

113TH CONGRESS
1ST SESSION

H. R. 2719

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2013

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To require the Transportation Security Administration to implement best practices and improve transparency with regard to technology acquisition programs, 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 “Transportation Secu-
3 rity Acquisition Reform Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Transportation Security Administration
7 (in this Act referred to as “TSA”) does not consist-
8 ently implement Department of Homeland Security
9 policies and Government best practices for acquisi-
10 tion and procurement.

11 (2) TSA has not developed a multiyear tech-
12 nology investment plan. As a result, TSA has under-
13 utilized innovation opportunities within the private
14 sector, including from small businesses.

15 (3) Due in part to the deficiencies referred to
16 in paragraphs (1) and (2), TSA has faced challenges
17 in meeting key performance requirements for several
18 major acquisitions and procurements, resulting in
19 reduced security effectiveness and wasted expendi-
20 tures.

21 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**
22 **QUISITION REFORM.**

23 (a) IN GENERAL.—Title XVI of the Homeland Secu-
24 rity Act of 2002 (116 Stat. 2312) is amended to read as
25 follows:

1 **“TITLE XVI—TRANSPORTATION**
2 **SECURITY**

3 **“Subtitle A—General Provisions**

4 **“SEC. 1601. DEFINITIONS.**

5 “In this title:

6 “(1) ADMINISTRATION.—The term ‘Administra-
7 tion’ means the Transportation Security Administra-
8 tion.

9 “(2) ADMINISTRATOR.—The term ‘Adminis-
10 trator’ means the Administrator of the Transpor-
11 tation Security Administration.

12 “(3) SECURITY-RELATED TECHNOLOGY.—The
13 term ‘security-related technology’ means any tech-
14 nology that assists the Administration in the preven-
15 tion of, or defense against, threats to United States
16 transportation systems, including threats to people,
17 property, and information.

18 **“Subtitle B—Transportation Secu-**
19 **urity Administration Acquisition**
20 **Improvements**

21 **“SEC. 1611. MULTIYEAR TECHNOLOGY INVESTMENT PLAN.**

22 “(a) IN GENERAL.—The Administrator—

23 “(1) not later than 180 days after the date of
24 enactment of the Transportation Security Acquisi-
25 tion Reform Act, shall develop and transmit to Con-

1 gress a strategic multiyear technology investment
2 plan, which may include a classified addendum to re-
3 port sensitive transportation security risks, tech-
4 nology vulnerabilities, or other sensitive security in-
5 formation; and

6 “(2) to the extent possible, shall publish such
7 plan in an unclassified format within the public do-
8 main.

9 “(b) CONSULTATION.—The Administrator shall de-
10 velop the multiyear technology investment plan in con-
11 sultation with the Under Secretary for Management, the
12 Chief Information Officer, and the Under Secretary for
13 Science and Technology.

14 “(c) APPROVAL.—The Secretary must have approved
15 the multiyear technology investment plan before it is pub-
16 lished under subsection (a)(2).

17 “(d) CONTENTS OF PLAN.—The multiyear tech-
18 nology investment plan shall include the following:

19 “(1) An analysis of transportation security
20 risks and the associated technology gaps, including
21 consideration of the most recent Quadrennial Home-
22 land Security Review under section 707.

23 “(2) A set of transportation security-related
24 technology acquisition needs that—

1 “(A) is prioritized based on risk and gaps
2 identified under paragraph (1); and

3 “(B) includes planned technology programs
4 and projects with defined objectives, goals, and
5 measures.

6 “(3) An analysis of current trends in domestic
7 and international passenger travel.

8 “(4) An identification of currently deployed se-
9 curity-related technologies that are at or near the
10 end of their lifecycle.

11 “(5) An identification of test, evaluation, mod-
12 eling, and simulation capabilities that will be re-
13 quired to support the acquisition of the security-re-
14 lated technologies to meet those needs.

15 “(6) An identification of opportunities for pub-
16 lic-private partnerships, small and disadvantaged
17 company participation, intragovernment collabora-
18 tion, university centers of excellence, and national
19 laboratory technology transfer.

20 “(7) An identification of the Administration’s
21 acquisition workforce needs that will be required for
22 the management of planned security-related tech-
23 nology acquisitions, including consideration of
24 leveraging acquisition expertise of other Federal
25 agencies.

1 “(8) An identification of the security resources,
2 including information security resources, that will be
3 required to protect security-related technology from
4 physical or cyber theft, diversion, sabotage, or at-
5 tack.

6 “(9) An identification of initiatives to stream-
7 line the Administration’s acquisition process and
8 provide greater predictability and clarity to small,
9 medium, and large businesses, including the timeline
10 for testing and evaluation.

11 “(e) LEVERAGING THE PRIVATE SECTOR.—To the
12 extent possible, and in a manner that is consistent with
13 fair and equitable practices, the plan shall—

14 “(1) leverage emerging technology trends and
15 research and development investment trends within
16 the public and private sectors;

17 “(2) incorporate feedback and input received
18 from the private sector through requests for infor-
19 mation, industry days, and other innovative means
20 consistent with the Federal Acquisition Regulation;
21 and

22 “(3) leverage market research conducted by the
23 Under Secretary for Science and Technology to iden-
24 tify technologies that exist or are in development

1 that, with or without adaptation, could be utilized to
2 meet mission needs.

3 “(f) DISCLOSURE.—The Administrator shall include
4 with the plan required under this section a list of any non-
5 government persons that contributed to the writing of the
6 plan.

7 “(g) UPDATE AND REPORT.—Once every 2 years
8 after the initial strategic plan is transmitted to Congress,
9 the Administrator shall transmit to Congress an update
10 of the plan and a report on the extent to which each secu-
11 rity-related technology acquired by the Administration
12 since the last issuance or update of the plan is consistent
13 with the planned technology programs and projects identi-
14 fied under subsection (d)(2) for that technology.

15 **“SEC. 1612. ACQUISITION JUSTIFICATION AND REPORTS.**

16 “(a) ACQUISITION JUSTIFICATION.—Before the Ad-
17 ministration implements any security-related technology
18 acquisition, the Administrator shall, in accordance with
19 the Department’s policies and directives, conduct a com-
20 prehensive analysis to determine whether the acquisition
21 is justified. The analysis shall include, but may not be lim-
22 ited to, the following:

23 “(1) An identification of the type and level of
24 risk to transportation security that would be ad-
25 dressed by such technology acquisition.

1 “(2) An assessment of how the proposed acqui-
2 sition aligns to the multiyear technology investment
3 plan developed under section 1611.

4 “(3) A comparison of the total expected
5 lifecycle cost against the total expected quantitative
6 and qualitative benefits to transportation security.

7 “(4) An analysis of alternative security solu-
8 tions to determine if the proposed technology acqui-
9 sition is the most effective and cost-efficient solution
10 based on cost-benefit considerations.

11 “(5) An evaluation of the privacy and civil lib-
12 erties implications of the proposed acquisition, and
13 a determination that the proposed acquisition is con-
14 sistent with fair information practice principles
15 issued by the Privacy Officer of the Department. To
16 the extent practicable, the evaluation shall include
17 consultation with organizations that advocate for the
18 protection of privacy and civil liberties.

19 “(6) Confirmation that there are no significant
20 risks to human health and safety posed by the pro-
21 posed acquisition.

22 “(b) REPORTS AND CERTIFICATION TO CONGRESS.—

23 “(1) IN GENERAL.—Not later than the end of
24 the 30-day period preceding the award by the Ad-
25 ministration of a contract for any security-related

1 technology acquisition exceeding \$30,000,000, the
2 Administrator shall submit to the Committee on
3 Homeland Security of the House of Representatives
4 and the Committee on Commerce, Science, and
5 Transportation of the Senate the results of the com-
6 prehensive acquisition analysis required under this
7 section and a certification by the Administrator that
8 the security benefits justify the contract cost.

9 “(2) EXTENSION DUE TO IMMINENT TERRORIST
10 THREAT.—If there is a known or suspected immi-
11 nent threat to transportation security, the Adminis-
12 trator may reduce the 30-day period under para-
13 graph (1) to 5 days in order to rapidly respond.

14 “(3) NOTICE TO CONGRESS.—The Adminis-
15 trator shall provide immediate notice of such immi-
16 nent threat to the Committee on Homeland Security
17 of the House of Representatives and the Committee
18 on Commerce, Science, and Transportation of the
19 Senate.

20 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
21 **REPORTS.**

22 “(a) BASELINE REQUIREMENTS.—

23 “(1) IN GENERAL.—Before the Administration
24 implements any security-related technology acquisi-
25 tion, the appropriate acquisition official of the De-

1 partment shall establish and document a set of for-
2 mal baseline requirements.

3 “(2) CONTENTS.—The baseline requirements
4 shall—

5 “(A) include the estimated costs (including
6 lifecycle costs), schedule, and performance mile-
7 stones for the planned duration of the acquisi-
8 tion; and

9 “(B) identify the acquisition risks and a
10 plan for mitigating these risks.

11 “(3) FEASIBILITY.—In establishing the per-
12 formance milestones under paragraph (2), the ap-
13 propriate acquisition official of the Department
14 shall, to the extent possible and in consultation with
15 the Under Secretary for Science and Technology, en-
16 sure that achieving these milestones is techno-
17 logically feasible.

18 “(4) TEST AND EVALUATION PLAN.—The Ad-
19 ministrator, in consultation with the Under Sec-
20 retary for Science and Technology, shall develop a
21 test and evaluation plan that, at a minimum, de-
22 scribes—

23 “(A) the activities that will be required to
24 assess acquired technologies against the per-

1 performance milestones established under para-
2 graph (2);

3 “(B) the necessary and cost-effective com-
4 bination of laboratory testing, field testing,
5 modeling, simulation, and supporting analysis
6 to ensure that such technologies meet the Ad-
7 ministration’s mission needs; and

8 “(C) an efficient schedule to ensure that
9 test and evaluation activities are completed
10 without undue delay.

11 “(5) VERIFICATION AND VALIDATION.—The ap-
12 propriate acquisition official of the Department—

13 “(A) subject to subparagraph (B), shall
14 utilize independent reviewers to verify and vali-
15 date the performance milestones and cost esti-
16 mates developed under paragraph (2) for a se-
17 curity-related technology that pursuant to sec-
18 tion 1611(d)(2) has been identified as a high
19 priority need in the most recent multiyear tech-
20 nology investment plan; and

21 “(B) shall ensure that the utilization of
22 independent reviewers does not unduly delay
23 the schedule of any acquisition.

24 “(6) STREAMLINING ACCESS FOR INTERESTED
25 VENDORS.—The Administrator shall establish a

1 streamlined process for an interested vendor of a se-
2 curity-related technology to request and receive ap-
3 propriate access to the baseline requirements and
4 test and evaluation plans that are necessary for the
5 vendor to participate in the acquisitions process for
6 such technology.

7 “(b) REVIEW OF BASELINE REQUIREMENTS AND
8 DEVIATION; REPORT TO CONGRESS.—

9 “(1) REVIEW.—

10 “(A) IN GENERAL.—The appropriate ac-
11 quisition official of the Department shall review
12 and assess each implemented acquisition to de-
13 termine if the acquisition is meeting the base-
14 line requirements established under subsection
15 (a).

16 “(B) TEST AND EVALUATION ASSESS-
17 MENT.—The review shall include an assessment
18 of whether the planned testing and evaluation
19 activities have been completed and the results
20 of such testing and evaluation demonstrate that
21 the performance milestones are technologically
22 feasible.

23 “(2) REPORT.—

24 “(A) IN GENERAL.—The Administrator
25 shall report to the Committee on Homeland Se-

1 curity of the House of Representatives and the
2 Committee on Commerce, Science, and Trans-
3 portation of the Senate the results of any as-
4 sessment that finds that—

5 “(i) the actual or planned costs exceed
6 the baseline costs by more than 10 per-
7 cent;

8 “(ii) the actual or planned schedule
9 for delivery has been delayed by more than
10 180 days; or

11 “(iii) there is a failure to meet any
12 performance milestone that directly im-
13 pacts security effectiveness.

14 “(B) CAUSE.—The report shall include the
15 cause for such excessive costs, delay, or failure,
16 and a plan for corrective action.

17 “(C) TIMELINESS.—The report required
18 under this section shall be provided to the Com-
19 mittee on Homeland Security of the House of
20 Representatives and the Committee on Com-
21 merce, Science, and Transportation of the Sen-
22 ate no later than 30 days after identifying such
23 excessive costs, delay, or failure.

1 **“SEC. 1614. INVENTORY UTILIZATION.**

2 “(a) IN GENERAL.—Before the procurement of addi-
3 tional quantities of equipment to fulfill a mission need,
4 the Administrator shall, to the extent practicable, utilize
5 any existing units in the Administration’s inventory to
6 meet that need.

7 “(b) TRACKING OF INVENTORY.—

8 “(1) LOCATION.—The Administrator shall es-
9 tablish a process for tracking the location of secu-
10 rity-related equipment in such inventory.

11 “(2) UTILIZATION.—The Administrator shall—

12 “(A) establish a process for tracking the
13 utilization status of security-related technology
14 in such inventory; and

15 “(B) implement internal controls to ensure
16 accurate data on security-related technology
17 utilization.

18 “(3) QUANTITY.—The Administrator shall es-
19 tablish a process for tracking the quantity of secu-
20 rity-related equipment in such inventory.

21 “(c) LOGISTICS MANAGEMENT.—

22 “(1) IN GENERAL.—The Administrator shall es-
23 tablish logistics principles for managing inventory in
24 an effective and efficient manner.

1 “(2) LIMITATION ON JUST-IN-TIME LOGIS-
2 TICS.—The Administrator may not use just-in-time
3 logistics if doing so would—

4 “(A) inhibit necessary planning for large-
5 scale delivery of equipment to airports or other
6 facilities; or

7 “(B) unduly diminish surge capacity for
8 response to a terrorist threat.

9 **“SEC. 1615. SMALL BUSINESS CONTRACTING GOALS.**

10 “Not later than 90 days after the date of enactment
11 of the Transportation Security Acquisition Reform Act,
12 and annually thereafter, the Administrator shall submit
13 to the Committee on Homeland Security of the House of
14 Representatives and the Committee on Commerce,
15 Science, and Transportation of the Senate a report that
16 includes the following:

17 “(1) A restatement of the Administration’s pub-
18 lished goals for contracting with small businesses,
19 including small and disadvantaged businesses, and
20 the Administration’s performance record with re-
21 spect to meeting those goals during the preceding
22 fiscal year.

23 “(2) If such goals were not met, or the Admin-
24 istration’s performance was below the published
25 goals of the Department, an itemized list of chal-

1 lenges, including deviations from the Administra-
2 tion’s subcontracting plans and the extent to which
3 contract bundling was a factor, that contributed to
4 the level of performance during the preceding fiscal
5 year.

6 “(3) An action plan, with benchmarks, for ad-
7 dressing each of the challenges identified in para-
8 graph (2), prepared after consultation with the Sec-
9 retary of Defense and the heads of Federal depart-
10 ments and agencies that achieved their published
11 goals for prime contracting with small and minority
12 owned businesses, including small and disadvantaged
13 businesses, in prior fiscal years, to identify policies
14 and procedures that could be incorporated at the
15 Administration in furtherance of achieving the Ad-
16 ministration’s published goal for such contracting.

17 “(4) The status of implementing such action
18 plan that was developed in the preceding fiscal year
19 in accordance with paragraph (3).

20 **“SEC. 1616. CONSISTENCY WITH THE FEDERAL ACQUISI-**
21 **TION REGULATION AND DEPARTMENTAL**
22 **POLICIES AND DIRECTIVES.**

23 “The Administrator shall execute responsibilities set
24 forth in this subtitle in a manner consistent with, and not

1 duplicative of, the Federal Acquisition Regulation and the
2 Department’s policies and directives.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of such Act is amended by striking the
5 items relating to title XVI and inserting the following:

“TITLE XVI—TRANSPORTATION SECURITY

“Subtitle A—General Provisions

“Sec. 1601. Definitions.

“Subtitle B—Transportation Security Administration Acquisition
Improvements

“Sec. 1611. Multiyear technology investment plan.

“Sec. 1612. Acquisition justification and reports.

“Sec. 1613. Acquisition baseline establishment and reports.

“Sec. 1614. Inventory utilization.

“Sec. 1615. Small business contracting goals.

“Sec. 1616. Consistency with the Federal Acquisition Regulation and depart-
mental policies and directives.”.

6 (c) PRIOR AMENDMENTS NOT AFFECTED.—This sec-
7 tion shall not be construed to affect any amendment made
8 by title XVI of such Act as in effect before the date of
9 enactment of this Act.

10 **SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.**

11 (a) IMPLEMENTATION OF PREVIOUS RECOMMENDA-
12 TIONS.—Not later than 1 year after the date of enactment
13 of this Act, the Comptroller General of the United States
14 shall assess and report to Congress on implementation by
15 the Transportation Security Administration of rec-
16 ommendations regarding the acquisition of technology that
17 were made by the Government Accountability Office before
18 the date of enactment of this Act.

1 (b) IMPLEMENTATION OF SUBTITLE B OF TITLE
2 XVI.—Not later than 1 year after the date of enactment
3 of this Act and 3 years thereafter, the Comptroller Gen-
4 eral of the United States shall evaluate and report to Con-
5 gress the Transportation Security Administration’s
6 progress in implementing subtitle B of title XVI of the
7 Homeland Security Act of 2002 (116 Stat. 2312), as
8 amended by this Act (including provisions added to such
9 subtitle after the date of enactment of this Act), including
10 any efficiencies, cost savings, or delays that have resulted
11 from such implementation.

12 **SEC. 5. REPORT ON FEASIBILITY OF INVENTORY TRACK-**
13 **ING.**

14 Not later than 90 days after the date of enactment
15 of this Act, the Administrator of the Transportation Secu-
16 rity Administration shall report to Congress on the feasi-
17 bility of tracking transportation security-related tech-
18 nology of the Administration through automated informa-
19 tion and data capture technologies.

20 **SEC. 6. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW**
21 **OF TSA’S TEST AND EVALUATION PROCESS.**

22 Not later than 1 year after the date of the enactment
23 of this Act, the Comptroller General of the United States
24 shall evaluate and report to Congress on the Transpor-
25 tation Security Administration’s testing and evaluation ac-

1 tivities related to security-related technologies. The report
2 shall include—

3 (1) information on the extent to which —

4 (A) the execution of such testing and eval-
5 uation activities is aligned, temporally and oth-
6 erwise, with the Administration’s acquisition
7 needs, planned procurements, and acquisitions
8 for technology programs and projects; and

9 (B) the extent to which security-related
10 technologies that have been tested, evaluated,
11 and certified for use by the Administration are
12 not procured by the Administration, including
13 information about why that occurs; and

14 (2) recommendations to—

15 (A) improve the efficiency and efficacy of
16 such testing and evaluation activities; and

17 (B) better align such testing and evalua-
18 tion with the acquisitions process.

19 **SEC. 7. NO ADDITIONAL AUTHORIZATION OF APPROPRIA-**
20 **TIONS.**

21 No additional funds are authorized to be appro-
22 priated to carry out this Act and the amendments made
23 by this Act, and this Act and such amendments shall be

1 carried out using amounts otherwise available for such
2 purpose.

Passed the House of Representatives December 3,
2013.

Attest:

KAREN L. HAAS,

Clerk.