

**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 Security 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 consistently implement Department of Homeland Security
8 policies and Government best practices for acquisition and procurement.

11 (2) TSA has not developed a multiyear technology investment plan. As a result, TSA has underutilized innovation opportunities within the private
12 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 “(3) SECURITY-RELATED TECHNOLOGY.—The
20 term ‘security-related technology’ means any tech-
21 nology that assists the Administration in the preven-
22 tion of, or defense against, threats to United States
23 transportation systems, including threats to people,
24 property, and information.

1 **“Subtitle B—Transportation Secu-**
2 **rity Administration Acquisition**
3 **Improvements**

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

5 “(a) IN GENERAL.—The Administrator—

6 “(1) not later than 180 days after the date of
7 enactment of the Transportation Security Acquisi-
8 tion Reform Act, shall develop and transmit to Con-
9 gress a strategic multiyear technology investment
10 plan, which may include a classified addendum to re-
11 port sensitive transportation security risks, tech-
12 nology vulnerabilities, or other sensitive security in-
13 formation; and

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

17 “(b) CONSULTATION.—The Administrator shall de-
18 velop the multiyear technology investment plan in con-
19 sultation with the Under Secretary for Management, the
20 Chief Information Officer, and the Under Secretary for
21 Science and Technology.

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

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

3 “(1) An analysis of transportation security
4 risks and the associated technology gaps, including
5 consideration of the most recent Quadrennial Home-
6 land Security Review under section 707.

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

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

11 “(B) includes planned technology programs
12 and projects with defined objectives, goals, and
13 measures.

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

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

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

23 “(6) An identification of opportunities for pub-
24 lic-private partnerships, small and disadvantaged
25 company participation, intragovernment collabora-

1 tion, university centers of excellence, and national
2 laboratory technology transfer.

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

9 “(8) An identification of the security resources,
10 including information security resources, that will be
11 required to protect security-related technology from
12 physical or cyber theft, diversion, sabotage, or at-
13 tack.

14 “(9) An identification of initiatives to stream-
15 line the Administration’s acquisition process and
16 provide greater predictability and clarity to small,
17 medium, and large businesses, including the timeline
18 for testing and evaluation.

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

22 “(1) leverage emerging technology trends and
23 research and development investment trends within
24 the public and private sectors;

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

6 “(3) leverage market research conducted by the
7 Under Secretary for Science and Technology to iden-
8 tify technologies that exist or are in development
9 that, with or without adaptation, could be utilized to
10 meet mission needs.

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

15 “(g) UPDATE AND REPORT.—Once every 2 years
16 after the initial strategic plan is transmitted to Congress,
17 the Administrator shall transmit to Congress an update
18 of the plan and a report on the extent to which each secu-
19 rity-related technology acquired by the Administration
20 since the last issuance or update of the plan is consistent
21 with the planned technology programs and projects identi-
22 fied under subsection (d)(2) for that technology.

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

24 “(a) ACQUISITION JUSTIFICATION.—Before the Ad-
25 ministration implements any security-related technology

1 acquisition, the Administrator shall, in accordance with
2 the Department's policies and directives, conduct a com-
3 prehensive analysis to determine whether the acquisition
4 is justified. The analysis shall include, but may not be lim-
5 ited to, the following:

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

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

12 “(3) A comparison of the total expected
13 lifecycle cost against the total expected quantitative
14 and qualitative benefits to transportation security.

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

19 “(5) An evaluation of the privacy and civil lib-
20 erties implications of the proposed acquisition, and
21 a determination that the proposed acquisition is con-
22 sistent with fair information practice principles
23 issued by the Privacy Officer of the Department.

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

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

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

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

23 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
24 **REPORTS.**

25 “(a) BASELINE REQUIREMENTS.—

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

6 “(2) CONTENTS.—The baseline requirements
7 shall—

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

12 “(B) identify the acquisition risks and a
13 plan for mitigating these risks.

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

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

1 “(A) the activities that will be required to
2 assess acquired technologies against the per-
3 formance milestones established under para-
4 graph (2);

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

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

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

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

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

1 “(6) STREAMLINING ACCESS FOR INTERESTED
2 VENDORS.—The Administrator shall establish a
3 streamlined process for an interested vendor of a se-
4 curity-related technology to request and receive ap-
5 propriate access to the baseline requirements and
6 test and evaluation plans that are necessary for the
7 vendor to participate in the acquisitions process for
8 such technology.

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

11 “(1) REVIEW.—

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

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

25 “(2) REPORT.—

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

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

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

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

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

19 “(C) TIMELINESS.—The report required
20 under this section shall be provided to the Com-
21 mittee on Homeland Security of the House of
22 Representatives and the Committee on Com-
23 merce, Science, and Transportation of the Sen-
24 ate no later than 30 days after identifying such
25 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.—The Administrator
8 shall establish a process for tracking the location, utiliza-
9 tion status, and quantity of security-related equipment in
10 such inventory.

11 “(c) LOGISTICS MANAGEMENT.—

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

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

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

21 “(B) unduly diminish surge capacity for
22 response to a terrorist threat.

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

24 “Not later than 90 days after the date of enactment
25 of the Transportation Security Acquisition Reform Act,
26 and annually thereafter, the Administrator shall submit

1 to the Committee on Homeland Security of the House of
2 Representatives and the Committee on Commerce,
3 Science, and Transportation of the Senate a report that
4 includes the following:

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

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

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

19 “(4) The status of implementing such action
20 plan that was developed in the preceding fiscal year
21 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 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 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.”.

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.

