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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2021

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “DHS Acquisition Review Board Act of 2021”.

SEC. 2. ACQUISITION REVIEW BOARD.

(a) In General.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following new section:
“SEC. 836. ACQUISITION REVIEW BOARD.

“(a) IN GENERAL.—There is established in the Department an Acquisition Review Board (in this section referred to as the ‘Board’) to support the Under Secretary for Management in managing the Department’s acquisitions.

“(b) COMPOSITION.—

“(1) CHAIR.—The Under Secretary for Management shall serve as chair of the Board.

“(2) OVERSIGHT.—The Under Secretary for Management may designate an employee of the Department to oversee the operations of the Board.

“(3) PARTICIPATION.—The Under Secretary for Management shall ensure participation by other relevant Department officials with responsibilities related to acquisitions as permanent members of the Board, including the following:

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

“(B) The Chief Financial Officer.

“(C) The Chief Human Capital Officer.

“(D) The Chief Information Officer.

“(E) The Chief Procurement Officer.

“(F) The Chief Readiness Support Officer.

“(G) The Chief Security Officer.
“(H) The Director of the Office of Test and Evaluation.

“(I) Other relevant senior Department officials, as designated by the Under Secretary for Management.

“(e) MEETINGS.—The Board shall meet regularly for purposes of evaluating the progress and status of an acquisition program. The Board shall convene at the Under Secretary for Management’s discretion, and at such time as—

“(1) a new acquisition program is initiated;

“(2) a major acquisition program—

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

“(B) is in breach of its approved acquisition program baseline; or

“(C) requires additional review, as determined by the Under Secretary for Management; or

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

“(d) RESPONSIBILITIES.—The responsibilities of the Board are as follows:
“(1) Determine the appropriate acquisition level and acquisition decision authority for new acquisition programs based on the estimated eventual total expenditure of each such program to satisfy the mission need of the Department over the life-cycle of such acquisition regardless of funding source.

“(2) Determine whether a proposed acquisition has met the requirements of key phases of the acquisition life-cycle framework and is able to proceed to the next phase and eventual full production and deployment.

“(3) Oversee whether a proposed acquisition’s business strategy, resources, management, and accountability is executable and is aligned with the mission and strategic goals of the Department.

“(4) Support the person with acquisition decision authority for an acquisition in determining the appropriate direction for such acquisition at key acquisition decision events.

“(5) Conduct systematic reviews of acquisitions to ensure that such acquisitions are progressing in accordance with best practices and in compliance with the most recently approved documents for such acquisitions’ current acquisition phases.
“(6) Review the acquisition documents of each major acquisition program, including the acquisition program baseline and documentation reflecting consideration of tradeoffs among cost, schedule, and performance objectives, to ensure the reliability of underlying data.

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

“(A) Department officials responsible for acquisition, budget, and cost estimating functions are provided with the appropriate opportunity to develop estimates and raise cost and schedule concerns before performance objectives are established for capabilities when feasible.

“(B) Full consideration is given to possible trade-offs among cost, schedule, and performance objectives for each alternative.

“(e) DOCUMENTATION.—

“(1) IN GENERAL.—The chair of the Board shall ensure that all actions and decisions made pur-
suant to the responsibilities of the Board under sub-
section (d) are documented in an acquisition decision
memorandum that includes—

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

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

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

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

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

“(2) SUBMISSION OF MEMORANDUM.—Not later
than seven days after the date on which the acquisi-
tion decision memorandum is signed by the chair
pursuant to paragraph (1)(E), the chair shall submit
to the Secretary, the Committee on Homeland Secu-
ity of the House of Representatives, and the Com-
mittee on Homeland Security and Governmental Af-
fairs of the Senate a copy of such memorandum.
“(f) DEFINITIONS.—In this section:

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

“(2) ACQUISITION DECISION AUTHORITY.—The term ‘acquisition decision authority’ means the authority, held by the Secretary to—

“(A) ensure acquisition programs are in compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives;

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

“(C) ensure that acquisition program managers have the resources necessary to successfully execute an approved acquisition program;

“(D) ensure appropriate acquisition program management of cost, schedule, risk, and system performance of the acquisition program at issue, including assessing acquisition program baseline breaches and directing any corrective action for such breaches; and

“(E) ensure that acquisition program managers, on an ongoing basis, monitor cost, sched-
ule, and performance against established baselines and use tools to assess risks to an acquisition program at all phases of the life-cycle of such program to avoid and mitigate acquisition program baseline breaches.

“(3) ACQUISITION DECISION EVENT.—The term ‘acquisition decision event’, with respect to an acquisition program, means a predetermined point within each of the acquisition phases at which the acquisition decision authority determines whether such acquisition program shall proceed to the next acquisition phase.

“(4) ACQUISITION DECISION MEMORANDUM.—The term ‘acquisition decision memorandum’ means the official documented record of decisions, including the rationale for such decisions and any assigned actions, for the acquisition at issue, as determined by the person exercising acquisition decision authority for such acquisition.

“(5) ACQUISITION PROGRAM BASELINE.—The term ‘acquisition program baseline’, with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms,
which must be satisfied to accomplish the goals of
such program.

“(6) BEST PRACTICES.—The term ‘best prac-
tices’, with respect to acquisition, means a knowl-
edge-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 re-
quirements;

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

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

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

“(G) using milestones and exit criteria or
specific accomplishments that demonstrate the
attainment of knowledge to support progress;
“(H) regularly assessing and managing risks to achieving requirements and cost and schedule goals;

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

“(J) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

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

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

“(A) a Department capital asset, service, or hybrid acquisition program that is estimated by the Secretary to require an eventual total expenditure of at least $300 million (based on fiscal year 2022 constant dollars) over its lifecycle cost; or

“(B) a program identified by the Under Secretary for Management as a program of special interest.

“(8) NON-MAJOR ACQUISITION PROGRAM.—The term ‘non-major acquisition program’ means a Department capital asset, service, or hybrid acquisition program that is estimated by the Secretary to re-
quire an eventual total expenditure of less than
$300,000,000 (based on fiscal year 2022 constant
dollars) over its life-cycle.”

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

“Sec. 836. Acquisition Review Board.”.