

117TH CONGRESS  
1ST SESSION

# H. R. 5652

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

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2021

Mr. VAN DREW introduced the following bill; which was referred to the Committee on Homeland Security

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## 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.

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 2021”.

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 new section:

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

2       “(a) IN GENERAL.—There is established in the De-  
3 partment an Acquisition Review Board (in this section re-  
4 ferred to as the ‘Board’) to support the Under Secretary  
5 for Management in managing the Department’s acquisi-  
6 tions.

7       “(b) COMPOSITION.—

8               “(1) CHAIR.—The Under Secretary for Man-  
9 agement shall serve as chair of the Board.

10              “(2) OVERSIGHT.—The Under Secretary for  
11 Management may designate an employee of the De-  
12 partment to oversee the operations of the Board.

13              “(3) PARTICIPATION.— The Under Secretary  
14 for Management shall ensure participation by other  
15 relevant Department officials with responsibilities re-  
16 lated to acquisitions as permanent members of the  
17 Board, including the following:

18                      “(A) The Chair of the Joint Requirements  
19 Council.

20                      “(B) The Chief Financial Officer.

21                      “(C) The Chief Human Capital Officer.

22                      “(D) The Chief Information Officer.

23                      “(E) The Chief Procurement Officer.

24                      “(F) The Chief Readiness Support Officer.

25                      “(G) The Chief Security Officer.

1           “(H) The Director of the Office of Test  
2 and Evaluation.

3           “(I) Other relevant senior Department offi-  
4 cials, as designated by the Under Secretary for  
5 Management.

6           “(c) MEETINGS.—The Board shall meet regularly for  
7 purposes of evaluating the progress and status of an ac-  
8 quisition program. The Board shall convene at the Under  
9 Secretary for Management’s discretion, and at such time  
10 as—

11           “(1) a new acquisition program is initiated;

12           “(2) a major acquisition program—

13           “(A) requires authorization to proceed  
14 from one acquisition decision event to another  
15 throughout the acquisition life-cycle;

16           “(B) is in breach of its approved acquisi-  
17 tion program baseline; or

18           “(C) requires additional review, as deter-  
19 mined by the Under Secretary for Management;  
20 or

21           “(3) a non-major acquisition program requires  
22 review, as determined by the Under Secretary for  
23 Management.

24           “(d) RESPONSIBILITIES.—The responsibilities of the  
25 Board are as follows:

1           “(1) Determine the appropriate acquisition level  
2           and acquisition decision authority for new acquisi-  
3           tion programs based on the estimated eventual total  
4           expenditure of each such program to satisfy the mis-  
5           sion need of the Department over the life-cycle of  
6           such acquisition regardless of funding source.

7           “(2) Determine whether a proposed acquisition  
8           has met the requirements of key phases of the acqui-  
9           sition life-cycle framework and is able to proceed to  
10          the next phase and eventual full production and de-  
11          ployment.

12          “(3) Oversee whether a proposed acquisition’s  
13          business strategy, resources, management, and ac-  
14          countability is executable and is aligned with the  
15          mission and strategic goals of the Department.

16          “(4) Support the person with acquisition deci-  
17          sion authority for an acquisition in determining the  
18          appropriate direction for such acquisition at key ac-  
19          quisition decision events.

20          “(5) Conduct systematic reviews of acquisitions  
21          to ensure that such acquisitions are progressing in  
22          accordance with best practices and in compliance  
23          with the most recently approved documents for such  
24          acquisitions’ current acquisition phases.

1           “(6) Review the acquisition documents of each  
2 major acquisition program, including the acquisition  
3 program baseline and documentation reflecting con-  
4 sideration of tradeoffs among cost, schedule, and  
5 performance objectives, to ensure the reliability of  
6 underlying data.

7           “(7) Ensure that practices are adopted and im-  
8 plemented to require consideration of trade-offs  
9 among cost, schedule, and performance objectives as  
10 part of the process for developing requirements for  
11 major acquisition programs prior to the initiation of  
12 the second acquisition decision event, including, at a  
13 minimum, the following practices:

14           “(A) Department officials responsible for  
15 acquisition, budget, and cost estimating func-  
16 tions are provided with the appropriate oppor-  
17 tunity to develop estimates and raise cost and  
18 schedule concerns before performance objectives  
19 are established for capabilities when feasible.

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

23           “(e) DOCUMENTATION.—

24           “(1) IN GENERAL.—The chair of the Board  
25 shall ensure that all actions and decisions made pur-

1 suant to the responsibilities of the Board under sub-  
2 section (d) are documented in an acquisition decision  
3 memorandum that includes—

4 “(A) a summary of the action at issue or  
5 purpose for convening a meeting under sub-  
6 section (c);

7 “(B) the decision with respect to actions  
8 discussed during such meeting;

9 “(C) the rationale for such a decision, in-  
10 cluding justifications for any such decision  
11 made to allow acquisition programs to deviate  
12 from the acquisition management policy of the  
13 Department;

14 “(D) any assigned items for further action;  
15 and

16 “(E) the signature of the chair verifying  
17 the contents of such memorandum.

18 “(2) SUBMISSION OF MEMORANDUM.—Not later  
19 than seven days after the date on which the acquisi-  
20 tion decision memorandum is signed by the chair  
21 pursuant to paragraph (1)(E), the chair shall submit  
22 to the Secretary, the Committee on Homeland Secu-  
23 rity of the House of Representatives, and the Com-  
24 mittee on Homeland Security and Governmental Af-  
25 fairs of the Senate a copy of such memorandum.

1 “(f) DEFINITIONS.—In this section:

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

5 “(2) ACQUISITION DECISION AUTHORITY.—The  
6 term ‘acquisition decision authority’ means the au-  
7 thority, held by the Secretary to—

8 “(A) ensure acquisition programs are in  
9 compliance with Federal law, the Federal Ac-  
10 quisition Regulation, and Department acquisi-  
11 tion management directives;

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

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

18 “(D) ensure appropriate acquisition pro-  
19 gram management of cost, schedule, risk, and  
20 system performance of the acquisition program  
21 at issue, including assessing acquisition pro-  
22 gram baseline breaches and directing any cor-  
23 rective action for such breaches; and

24 “(E) ensure that acquisition program man-  
25 agers, on an ongoing basis, monitor cost, sched-

1           ule, and performance against established base-  
2           lines and use tools to assess risks to an acquisi-  
3           tion program at all phases of the life-cycle of  
4           such program to avoid and mitigate acquisition  
5           program baseline breaches.

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

13          “(4) ACQUISITION DECISION MEMORANDUM.—  
14          The term ‘acquisition decision memorandum’ means  
15          the official documented record of decisions, including  
16          the rationale for such decisions and any assigned ac-  
17          tions, for the acquisition at issue, as determined by  
18          the person exercising acquisition decision authority  
19          for such acquisition.

20          “(5) ACQUISITION PROGRAM BASELINE.—The  
21          term ‘acquisition program baseline’, with respect to  
22          an acquisition program, means a summary of the  
23          cost, schedule, and performance parameters, ex-  
24          pressed in standard, measurable, quantitative terms,

1       which must be satisfied to accomplish the goals of  
2       such program.

3               “(6) BEST PRACTICES.—The term ‘best prac-  
4       tices’, with respect to acquisition, means a knowl-  
5       edge-based approach to capability development that  
6       includes—

7                       “(A) identifying and validating needs;

8                       “(B) assessing alternatives to select the  
9       most appropriate solution;

10                      “(C) clearly establishing well-defined re-  
11       quirements;

12                      “(D) developing realistic cost estimates  
13       and schedules that account for the entire life-  
14       cycle of such an acquisition ;

15                      “(E) securing stable funding that matches  
16       resources to requirements before initiating such  
17       development;

18                      “(F) demonstrating technology, design,  
19       and manufacturing maturity before initiating  
20       production of the item that is the subject of  
21       such acquisition;

22                      “(G) using milestones and exit criteria or  
23       specific accomplishments that demonstrate the  
24       attainment of knowledge to support progress;

1           “(H) regularly assessing and managing  
2 risks to achieving requirements and cost and  
3 schedule goals;

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

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

9           “(K) integrating the capabilities described  
10 in subparagraphs (A) through (J).

11           “(7) MAJOR ACQUISITION PROGRAM.—The term  
12 ‘major acquisition program’ means—

13           “(A) a Department capital asset, service,  
14 or hybrid acquisition program that is estimated  
15 by the Secretary to require an eventual total ex-  
16 penditure of at least \$300 million (based on fis-  
17 cal year 2022 constant dollars) over its life-  
18 cycle cost; or

19           “(B) a program identified by the Under  
20 Secretary for Management as a program of spe-  
21 cial interest.

22           “(8) NON-MAJOR ACQUISITION PROGRAM.—The  
23 term ‘non-major acquisition program’ means a De-  
24 partment capital asset, service, or hybrid acquisition  
25 program that is estimated by the Secretary to re-

1       quire an eventual total expenditure of less than  
2       \$300,000,000 (based on fiscal year 2022 constant  
3       dollars) over its life-cycle.”.

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

“Sec. 836. Acquisition Review Board.”.

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