

116TH CONGRESS  
1ST SESSION

# H. R. 2609

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## 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;

1           “(I) establishing an adequate workforce  
2           that is qualified and sufficient to perform nec-  
3           essary functions; and

4           “(J) integrating the capabilities described  
5           in subparagraphs (A) through (I) into the De-  
6           partment’s mission and business operations.

7           “(8) MAJOR ACQUISITION PROGRAM.—The term  
8           ‘major acquisition program’ means a Department  
9           acquisition program that is estimated by the Sec-  
10          retary to require an eventual total expenditure of at  
11          least \$300 million (based on fiscal year 2019 con-  
12          stant dollars) over its life cycle cost.”.

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

“Sec. 836. Acquisition Review Board.”.

Passed the House of Representatives June 11, 2019.

Attest:

*Clerk.*



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