that includes—

“(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; and

“(J) integrating the capabilities described in subparagraphs (A) through (I) into the Department’s mission and business operations.

“(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 \$300,000,000 (based on fiscal year 2017 constant dollars) over its life cycle cost.”.

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

“Sec. 836. Acquisition Review Board.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GARRETT) and the gentleman from California (Mr. CORREA) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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

Mr. Speaker, I rise today to implore my colleagues to join in supporting our bill, H.R. 1282, the DHS Acquisition Review Board Act of 2017. This legislation provides commonsense reform and saves the taxpayers’ dollars.

The Government Accountability Office and the DHS Office of Inspector General have reported the longstanding challenges the Department of Homeland Security faces in managing its major acquisition programs. These programs are those costing more than \$300 million, which cost the Department about \$7 billion in 2016 alone.

Since the Department’s creation, the GAO has placed DHS management functions, including acquisition management, on its high-risk list of programs that are highly susceptible to fraud, waste, and abuse. Mismanagement is present or in need of transformation, and the DHS still struggles to ensure that major acquisition programs stay on budget, are delivered on schedule, and provide capabilities as originally intended.

Homeland Security is a unique committee insofar as it affords the opportunity for folks on both sides of the aisle to work in a bipartisan manner for things that we can all concede are in the best interest of our Nation.

A recent GAO report found that 9 of 26 major acquisition programs experienced cost growth or schedule slips. The amount of cost overruns totaled nearly \$1 billion and are scheduled to slip by an average of 6 months per program. The GAO also found that half of the major acquisition programs it reviewed deployed capabilities before meeting all key performance parameters, which are the most important requirements a system must meet in order to do the jobs that they are intended to do.

It is unacceptable for waste and dysfunction to continue, and it is imperative that the DHS take acquisition management seriously. This bill makes that the case.

We must provide strong accountability mechanisms to ensure major acquisition programs with challenges are caught up, found early, and that solutions are quickly implemented.

This bill ensures that DHS provides that accountability and consistency needed to manage major components, acquisition programs, et cetera, by authorizing the Secretary to establish an Acquisition Review Board. The Acquisition Review Board would then strengthen the accountability and uniformity in DHS’ acquisition process, review major programs, and evaluate the use of best practices.

This bill essentially codifies the already existing Acquisition Review Board to ensure that that board continues and has the oversight authority

it needs under law to make sure that the dollars that we take from the taxpayers are sufficiently and adequately managed and not wasted.

The Acquisition Review Board would be chaired by the Under Secretary for Management and would require at least two component heads or their designees to be permanent members. This would ensure participation from all DHS components.

The Board would be required to meet regularly and would be responsible to determine if a proposed acquisition has met planning requirements needed to proceed to production and deployment, oversee major acquisitions as a business strategy, and review programs in a cost benefit analysis format to determine performance objectives and ensure that our dollars are well spent.

Mr. Speaker, a recent news story pointed out that nine individuals on the planet Earth control as much wealth as 50 percent of the population of the planet Earth. That means that these nine people control as much wealth as 3.5 billion people. And yet, Mr. Speaker, if you were to take the amalgamated wealth of those nine individuals and add it to those 3.5 billion and apply it to the United States' national debt, we could pay off a mere 9.4 percent.

Given that our national debt is almost \$20 trillion dollars and rising, it is imperative that we take this bipartisan step to ensure that our homeland is secured but that the dollars spent doing so are spent effectively, efficiently, and with good stewardship. This legislation helps to ensure that tax dollars are safeguarded, but it also helps to ensure that DHS personnel receive the tools they need to keep us safe.

Mr. Speaker, I implore and urge my colleagues on each side of the aisle to join in this bipartisan legislation to ensure that our tax dollars are well shepherded but that our Nation is as secure as can be possible.

Mr. Speaker, I reserve the balance of my time.

Mr. CORREA. Mr. Speaker, I rise in support of H.R. 1282, the DHS Acquisition Review Board Act of 2017, and I yield myself such time as I may consume.

Mr. Speaker, in recent years, the Department of Homeland Security has strengthened the management of its major acquisition programs, which historically has been weak.

H.R. 1282 authorizes the key mechanisms from the previous administration to ensure acquisitions valued at more than \$300 million, which account for over \$7 billion of DHS' annual budget, receive ongoing scrutiny—let me repeat, receive ongoing scrutiny.

Since 2008, the Acquisition Review Board has brought leaders together from across the Department to validate foundational acquisition documents such as cost and schedule estimates and performance requirements. The Department has had to learn the hard

way about the importance of adhering to its acquisition best practices, including the establishment of realistic requirements in cost estimates that take into account the life cycle of costs.

An example is the SBInet program, started in 2006, that was supposed to bring together integration of systems of infrastructure and technology to secure the border. This program was terminated in 2011 only after \$1 billion had been spent. Let me repeat that. This program was terminated in 2011, but only after \$1 billion had been spent.

The acquisition went wrong because CBP bypassed required processes and awarded a multimillion-dollar contract without having laid the foundation to oversee contractor performance, cost controls, and scheduling.

Just last week, the Department was forced to cancel its \$1.5 billion Agile Services contract, or the FLASH contract, due to significant errors and missteps in the procurement process.

Many of us are concerned that, in the Department's haste to deliver the President's campaign promise to build a wall, critical steps in the acquisition process will be short-circuited, leaving Americans with a bill for a bad investment.

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At this time, a centralized oversight body for DHS major acquisitions is more important than ever.

This bill provides for the board to convene when a major acquisition program requires authorization to proceed from one decision event to another, or is in breach of its approved requirements, or requires additional review.

Efficiency and effectiveness in the acquisition process is imperative for the DHS mission of procuring goods, services, and supplies in support of its national security efforts. The Committee on Homeland Security unanimously approved this measure earlier this Congress, and similar language was approved by the House in October 2015.

By establishing this board into law and laying out its responsibilities, Congress can ensure that this vital oversight will continue and that DHS will continue to show progress in its management of acquisitions.

I urge passage of this bill, and I reserve the balance of my time.

Mr. GARRETT. Mr. Speaker, I want to take this opportunity to extend my heartfelt thanks to my distinguished colleague from California. While we might not agree on all that is appropriate within the purview of the Department, we do agree on being effective stewards of tax dollars, and I am grateful for his comments.

Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, first, I want to thank my colleague from Virginia for bringing forth this most important accountability measure.

This bill enhances the Department's accountability and provides greater acquisition oversight to intercede before programs fail to meet important cost and schedule milestones.

Given DHS's limited budgetary resources and the importance of its mission, it is critical that DHS improves its management of major acquisition programs. Although the Department has made some progress in its major acquisition programs, DHS cannot afford to neglect the day-to-day management of the agency and how it procures essential goods and services.

Mr. Speaker, I urge passage of this measure, and I yield back the balance of my time.

Mr. GARRETT. Mr. Speaker, I, once again, wish to extend my thanks to my colleague from California.

Mr. Speaker, I urge my colleagues across the aisle to support this commonsense, bipartisan measure, H.R. 1282, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 1282, as amended.

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

The title of the bill was amended so as to read: "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".

A motion to reconsider was laid on the table.

ELECTRICITY RELIABILITY AND FOREST PROTECTION ACT

GENERAL LEAVE

Mr. WEBSTER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include any extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 392 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1873.

The Chair appoints the gentleman from Arkansas (Mr. WOMACK) to preside over the Committee of the Whole.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1873) to amend the Federal Land Policy and Management Act of 1976 to enhance the reliability of the electricity grid and