

115TH CONGRESS
1ST SESSION

S. 886

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

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”.

6 **SEC. 2. ACQUISITION REVIEW BOARD.**

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

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

2 “(a) DEFINITIONS.—In this section:

3 “(1) ACQUISITION.—The term ‘acquisition’ has
4 the meaning given the term in section 131 of title
5 41, United States Code.

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

11 “(A) ensure compliance with Federal law,
12 the Federal Acquisition Regulation, and De-
13 partment acquisition management directives;

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

17 “(C) ensure that acquisition program man-
18 agers have the resources necessary to success-
19 fully execute an approved acquisition program;

20 “(D) ensure good acquisition program
21 management of cost, schedule, risk, and system
22 performance of the acquisition program at
23 issue, including assessing acquisition program
24 baseline breaches and directing any corrective
25 action for such breaches; and

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

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

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

23 “(5) ACQUISITION PROGRAM.—The term ‘acqui-
24 sition program’ means the process by which the De-
25 partment acquires, with any appropriated amounts,

1 by contract for purchase or lease, property or serv-
2 ices (including construction) that support the mis-
3 sions and goals of the Department.

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

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

15 “(A) identifying and validating needs;

16 “(B) assessing alternatives to select the
17 most appropriate solution;

18 “(C) clearly establishing well-defined re-
19 quirements;

20 “(D) developing realistic cost assessments
21 and schedules;

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

24 “(F) demonstrating technology, design,
25 and manufacturing maturity;

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

4 “(H) adopting and executing standardized
5 processes with known success across programs;

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

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

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

16 “(9) MAJOR ACQUISITION PROGRAM.—The term
17 ‘major acquisition program’ means a Department
18 acquisition program that is estimated by the Sec-
19 retary to require an eventual total expenditure of not
20 less than \$300,000,000 (based on fiscal year 2017
21 constant dollars) over the life cycle cost of the acqui-
22 sition program.

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

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

3 “(2) review major acquisition programs; and

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

5 “(c) COMPOSITION.—

6 “(1) CHAIRPERSON.—The Under Secretary for
7 Management shall serve as chairperson of the
8 Board.

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

14 “(d) MEETINGS.—

15 “(1) REGULAR MEETINGS.—The Board shall
16 meet regularly for purposes of ensuring all acquisi-
17 tions processes proceed in a timely fashion to
18 achieve mission readiness.

19 “(2) OTHER MEETINGS.—The Board shall con-
20 vene—

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

22 and

23 “(B) at any time—

24 “(i) a major acquisition program—

1 “(I) requires authorization to
2 proceed from one acquisition decision
3 event to another throughout the ac-
4 quisition life cycle;

5 “(II) is in breach of the approved
6 requirements of the major acquisition
7 program; or

8 “(III) requires additional review,
9 as determined by the Under Secretary
10 for Management; or

11 “(ii) a non-major acquisition program
12 requires review, as determined by the
13 Under Secretary for Management.

14 “(e) RESPONSIBILITIES.—The responsibilities of the
15 Board are as follows:

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

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

1 “(3) Support the person with acquisition deci-
2 sion authority for an acquisition in determining the
3 appropriate direction for the acquisition at key ac-
4 quisition decision events.

5 “(4) Conduct systematic reviews of acquisitions
6 to ensure that the acquisitions are progressing in
7 compliance with the approved documents for their
8 current acquisition phases.

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

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

22 “(A) Department officials responsible for
23 acquisition, budget, and cost estimating func-
24 tions are provided with the appropriate oppor-
25 tunity to develop estimates and raise cost and

1 schedule matters before performance objectives
2 are established for capabilities when feasible.

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

6 “(f) ACQUISITION PROGRAM BASELINE REPORT RE-
7 QUIREMENT.—If the person exercising acquisition decision
8 authority over a major acquisition program approves the
9 major acquisition program to proceed into the planning
10 phase before the major acquisition program has a Depart-
11 ment-approved acquisition program baseline—

12 “(1) the Under Secretary for Management shall
13 create and approve an acquisition program baseline
14 report regarding such approval; and

15 “(2) the Secretary shall—

16 “(A) not later than 7 days after the date
17 on which the acquisition decision memorandum
18 is signed, notify in writing the Committee on
19 Homeland Security of the House of Representa-
20 tives and the Committee on Homeland Security
21 and Governmental Affairs of the Senate of the
22 decision; and

23 “(B) not later than 60 days after the date
24 on which the acquisition decision memorandum
25 is signed, submit to the Committee on Home-

1 land Security of the House of Representatives
2 and the Committee on Homeland Security and
3 Governmental Affairs of the Senate a report
4 stating the rationale for such decision and a
5 plan of action to require an acquisition program
6 baseline for such program.

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

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

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

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

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

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

“Sec. 836. Acquisition Review Board.”.

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