

115TH CONGRESS
1ST SESSION

S. 886

AN ACT

To amend the Homeland Security Act of 2002 to establish an 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 2017”.

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:

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

9 “(a) DEFINITIONS.—In this section:

10 “(1) ACQUISITION.—The term ‘acquisition’ has
11 the meaning given the term in section 131 of title
12 41, United States Code.

13 “(2) ACQUISITION DECISION AUTHORITY.—The
14 term ‘acquisition decision authority’ means the au-
15 thority, held by the Secretary acting through the
16 Deputy Secretary or Under Secretary for Manage-
17 ment to—

18 “(A) ensure compliance with Federal law,
19 the Federal Acquisition Regulation, and De-
20 partment acquisition management directives;

21 “(B) review (including approving, pausing,
22 modifying, or cancelling) an acquisition pro-
23 gram through the life cycle of the program;

24 “(C) advocate for acquisition program
25 managers to have the resources necessary to

1 successfully execute an approved acquisition
2 program;

3 “(D) ensure good acquisition program
4 management of cost, schedule, risk, and system
5 performance of the acquisition program at
6 issue, including assessing acquisition program
7 baseline breaches and directing any corrective
8 action for such breaches; and

9 “(E) monitor, on an ongoing basis, cost,
10 schedule, and performance of acquisition pro-
11 grams in order to manage risk at all phases of
12 the life cycle of such program and direct correc-
13 tive action for any variances that would lead to
14 baseline breaches.

15 “(3) ACQUISITION DECISION EVENT.—The term
16 ‘acquisition decision event’, with respect to an acqui-
17 sition program, means a predetermined point within
18 each of the acquisition phases at which the acquisi-
19 tion decision authority determines whether the ac-
20 quisition program shall proceed to the next acquisi-
21 tion phase.

22 “(4) ACQUISITION DECISION MEMORANDUM.—
23 The term ‘acquisition decision memorandum’, with
24 respect to an acquisition program, means the official
25 acquisition decision event record that includes a doc-

1 umented record of decisions, exit criteria, and as-
2 signed actions for the acquisition program, as deter-
3 mined by the person exercising acquisition decision
4 authority for the acquisition.

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

11 “(6) ACQUISITION PROGRAM BASELINE.—The
12 term ‘acquisition program baseline’, with respect to
13 an acquisition program, means a summary of the
14 cost, schedule, and performance parameters, ex-
15 pressed in standard, measurable, quantitative terms,
16 which must be met in order to accomplish the goals
17 of such program.

18 “(7) APPROPRIATE COMMITTEES OF CON-
19 GRESS.—The term ‘appropriate committees of Con-
20 gress’ means—

21 “(A) the Committee on Homeland Security
22 of the House of Representatives and the Com-
23 mittee on Homeland Security and Govern-
24 mental Affairs of the Senate;

“(B) in the case of notice or a report relating to the Coast Guard, the committees described in subparagraph (A) and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

“(C) in the case of notice or a report relating to the Transportation Security Administration, the committees described in subparagraph (A) and the Committee on Commerce, Science, and Transportation of the Senate.

“(8) 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 estimates and schedules;

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

1 “(F) demonstrating technology, design,
2 and manufacturing maturity;

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

6 “(H) adopting and executing standardized
7 processes with known success across programs;

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

11 “(J) integrating the capabilities described
12 in subparagraphs (A) through (I) into the mis-
13 sion and business operations of the Depart-
14 ment; and

15 “(K) any other criteria as determined by
16 the Under Secretary for Management.

17 “(9) BOARD.—The term ‘Board’ means the Ac-
18 quisition Review Board required to be established
19 under subsection (b).

20 “(10) MAJOR ACQUISITION PROGRAM.—The
21 term ‘major acquisition program’ means a Depart-
22 ment acquisition program that is estimated by the
23 Secretary to require an eventual total expenditure of
24 not less than \$300,000,000 (based on fiscal year

1 2017 constant dollars) over the life cycle cost of the
2 acquisition program.

3 “(b) ESTABLISHMENT OF BOARD.—The Secretary
4 shall establish an Acquisition Review Board to—

5 “(1) strengthen accountability and uniformity
6 within the Department acquisition review process;

7 “(2) review major acquisition programs; and

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

9 “(c) COMPOSITION.—

10 “(1) CHAIRPERSON.—The Under Secretary for
11 Management shall serve as chairperson of the
12 Board.

13 “(2) OTHER MEMBERS.—The Secretary shall
14 ensure participation by other relevant Department
15 officials, including not fewer than 2 component
16 heads or their designees, as permanent members of
17 the Board.

18 “(d) MEETINGS.—

19 “(1) REGULAR MEETINGS.—The Board shall
20 meet regularly for purposes of ensuring all acquisi-
21 tions programs proceed in a timely fashion to
22 achieve mission readiness.

23 “(2) OTHER MEETINGS.—The Board shall con-
24 vene—

1 “(A) at the discretion of the Secretary;

2 and

3 “(B) at any time—

4 “(i) a major acquisition program—

5 “(I) requires authorization to

6 proceed from one acquisition decision

7 event to another throughout the ac-

8 quisition life cycle;

9 “(II) is in breach of the approved

10 requirements of the major acquisition

11 program; or

12 “(III) requires additional review,

13 as determined by the Under Secretary

14 for Management; or

15 “(ii) a non-major acquisition program

16 requires review, as determined by the

17 Under Secretary for Management.

18 “(e) RESPONSIBILITIES.—The responsibilities of the

19 Board are as follows:

20 “(1) Determine whether a proposed acquisition

21 program has met the requirements of phases of the

22 acquisition life cycle framework and is able to pro-

23 ceed to the next phase and eventual full production

24 and deployment.

1 “(2) Oversee whether the business strategy, re-
2 sources, management, and accountability of a pro-
3 posed acquisition is executable and is aligned to
4 strategic initiatives.

5 “(3) Support the person with acquisition deci-
6 sion authority for an acquisition program in deter-
7 mining the appropriate direction for the acquisition
8 at key acquisition decision events.

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

13 “(5) Review the acquisition program documents
14 of each major acquisition program, including the ac-
15 quisition program baseline and documentation re-
16 flecting consideration of tradeoffs among cost,
17 schedule, and performance objectives, to ensure the
18 reliability of 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 “(f) ACQUISITION PROGRAM BASELINE REPORT RE-
11 QUIREMENT.—If the person exercising acquisition decision
12 authority over a major acquisition program approves the
13 major acquisition program to proceed into the planning
14 phase before the major acquisition program has a Depart-
15 ment-approved acquisition program baseline, as required
16 by Department policy—

17 “(1) the Under Secretary for Management shall
18 create and approve an acquisition program baseline
19 report regarding such approval; and

20 “(2) the Secretary shall—

21 “(A) not later than 7 days after the date
22 on which the acquisition decision memorandum
23 is signed, provide written notice of the decision
24 to the appropriate committees of Congress; and

1 “(B) not later than 60 days after the date
2 on which the acquisition decision memorandum
3 is signed, submit a report stating the rationale
4 for such decision and a plan of action to require
5 an acquisition program baseline for such pro-
6 gram to the appropriate committees of Con-
7 gress.

8 “(g) REPORT.—Not later than 1 year after the date
9 of enactment of this section and every year thereafter
10 through fiscal year 2022, the Under Secretary for Man-
11 agement shall provide information to the appropriate com-
12 mittees of Congress on the activities of the Board for the
13 prior fiscal year that includes information relating to the
14 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 under subsection (e)(4).

19 “(3) Results of acquisition document reviews re-
20 quired under subsection (e)(5).

21 “(4) Activities to ensure that practices are
22 adopted and implemented throughout the Depart-
23 ment under subsection (e)(6).”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Homeland Security Act of 2002 (6

- 1 U.S.C. 101 et seq.) is amended by inserting after the item
- 2 relating to section 835 the following:

“Sec. 836. Acquisition Review Board.”.

Passed the Senate November 9, 2017.

Attest:

Secretary.

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