

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2719
OFFERED BY MR. HUDSON OF NORTH CAROLINA**

Strike all after the enacting clause and insert the following:

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

1 reduced security effectiveness and wasted expendi-
2 tures.

3 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**
4 **QUISITION REFORM.**

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

8 **“TITLE XVI—TRANSPORTATION**
9 **SECURITY**

10 **“Subtitle A—General Provisions**

11 **“SEC. 1601. DEFINITIONS.**

12 “In this title:

13 “(1) ADMINISTRATION.—The term ‘Administra-
14 tion’ means the Transportation Security Administra-
15 tion.

16 “(2) ADMINISTRATOR.—The term ‘Adminis-
17 trator’ means the Administrator of the Transpor-
18 tation Security Administration.

19 **“Subtitle B—Transportation Secu-**
20 **riety Administration Acquisition**
21 **Improvements**

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

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

24 “(1) not later than 180 days after the date of
25 enactment of the Transportation Security Acquisi-

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

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

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

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

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

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

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

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

3 “(B) includes technology acquisition road-
4 maps with defined objectives, goals, and meas-
5 ures.

6 “(3) An identification of test, evaluation, mod-
7 eling, and simulation capabilities that will be re-
8 quired to support the acquisition of the security-re-
9 lated technologies to meet those needs.

10 “(4) An identification of opportunities for pub-
11 lic-private partnerships, small and disadvantaged
12 company participation, intragovernment collabora-
13 tion, university centers of excellence, and national
14 laboratory technology transfer.

15 “(5) An identification of the Administration’s
16 acquisition workforce needs that will be required for
17 the management of planned security-related tech-
18 nology acquisitions, including consideration of
19 leveraging acquisition expertise of other Federal
20 agencies.

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

1 “(1) leverage emerging technology trends and
2 research and development investment trends within
3 the public and private sectors; and

4 “(2) incorporate feedback and input received
5 from the private sector through requests for infor-
6 mation, industry days, and other innovative means
7 consistent with the Federal Acquisition Regulation.

8 “(f) DISCLOSURE.—The Administrator shall include
9 with the plan required under this section a list of any non-
10 government persons that contributed to the writing of the
11 plan.

12 “(g) UPDATE.—Once every 2 years after the initial
13 strategic plan is transmitted to Congress, the Adminis-
14 trator shall transmit to Congress an update of the plan.

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 with the 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) A determination that the means of achiev-
12 ing such expected benefit to transportation security
13 is consistent with fair information practice principles
14 issued by the Privacy Officer of the Department.

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

16 “(1) IN GENERAL.—Not later than the end of
17 the 30-day period preceding the award by the Ad-
18 ministration of a contract for any security-related
19 technology acquisition exceeding \$30,000,000, the
20 Administrator shall submit to the Committee on
21 Homeland Security of the House of Representatives
22 and the Committee on Commerce, Science, and
23 Transportation of the Senate the results of the com-
24 prehensive acquisition analysis required under this

1 section and a certification by the Administrator that
2 the security benefits justify the contract cost.

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

8 “(3) NOTICE TO CONGRESS.—The Adminis-
9 trator shall provide immediate notice of such immi-
10 nent threat to the Committee on Homeland Security
11 of the House of Representatives and the Committee
12 on Commerce, Science, and Transportation of the
13 Senate.

14 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
15 **REPORTS.**

16 “(a) BASELINE REQUIREMENTS.—

17 “(1) IN GENERAL.—Before the Administration
18 implements any security-related technology acquisi-
19 tion, the appropriate acquisition official of the De-
20 partment shall establish and document a set of for-
21 mal baseline requirements.

22 “(2) CONTENTS.—The baseline requirements
23 shall—

24 “(A) include the estimated costs (including
25 lifecycle costs), schedule, and performance mile-

1 stones for the planned duration of the acquisi-
2 tion; and

3 “(B) identify the acquisition risks and a
4 plan for mitigating these risks.

5 “(3) FEASIBILITY.—In establishing the per-
6 formance milestones under paragraph (2), the ap-
7 propriate acquisition official of the Department
8 shall, to the extent possible and in consultation with
9 the Under Secretary for Science and Technology, en-
10 sure that achieving these milestones is techno-
11 logically feasible.

12 “(4) TEST AND EVALUATION PLAN.—The Ad-
13 ministrator, in consultation with the Under Sec-
14 retary for Science and Technology, shall develop a
15 plan for testing and evaluating the acquired tech-
16 nologies against the performance requirements es-
17 tablished under paragraph (2). The test and evalua-
18 tion plan shall describe the necessary and cost-effec-
19 tive combination of laboratory testing, field testing,
20 modeling, simulation, and supporting analysis to en-
21 sure that the technologies meet the Administration’s
22 mission needs.

23 “(5) VERIFICATION AND VALIDATION.—The ap-
24 propriate acquisition official of the Department may
25 utilize independent reviewers to verify and validate

1 the performance milestones and cost estimates devel-
2 oped under paragraph (2).

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

5 “(1) REVIEW.—

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

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

19 “(2) REPORT.—

20 “(A) IN GENERAL.—The Administrator
21 shall report to the Committee on Homeland Se-
22 curity of the House of Representatives and the
23 Committee on Commerce, Science, and Trans-
24 portation of the Senate the results of any as-
25 sessment that finds that—

1 “(i) the actual or planned costs exceed
2 the baseline costs by more than 10 per-
3 cent;

4 “(ii) the actual or planned schedule
5 for delivery has been delayed by more than
6 180 days; or

7 “(iii) there is a failure to meet any
8 performance milestone that directly im-
9 pacts security effectiveness.

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

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

20 **“SEC. 1614. INVENTORY UTILIZATION.**

21 “(a) IN GENERAL.—Before the procurement of addi-
22 tional quantities of equipment to fulfill a mission need,
23 the Administrator shall, to the extent practicable, utilize
24 any existing units in the Administration’s inventory to
25 meet that need.

1 “(b) TRACKING OF INVENTORY.—The Administrator
2 shall establish a process for tracking the location, utiliza-
3 tion status, and quantity of security-related equipment in
4 such inventory.

5 “(c) LOGISTICS MANAGEMENT.—

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

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

12 “(A) inhibit necessary planning for large-
13 scale delivery of equipment to airports or other
14 facilities; or

15 “(B) unduly diminish surge capacity for
16 response to a terrorist threat.

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

18 “Not later than 90 days after the date of enactment
19 of the Transportation Security Acquisition Reform Act,
20 and annually, the Administrator shall submit to the Com-
21 mittee on Homeland Security of the House of Representa-
22 tives and the Committee on Commerce, Science, and
23 Transportation of the Senate a report that includes the
24 following:

1 “(1) A restatement of the Administration’s pub-
2 lished goals for contracting with small businesses,
3 including small and disadvantaged businesses, and
4 the Administration’s performance record with re-
5 spect to meeting those goals during the preceding
6 fiscal year.

7 “(2) If such goals were not met, or the Admin-
8 istration’s performance was below the published
9 goals of the Department, an itemized list of chal-
10 lenges that contributed to the level of performance
11 during the preceding fiscal year.

12 “(3) An action plan, with benchmarks, for ad-
13 dressing each of the challenges identified in para-
14 graph (2).

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

18 **“SEC. 1616. CONSISTENCY WITH THE FEDERAL ACQUISSI-**
19 **TION REGULATION AND DEPARTMENTAL**
20 **POLICIES AND DIRECTIVES.**

21 “The Administrator shall execute responsibilities set
22 forth in this subtitle in a manner consistent with, and not
23 duplicative of, the Federal Acquisition Regulation and the
24 Department’s policies and directives.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of such Act is amended by striking the
3 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 departmental policies and directives.”.

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

8 **SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORT.**

9 Not later than 1 year after the date of enactment
10 of this Act and 3 years thereafter, the Comptroller Gen-
11 eral of the United States shall evaluate and report to Con-
12 gress the Transportation Security Administration’s
13 progress in implementing subtitle B of title XVI of the
14 Homeland Security Act of 2002 (116 Stat. 2312), as
15 amended by this Act (including provisions added to such
16 subtitle after the date of enactment of this Act).

1 **SEC. 5. NO ADDITIONAL AUTHORIZATION OF APPROPRIA-**
2 **TIONS.**

3 No additional funds are authorized to be appro-
4 priated to carry out this Act and the amendments made
5 by this Act, and this Act and such amendments shall be
6 carried out using amounts otherwise available for such
7 purpose.

