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(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R. 2719

To require the Transportation Security Administration to implement best practices and improve transparency with regard to technology acquisition programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUDSON (for himself, Mr. McCAUL, Mr. THOMPSON of Mississippi, and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on _____

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transportation Secu-
5 rity Acquisition Reform Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

8 (2) TSA has not developed a multiyear tech-
9 nology acquisition plan. As a result, TSA has under-
10 utilized innovation opportunities within the private
11 sector, including from small businesses.

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

18 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**
19 **QUISITION REFORM.**

20 (a) IN GENERAL.—Title XVI of the Homeland Secu-
21 rity Act of 2002 (116 Stat. 2312) is amended to read as
22 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 **“Subtitle B—Transportation Secu-**
13 **riety Administration Acquisition**
14 **Improvements**

15 **“SEC. 1611. MULTIYEAR TECHNOLOGY ACQUISITION PLAN.**

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

17 “(1) not later than 180 days after the date of
18 enactment of the Transportation Security Acquisi-
19 tion Reform Act, shall develop and transmit to Con-
20 gress a strategic multiyear technology acquisition
21 plan, which may include a classified addendum to re-
22 port sensitive transportation security risks, tech-
23 nology vulnerabilities, or other sensitive security in-
24 formation; and

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

4 “(b) CONSULTATION.—The Administrator shall de-
5 velop the multiyear acquisition plan in consultation with
6 the Under Secretary for Management, the Chief Informa-
7 tion Officer, and the Under Secretary for Science and
8 Technology.

9 “(c) CONTENTS OF PLAN.—The multiyear acquisi-
10 tion plan shall include the following:

11 “(1) An analysis of transportation security
12 risks and the associated technology gaps, including
13 consideration of the most recent Quadrennial Home-
14 land Security Review under section 707.

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

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

19 “(B) includes technology acquisition road-
20 maps with defined objectives, goals, and meas-
21 ures.

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

1 “(4) An identification of opportunities for pub-
2 lic-private partnerships, small and disadvantaged
3 company participation, intragovernment collabora-
4 tion, university centers of excellence, and national
5 laboratory technology transfer.

6 “(5) An identification of the Administration’s
7 acquisition workforce needs that will be required for
8 the management of planned security-related tech-
9 nology acquisitions, including consideration of
10 leveraging acquisition expertise of other Federal
11 agencies.

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

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

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

22 “(e) DISCLOSURE.—The Administrator shall include
23 with the plan required under this section a list of any non-
24 government persons that contributed to the writing of the
25 plan.

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

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

5 “(a) ACQUISITION JUSTIFICATION.—Before the Ad-
6 ministration implements any security-related technology
7 acquisition, the Administrator shall conduct a comprehen-
8 sive analysis to determine whether the acquisition is justi-
9 fied. The analysis shall include, but may not be limited
10 to, the following:

11 “(1) An identification of the type and level of
12 risk to transportation security that would be ad-
13 dressed with the technology acquisition.

14 “(2) An assessment of how the proposed acqui-
15 sition aligns to the multiyear plan developed under
16 section 1611.

17 “(3) A comparison of the total expected
18 lifecycle cost against the total expected quantitative
19 and qualitative benefits to transportation security.

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

24 “(5) A determination that the means of achiev-
25 ing such expected benefit to transportation security

1 is consistent with fair information practice principles
2 issued by the Privacy Officer of the Department.

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

4 “(1) IN GENERAL.—Not later than the end of
5 the 30-day period preceding the award by the Ad-
6 ministration of a contract for any security-related
7 technology acquisition exceeding \$30,000,000, the
8 Administrator shall submit to the Committee on
9 Homeland Security of the House of Representatives
10 and the Committee on Commerce, Science, and
11 Transportation of the Senate the results of the com-
12 prehensive acquisition analysis required under this
13 section and a certification by the Administrator that
14 the security benefits justify the contract cost.

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

20 “(3) NOTICE TO CONGRESS.—The Adminis-
21 trator shall provide immediate notice of such immi-
22 nent threat to the Committee on Homeland Security
23 of the House of Representatives and the Committee
24 on Commerce, Science, and Transportation of the
25 Senate.

1 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
2 **REPORTS.**

3 “(a) BASELINE REQUIREMENTS.—

4 “(1) IN GENERAL.—Before the Administration
5 implements any security-related technology acqui-
6 sition, the Administrator shall establish and document
7 a set of formal baseline requirements.

8 “(2) CONTENTS.—The baseline requirements
9 shall—

10 “(A) include the estimated costs (including
11 lifecycle costs), schedule, and performance mile-
12 stones for the planned duration of the acqui-
13 sition; and

14 “(B) identify the acquisition risks and a
15 plan for mitigating these risks.

16 “(3) FEASIBILITY.—In establishing the per-
17 formance milestones under paragraph (2), the Ad-
18 ministratoor shall, to the extent possible and in con-
19 sultation with the Under Secretary for Science and
20 Technology, ensure that achieving these milestones
21 is technologically feasible.

22 “(4) TEST AND EVALUATION PLAN.—The Ad-
23 ministratoor, in consultation with the Under Sec-
24 retary for Science and Technology, shall develop a
25 plan for testing and evaluating the acquired tech-
26 nologies against the performance requirements es-

1 established under paragraph (2). The test and evalua-
2 tion plan shall describe the necessary and cost-effec-
3 tive combination of laboratory testing, field testing,
4 modeling, simulation, and supporting analysis to en-
5 sure that the technologies meet the Administration's
6 mission needs.

7 “(5) VERIFICATION AND VALIDATION.—The
8 Administrator may utilize independent reviewers to
9 verify and validate the performance milestones and
10 cost estimates developed under paragraph (2).

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

13 “(1) REVIEW.—

14 “(A) IN GENERAL.—The Administrator
15 shall review and assess each implemented acqui-
16 sition to determine if the acquisition is meeting
17 the baseline requirements established under
18 subsection (a).

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

1 “(2) REPORT.—

2 “(A) IN GENERAL.—The Administrator
3 shall report to the Committee on Homeland Se-
4 curity of the House of Representatives and the
5 Committee on Commerce, Science, and Trans-
6 portation of the Senate the results of any as-
7 sessment that finds that—

8 “(i) the actual or planned costs exceed
9 the baseline costs by more than 10 per-
10 cent;

11 “(ii) the actual or planned schedule
12 for delivery has been delayed by more than
13 180 days; or

14 “(iii) there is a failure to meet any
15 performance milestone that directly im-
16 pacts security effectiveness.

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

20 “(C) TIMELINESS.—The report required
21 under this section shall be provided to the Com-
22 mittee on Homeland Security of the House of
23 Representatives and the Committee on Com-
24 merce, Science, and Transportation of the Sen-

1 ate no later than 30 days after identifying such
2 excessive costs, delay, or failure.

3 **“SEC. 1614. INVENTORY UTILIZATION.**

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

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

13 “(c) LOGISTICS MANAGEMENT.—

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

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

20 “(A) inhibit necessary planning for large-
21 scale delivery of equipment to airports or other
22 facilities; or

23 “(B) unduly diminish surge capacity for
24 response to a terrorist threat.

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

2 “Not later than 90 days after the date of enactment
3 of the Transportation Security Acquisition Reform Act,
4 and annually, the Administrator shall submit to the Com-
5 mittee on Homeland Security of the House of Representa-
6 tives and the Committee on Commerce, Science, and
7 Transportation of the Senate a report that includes the
8 following:

9 “(1) A restatement of the Administration’s pub-
10 lished goals for contracting with small and disadvan-
11 tagged businesses and the Administration’s perform-
12 ance record with respect to meeting those goals dur-
13 ing the preceding fiscal year.

14 “(2) If such goals were not met, or the Admin-
15 istration’s performance was below the published
16 goals of the Department, an itemized list of chal-
17 lenges that contributed to the level of performance
18 during the preceding fiscal year.

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

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

1 **“SEC. 1616. CONSISTENCY WITH THE FEDERAL ACQUISITION**
2 **REGULATION AND DEPARTMENTAL**
3 **POLICIES AND DIRECTIVES.**

4 “The Administrator shall execute responsibilities set
5 forth in this subtitle in a manner consistent with, and not
6 duplicative of, the Federal Acquisition Regulation and the
7 Department’s acquisition policies and directives.”.

8 (b) **CLERICAL AMENDMENT.**—The table of contents
9 in section 1(b) of such Act is amended by striking the
10 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 acquisition 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.”.

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

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

16 Not later than 1 year after the date of enactment
17 of this Act and 3 years thereafter, the Comptroller Gen-
18 eral of the United States shall evaluate and report to Con-

1 gress the Transportation Security Administration's
2 progress in implementing subtitle B of title XVI of the
3 Homeland Security Act of 2002 (116 Stat. 2312), as
4 amended by this Act (including provisions added to such
5 subtitle after the date of enactment of this Act).

6 **SEC. 5. NO ADDITIONAL AUTHORIZATION OF APPROPRIA-**
7 **TIONS.**

8 No additional funds are authorized to be appro-
9 priated to carry out this Act and the amendments made
10 by this Act, and this Act and such amendments shall be
11 carried out using amounts otherwise available for such
12 purpose.