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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

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

M. _____ introduced the following bill; which was referred to the
Committee on _____

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”.

1 **SEC. 2. ACQUISITION REVIEW BOARD.**

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

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

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

11 “(b) COMPOSITION.—

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

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

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

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

24 “(B) The Chief Financial Officer.

25 “(C) The Chief Human Capital Officer.

26 “(D) The Chief Information Officer.

1 “(E) The Chief Procurement Officer.

2 “(F) The Chief Readiness Support Officer.

3 “(G) The Chief Security Officer.

4 “(H) The Director of the Office of Test
5 and Evaluation.

6 “(I) Other relevant senior Department offi-
7 cials, as designated by the Under Secretary for
8 Management.

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

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

15 “(2) a major acquisition program—

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

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

21 “(C) requires additional review, as deter-
22 mined by the Under Secretary for Management;

23 or

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

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

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

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

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

21 “(4) Support the person with acquisition deci-
22 sion authority for an acquisition in determining the
23 appropriate direction for such acquisition at key ac-
24 quisition decision events.

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

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

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

19 “(A) Department officials responsible for
20 acquisition, budget, and cost estimating func-
21 tions are provided with the appropriate oppor-
22 tunity to develop estimates and raise cost and
23 schedule concerns before performance objectives
24 are established for capabilities when feasible.

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

4 “(e) DOCUMENTATION.—

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

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

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

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

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

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

24 “(2) SUBMISSION OF MEMORANDUM.—Not later
25 than seven days after the date on which the acquisi-

1 tion decision memorandum is signed by the chair
2 pursuant to paragraph (1)(E), the chair shall submit
3 to the Secretary, the Committee on Homeland Secu-
4 rity of the House of Representatives, and the Com-
5 mittee on Homeland Security and Governmental Af-
6 fairs of the Senate a copy of such memorandum.

7 “(f) DEFINITIONS.—In this section:

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

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

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

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

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

24 “(D) ensure appropriate acquisition pro-
25 gram management of cost, schedule, risk, and

1 system performance of the acquisition program
2 at issue, including assessing acquisition pro-
3 gram baseline breaches and directing any cor-
4 rective action for such breaches; and

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

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

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

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

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

12 “(A) identifying and validating needs;

13 “(B) assessing alternatives to select the
14 most appropriate solution;

15 “(C) clearly establishing well-defined re-
16 quirements;

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

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

23 “(F) demonstrating technology, design,
24 and manufacturing maturity before initiating

1 production of the item that is the subject of
2 such acquisition;

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

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

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

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

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

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

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

1 “(B) a program identified by the Under
2 Secretary for Management as a program of spe-
3 cial interest.

4 “(8) NON-MAJOR ACQUISITION PROGRAM.—The
5 term ‘non-major acquisition program’ means a De-
6 partment capital asset, service, or hybrid acquisition
7 program that is estimated by the Secretary to re-
8 quire an eventual total expenditure of less than
9 \$300,000,000 (based on fiscal year 2022 constant
10 dollars) over its life-cycle.”.

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

 “Sec. 836. Acquisition Review Board.”.