

Calendar No. 240

115TH CONGRESS
1ST SESSION**S. 886****[Report No. 115–170]**

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

IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Mr. DAINES (for himself and Mrs. MCCASKILL) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

OCTOBER 16, 2017

Reported by Mr. JOHNSON, without amendment

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DHS Acquisition Re-
5 view Board Act of 2017”.

1 **SEC. 2. ACQUISITION REVIEW BOARD.**

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

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

6 “(a) DEFINITIONS.—In this section:

7 “(1) ACQUISITION.—The term ‘acquisition’ has
8 the meaning given the term in section 131 of title
9 41, United States Code.

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

15 “(A) ensure compliance with Federal law,
16 the Federal Acquisition Regulation, and De-
17 partment acquisition management directives;

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

21 “(C) ensure that acquisition program man-
22 agers have the resources necessary to success-
23 fully execute an approved acquisition program;

24 “(D) ensure good acquisition program
25 management of cost, schedule, risk, and system
26 performance of the acquisition program at

1 issue, including assessing acquisition program
2 baseline breaches and directing any corrective
3 action for such breaches; and

4 “(E) ensure that acquisition program man-
5 agers, on an ongoing basis, monitor cost, sched-
6 ule, and performance against established base-
7 lines and use tools to assess risks to an acquisi-
8 tion program at all phases of the life cycle of
9 such program to avoid and mitigate acquisition
10 program baseline breaches.

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

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

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

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

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

18 “(A) identifying and validating needs;

19 “(B) assessing alternatives to select the
20 most appropriate solution;

21 “(C) clearly establishing well-defined re-
22 quirements;

23 “(D) developing realistic cost assessments
24 and schedules;

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

3 “(F) demonstrating technology, design,
4 and manufacturing maturity;

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

8 “(H) adopting and executing standardized
9 processes with known success across programs;

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

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

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

20 “(9) MAJOR ACQUISITION PROGRAM.—The term
21 ‘major acquisition program’ means a Department
22 acquisition program that is estimated by the Sec-
23 retary to require an eventual total expenditure of not
24 less than \$300,000,000 (based on fiscal year 2017

1 constant dollars) over the life cycle cost of the acqui-
2 sition 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 processes 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 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 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 in determining the
7 appropriate direction for the acquisition at key ac-
8 quisition decision events.

9 “(4) Conduct systematic reviews of acquisitions
10 to ensure that the 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 “(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—

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

19 “(2) the Secretary shall—

20 “(A) not later than 7 days after the date
21 on which the acquisition decision memorandum
22 is signed, notify in writing the Committee on
23 Homeland Security of the House of Representa-
24 tives and the Committee on Homeland Security

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

3 “(B) not later than 60 days after the date
4 on which the acquisition decision memorandum
5 is signed, submit to the Committee on Home-
6 land Security of the House of Representatives
7 and the Committee on Homeland Security and
8 Governmental Affairs of the Senate a report
9 stating the rationale for such decision and a
10 plan of action to require an acquisition program
11 baseline for such program.

12 “(g) REPORT.—Not later than 1 year after the date
13 of enactment of this section and every year thereafter
14 through fiscal year 2022, the Under Secretary for Man-
15 agement shall provide information to the Committee on
16 Homeland Security of the House of Representatives and
17 the Committee on Homeland Security and Governmental
18 Affairs of the Senate on the activities of the Board for
19 the prior fiscal year that includes information relating to
20 the following:

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

23 “(2) Results of the systematic reviews con-
24 ducted under subsection (e)(4).

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

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

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

 “Sec. 836. Acquisition Review Board.”.

Calendar No. 240

115TH CONGRESS
1ST Session

S. 886

[Report No. 115–170]

A BILL

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

OCTOBER 16, 2017

Reported without amendment