

117TH CONGRESS
1ST SESSION

H. R. 5652

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

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 2021”.

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.—There is established in the De-
10 partment an Acquisition Review Board (in this section re-
11 ferred to as the ‘Board’) to support the Under Secretary
12 for Management in managing the Department’s acquisi-
13 tions.

14 “(b) COMPOSITION.—

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

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

20 “(3) PARTICIPATION.— The Under Secretary
21 for Management shall ensure participation by other
22 relevant Department officials with responsibilities re-
23 lated to acquisitions as permanent members of the
24 Board, including the following:

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

1 “(B) The Chief Financial Officer.

2 “(C) The Chief Human Capital Officer.

3 “(D) The Chief Information Officer.

4 “(E) The Chief Procurement Officer.

5 “(F) The Chief Readiness Support Officer.

6 “(G) The Chief Security Officer.

7 “(H) The Director of the Office of Test
8 and Evaluation.

9 “(I) Other relevant senior Department offi-
10 cials, as designated by the Under Secretary for
11 Management.

12 “(c) MEETINGS.—The Board shall meet regularly for
13 purposes of evaluating the progress and status of an ac-
14 quisition program. The Board shall convene at the Under
15 Secretary for Management’s discretion, and at such time
16 as—

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

18 “(2) a major acquisition program—

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

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

1 “(C) requires additional review, as deter-
2 mined by the Under Secretary for Management;
3 or

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

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

9 “(1) Determine the appropriate acquisition level
10 and acquisition decision authority for new acqui-
11 sition programs based on the estimated eventual total
12 expenditure of each such program to satisfy the mis-
13 sion need of the Department over the life-cycle of
14 such acquisition regardless of funding source.

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

20 “(3) Oversee whether a proposed acquisition’s
21 business strategy, resources, management, and ac-
22 countability is executable and is aligned with the
23 mission and strategic goals of the Department.

24 “(4) Support the person with acquisition deci-
25 sion authority for an acquisition in determining the

1 appropriate direction for such acquisition at key ac-
2 quisition decision events.

3 “(5) Conduct systematic reviews of acquisitions
4 to ensure that such acquisitions are progressing in
5 accordance with best practices and in compliance
6 with the most recently approved documents for such
7 acquisitions’ current acquisition phases.

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

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

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

1 schedule concerns 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 “(e) DOCUMENTATION.—

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

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

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

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

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

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

1 “(2) SUBMISSION OF MEMORANDUM.—Not later
2 than seven days after the date on which the acquisi-
3 tion decision memorandum is signed by the chair
4 pursuant to paragraph (1)(E), the chair shall submit
5 to the Secretary, the Committee on Homeland Secu-
6 rity of the House of Representatives, and the Com-
7 mittee on Homeland Security and Governmental Af-
8 fairs of the Senate a copy of such memorandum.

9 “(f) DEFINITIONS.—In this section:

10 “(1) ACQUISITION.—The term ‘acquisition’ has
11 the meaning given such term in section 131 of title
12 41, United States Code.

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

16 “(A) ensure acquisition programs are in
17 compliance with Federal law, the Federal Ac-
18 quisition Regulation, and Department acquisi-
19 tion management directives;

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

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

1 “(D) ensure appropriate acquisition pro-
2 gram management of cost, schedule, risk, and
3 system performance of the acquisition program
4 at issue, including assessing acquisition pro-
5 gram baseline breaches and directing any cor-
6 rective action for such breaches; and

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

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

21 “(4) ACQUISITION DECISION MEMORANDUM.—
22 The term ‘acquisition decision memorandum’ means
23 the official documented record of decisions, including
24 the rationale for such decisions and any assigned ac-
25 tions, for the acquisition at issue, as determined by

1 the person exercising acquisition decision authority
2 for such acquisition.

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

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

14 “(A) identifying and validating needs;

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

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

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

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

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

5 “(G) using milestones and exit criteria or
6 specific accomplishments that demonstrate the
7 attainment of knowledge to support progress;

8 “(H) regularly assessing and managing
9 risks to achieving requirements and cost and
10 schedule goals;

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

13 “(J) establishing an adequate workforce
14 that is qualified and sufficient to perform nec-
15 essary functions; and

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

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

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

(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:

Passed the House of Representatives November 16,
2021.

Attest: CHERYL L. JOHNSON,
Clerk.