

***In the Senate of the United States,***

*December 9, 2014.*

*Resolved*, That the bill from the House of Representatives (H.R. 2719) entitled “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.”, do pass with the following

**AMENDMENT:**

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*  
3 *Acquisition Reform Act”.*

4 ***SEC. 2. FINDINGS.***

5 *Congress finds the following:*

6 *(1) The Transportation Security Administration*  
7 *has not consistently implemented Department of*  
8 *Homeland Security policies and Government best*  
9 *practices for acquisition and procurement.*

1           (2) *The Transportation Security Administration*  
2           *has only recently developed a multiyear technology*  
3           *investment plan, and has underutilized innovation*  
4           *opportunities within the private sector, including*  
5           *from small businesses.*

6           (3) *The Transportation Security Administration*  
7           *has faced challenges in meeting key performance re-*  
8           *quirements for several major acquisitions and pro-*  
9           *curements, resulting in reduced security effectiveness*  
10          *and wasted expenditures.*

11 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**  
12                                   **QUISITION REFORM.**

13          (a) *IN GENERAL.*—*Title XVI of the Homeland Secu-*  
14          *rity Act of 2002 (Public Law 107–296; 116 Stat. 2312) is*  
15          *amended to read as follows:*

16                   **“TITLE XVI—TRANSPORTATION**  
17                                   **SECURITY**

18                   **“Subtitle A—General Provisions**

19                   **“SEC. 1601. DEFINITIONS.**

20                   *“In this title:*

21                                   *“(1) ADMINISTRATION.—The term ‘Administra-*  
22                                   *tion’ means the Transportation Security Administra-*  
23                                   *tion.*

1           “(2) *ADMINISTRATOR.*—*The term ‘Adminis-*  
2           *trator’ means the Administrator of the Transpor-*  
3           *tation Security Administration.*

4           “(3) *PLAN.*—*The term ‘Plan’ means the strategic*  
5           *5-year technology investment plan developed by the*  
6           *Administrator under section 1611.*

7           “(4) *SECURITY-RELATED TECHNOLOGY.*—*The*  
8           *term ‘security-related technology’ means any tech-*  
9           *nology that assists the Administration in the preven-*  
10          *tion of, or defense against, threats to United States*  
11          *transportation systems, including threats to people,*  
12          *property, and information.*

13       **“Subtitle B—Transportation Secu-**  
14       ***urity Administration Acquisition***  
15       ***Improvements***

16       **“SEC. 1611. 5-YEAR TECHNOLOGY INVESTMENT PLAN.**

17           “(a) *IN GENERAL.*—*The Administrator shall—*

18           “(1) *not later than 180 days after the date of the*  
19           *enactment of the Transportation Security Acquisition*  
20           *Reform Act, develop and submit to Congress a stra-*  
21           *tegic 5-year technology investment plan, that may in-*  
22           *clude a classified addendum to report sensitive trans-*  
23           *portation security risks, technology vulnerabilities, or*  
24           *other sensitive security information; and*

1           “(2) to the extent possible, publish the Plan in  
2           an unclassified format in the public domain.

3           “(b) CONSULTATION.—The Administrator shall de-  
4           velop the Plan in consultation with—

5                   “(1) the Under Secretary for Management;

6                   “(2) the Under Secretary for Science and Tech-  
7           nology;

8                   “(3) the Chief Information Officer; and

9                   “(4) the aviation industry stakeholder advisory  
10          committee established by the Administrator.

11          “(c) APPROVAL.—The Administrator may not publish  
12          the Plan under subsection (a)(2) until it has been approved  
13          by the Secretary.

14          “(d) CONTENTS OF PLAN.—The Plan shall include—

15                   “(1) an analysis of transportation security risks  
16                  and the associated capability gaps that would be best  
17                  addressed by security-related technology, including  
18                  consideration of the most recent quadrennial home-  
19                  land security review under section 707;

20                   “(2) a set of security-related technology acquisi-  
21                  tion needs that—

22                           “(A) is prioritized based on risk and associ-  
23                           ated capability gaps identified under paragraph  
24                           (1); and

1           “(B) includes planned technology programs  
2           and projects with defined objectives, goals,  
3           timelines, and measures;

4           “(3) an analysis of current and forecast trends  
5           in domestic and international passenger travel;

6           “(4) an identification of currently deployed secu-  
7           rity-related technologies that are at or near the end  
8           of their lifecycles;

9           “(5) an identification of test, evaluation, mod-  
10          eling, and simulation capabilities, including target  
11          methodologies, rationales, and timelines necessary to  
12          support the acquisition of the security-related tech-  
13          nologies expected to meet the needs under paragraph  
14          (2);

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 for the management of  
22          planned security-related technology acquisitions, in-  
23          cluding consideration of leveraging acquisition exper-  
24          tise of other Federal 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 attack;

5           “(9) an identification of initiatives to streamline  
6 the Administration’s acquisition process and provide  
7 greater predictability and clarity to small, medium,  
8 and large businesses, including the timeline for test-  
9 ing and evaluation;

10          “(10) an assessment of the impact to commercial  
11 aviation passengers;

12          “(11) a strategy for consulting airport manage-  
13 ment, air carrier representatives, and Federal secu-  
14 rity directors whenever an acquisition will lead to the  
15 removal of equipment at airports, and how the strat-  
16 egy for consulting with such officials of the relevant  
17 airports will address potential negative impacts on  
18 commercial passengers or airport operations; and

19          “(12) in consultation with the National Insti-  
20 tutes of Standards and Technology, an identification  
21 of security-related technology interface standards, in  
22 existence or if implemented, that could promote more  
23 interoperable passenger, baggage, and cargo screening  
24 systems.

1       “(e) *LEVERAGING THE PRIVATE SECTOR.*—*To the ex-*  
2 *tent possible, and in a manner that is consistent with fair*  
3 *and equitable practices, the Plan shall—*

4               “(1) *leverage emerging technology trends and re-*  
5 *search and development investment trends within the*  
6 *public and private sectors;*

7               “(2) *incorporate private sector input, including*  
8 *from the aviation industry stakeholder advisory com-*  
9 *mittee established by the Administrator, through re-*  
10 *quests for information, industry days, and other in-*  
11 *novative means consistent with the Federal Acquisi-*  
12 *tion Regulation; and*

13               “(3) *in consultation with the Under Secretary*  
14 *for Science and Technology, identify technologies in*  
15 *existence or in development that, with or without ad-*  
16 *aptation, are expected to be suitable to meeting mis-*  
17 *sion needs.*

18       “(f) *DISCLOSURE.*—*The Administrator shall include*  
19 *with the Plan a list of nongovernment persons that contrib-*  
20 *uted to the writing of the Plan.*

21       “(g) *UPDATE AND REPORT.*—*Beginning 2 years after*  
22 *the date the Plan is submitted to Congress under subsection*  
23 *(a), and biennially thereafter, the Administrator shall sub-*  
24 *mit to Congress—*

25               “(1) *an update of the Plan; and*

1           “(2) a report on the extent to which each secu-  
2           rity-related technology acquired by the Administra-  
3           tion since the last issuance or update of the Plan is  
4           consistent with the planned technology programs and  
5           projects identified under subsection (d)(2) for that se-  
6           curity-related technology.

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

8           “(a) *ACQUISITION JUSTIFICATION.*—Before the Ad-  
9           ministration implements any security-related technology  
10          acquisition, the Administrator, in accordance with the De-  
11          partment’s policies and directives, shall determine whether  
12          the acquisition is justified by conducting an analysis that  
13          includes—

14               “(1) an identification of the scenarios and level  
15               of risk to transportation security from those scenarios  
16               that would be addressed by the security-related tech-  
17               nology acquisition;

18               “(2) an assessment of how the proposed acquisi-  
19               tion aligns to the Plan;

20               “(3) a comparison of the total expected lifecycle  
21               cost against the total expected quantitative and quali-  
22               tative benefits to transportation security;

23               “(4) an analysis of alternative security solutions,  
24               including policy or procedure solutions, to determine  
25               if the proposed security-related technology acquisition

1 *is the most effective and cost-efficient solution based*  
2 *on cost-benefit considerations;*

3 *“(5) an assessment of the potential privacy and*  
4 *civil liberties implications of the proposed acquisition*  
5 *that includes, to the extent practicable, consultation*  
6 *with organizations that advocate for the protection of*  
7 *privacy and civil liberties;*

8 *“(6) a determination that the proposed acquisi-*  
9 *tion is consistent with fair information practice prin-*  
10 *ciples issued by the Privacy Officer of the Depart-*  
11 *ment;*

12 *“(7) confirmation that there are no significant*  
13 *risks to human health or safety posed by the proposed*  
14 *acquisition; and*

15 *“(8) an estimate of the benefits to commercial*  
16 *aviation passengers.*

17 *“(b) REPORTS AND CERTIFICATION TO CONGRESS.—*

18 *“(1) IN GENERAL.—Not later than the end of the*  
19 *30-day period preceding the award by the Adminis-*  
20 *tration of a contract for any security-related tech-*  
21 *nology acquisition exceeding \$30,000,000, the Admin-*  
22 *istrator shall submit to the Committee on Commerce,*  
23 *Science, and Transportation of the Senate and the*  
24 *Committee on Homeland Security of the House of*  
25 *Representatives—*

1           “(A) *the results of the comprehensive acqui-*  
2           *sition justification under subsection (a); and*

3           “(B) *a certification by the Administrator*  
4           *that the benefits to transportation security jus-*  
5           *tify the contract cost.*

6           “(2) *EXTENSION DUE TO IMMINENT TERRORIST*  
7           *THREAT.—If there is a known or suspected imminent*  
8           *threat to transportation security, the Administrator—*

9           “(A) *may reduce the 30-day period under*  
10           *paragraph (1) to 5 days to rapidly respond to*  
11           *the threat; and*

12           “(B) *shall immediately notify the Com-*  
13           *mittee on Commerce, Science, and Transpor-*  
14           *tation of the Senate and the Committee on*  
15           *Homeland Security of the House of Representa-*  
16           *tives of the known or suspected imminent threat.*

17           “**SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**  
18           **REPORTS.**

19           “(a) *BASELINE REQUIREMENTS.—*

20           “(1) *IN GENERAL.—Before the Administration*  
21           *implements any security-related technology acqui-*  
22           *sition, the appropriate acquisition official of the De-*  
23           *partment shall establish and document a set of formal*  
24           *baseline requirements.*

1           “(2) *CONTENTS.*—*The baseline requirements*  
2 *under paragraph (1) shall—*

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

7           “(B) *identify the acquisition risks and a*  
8 *plan for mitigating those risks; and*

9           “(C) *assess the personnel necessary to man-*  
10 *age the acquisition process, manage the ongoing*  
11 *program, and support training and other oper-*  
12 *ations as necessary.*

13           “(3) *FEASIBILITY.*—*In establishing the perform-*  
14 *ance milestones under paragraph (2)(A), the appro-*  
15 *prate acquisition official of the Department, to the*  
16 *extent possible and in consultation with the Under*  
17 *Secretary for Science and Technology, shall ensure*  
18 *that achieving those milestones is technologically fea-*  
19 *sible.*

20           “(4) *TEST AND EVALUATION PLAN.*—*The Admin-*  
21 *istrator, in consultation with the Under Secretary for*  
22 *Science and Technology, shall develop a test and eval-*  
23 *uation plan that describes—*

24           “(A) *the activities that are expected to be*  
25 *required to assess acquired technologies against*

1        *the performance milestones established under*  
2        *paragraph (2)(A);*

3                *“(B) the necessary and cost-effective com-*  
4        *bination of laboratory testing, field testing, mod-*  
5        *eling, simulation, and supporting analysis to en-*  
6        *sure that such technologies meet the Administra-*  
7        *tion’s mission needs;*

8                *“(C) an efficient planning schedule to en-*  
9        *sure that test and evaluation activities are com-*  
10        *pleted without undue delay; and*

11                *“(D) if commercial aviation passengers are*  
12        *expected to interact with the security-related*  
13        *technology, methods that could be used to meas-*  
14        *ure passenger acceptance of and familiarization*  
15        *with the security-related technology.*

16                *“(5) VERIFICATION AND VALIDATION.—The ap-*  
17        *propriate acquisition official of the Department—*

18                *“(A) subject to subparagraph (B), shall uti-*  
19        *lize independent reviewers to verify and validate*  
20        *the performance milestones and cost estimates de-*  
21        *veloped under paragraph (2) for a security-re-*  
22        *lated technology that pursuant to section*  
23        *1611(d)(2) has been identified as a high priority*  
24        *need in the most recent Plan; and*

1           “(B) shall ensure that the use of inde-  
2           pendent reviewers does not unduly delay the  
3           schedule of any acquisition.

4           “(6) *STREAMLINING ACCESS FOR INTERESTED*  
5           *VENDORS.—The Administrator shall establish a*  
6           *streamlined process for an interested vendor of a secu-*  
7           *rity-related technology to request and receive appro-*  
8           *priate access to the baseline requirements and test*  
9           *and evaluation plans that are necessary for the ven-*  
10          *дор to participate in the acquisitions process for that*  
11          *technology.*

12          “(b) *REVIEW OF BASELINE REQUIREMENTS AND DEVI-*  
13          *ATION; REPORT TO CONGRESS.—*

14                 “(1) *REVIEW.—*

15                         “(A) *IN GENERAL.—The appropriate acqui-*  
16                         *sition official of the Department shall review and*  
17                         *assess each implemented acquisition to determine*  
18                         *if the acquisition is meeting the baseline require-*  
19                         *ments established under subsection (a).*

20                         “(B) *TEST AND EVALUATION ASSESS-*  
21                         *MENT.—The review shall include an assessment*  
22                         *of whether—*

23                                 “(i) *the planned testing and evaluation*  
24                                 *activities have been completed; and*

1           “(ii) the results of that testing and  
2           evaluation demonstrate that the perform-  
3           ance milestones are technologically feasible.

4           “(2) REPORT.—Not later than 30 days after  
5           making a finding described in clause (i), (ii), or (iii)  
6           of subparagraph (A), the Administrator shall submit  
7           a report to the Committee on Commerce, Science, and  
8           Transportation of the Senate and the Committee on  
9           Homeland Security of the House of Representatives  
10          that includes—

11           “(A) the results of any assessment that finds  
12          that—

13           “(i) the actual or planned costs exceed  
14          the baseline costs by more than 10 percent;

15           “(ii) the actual or planned schedule for  
16          delivery has been delayed by more than 180  
17          days; or

18           “(iii) there is a failure to meet any  
19          performance milestone that directly impacts  
20          security effectiveness;

21          “(B) the cause for such excessive costs,  
22          delay, or failure; and

23          “(C) a plan for corrective action.

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

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

7       “(b) *TRACKING OF INVENTORY.*—

8               “(1) *IN GENERAL.*—*The Administrator shall es-*  
9 *tablish a process for tracking—*

10                       “(A) *the location of security-related equip-*  
11 *ment in the inventory under subsection (a);*

12                       “(B) *the utilization status of security-re-*  
13 *lated technology in the inventory under sub-*  
14 *section (a); and*

15                       “(C) *the quantity of security-related equip-*  
16 *ment in the inventory under subsection (a).*

17       “(2) *INTERNAL CONTROLS.*—*The Administrator*  
18 *shall implement internal controls to ensure up-to-date*  
19 *accurate data on security-related technology owned,*  
20 *deployed, and in use.*

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 LOGISTICS.*—  
2           *The Administrator may not use just-in-time logistics*  
3           *if doing so—*

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

7                   “(B) *would unduly diminish surge capacity*  
8                   *for 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, and*  
12           *annually thereafter, the Administrator shall submit a re-*  
13           *port to the Committee on Commerce, Science, and Trans-*  
14           *portation of the Senate and the Committee on Homeland*  
15           *Security of the House of Representatives that includes—*

16                   “(1) *the Administration’s performance record*  
17                   *with respect to meeting its published small-business*  
18                   *contracting goals during the preceding fiscal year;*

19                   “(2) *if the goals described in paragraph (1) were*  
20                   *not met or the Administration’s performance was*  
21                   *below the published small-business contracting goals*  
22                   *of the Department—*

23                           “(A) *a list of challenges, including devi-*  
24                           *ations from the Administration’s subcontracting*

1           *plans, and factors that contributed to the level of*  
2           *performance during the preceding fiscal year;*

3           *“(B) an action plan, with benchmarks, for*  
4           *addressing each of the challenges identified in*  
5           *subparagraph (A) that—*

6                   *“(i) is prepared after consultation with*  
7                   *the Secretary of Defense and the heads of*  
8                   *Federal departments and agencies that*  
9                   *achieved their published goals for prime*  
10                  *contracting with small and minority-owned*  
11                  *businesses, including small and disadvan-*  
12                  *taged businesses, in prior fiscal years; and*

13                   *“(ii) identifies policies and procedures*  
14                   *that could be incorporated by the Adminis-*  
15                   *tration in furtherance of achieving the Ad-*  
16                   *ministration’s published goal for such con-*  
17                   *tracting; and*

18           *“(3) a status report on the implementation of the*  
19           *action plan that was developed in the preceding fiscal*  
20           *year in accordance with paragraph (2)(B), if such a*  
21           *plan was required.*

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

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

8 (b) **CONFORMING AMENDMENT.**—*The table of contents*  
 9 *in section 1(b) of the Homeland Security Act of 2002 is*  
 10 *amended by striking the items relating to title XVI and in-*  
 11 *serting the following:*

**“TITLE XVI—TRANSPORTATION SECURITY**

**“Subtitle A—General Provisions**

**“Sec. 1601. Definitions.**

**“Subtitle B—Transportation Security Administration Acquisition Improvements**

**“Sec. 1611. 5-year 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.”.**

12 (c) **PRIOR AMENDMENTS NOT AFFECTED.**—*Nothing in*  
 13 *this section may be construed to affect any amendment*  
 14 *made by title XVI of the Homeland Security Act of 2002*  
 15 *as in effect before the date of enactment of this Act.*

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

17 (a) **IMPLEMENTATION OF PREVIOUS RECOMMENDA-**  
 18 **TIONS.**—*Not later than 1 year after the date of enactment*  
 19 *of this Act, the Comptroller General of the United States*

1 *shall submit a report to Congress that contains an assess-*  
2 *ment of the Transportation Security Administration’s im-*  
3 *plementation of recommendations regarding the acquisition*  
4 *of security-related technology that were made by the Gov-*  
5 *ernment Accountability Office before the date of the enact-*  
6 *ment of this Act.*

7       **(b) IMPLEMENTATION OF SUBTITLE B OF TITLE**  
8 *XVI.—Not later than 1 year after the date of enactment*  
9 *of this Act and 3 years thereafter, the Comptroller General*  
10 *of the United States shall submit a report to Congress that*  
11 *contains an evaluation of the Transportation Security Ad-*  
12 *ministration’s progress in implementing subtitle B of title*  
13 *XVI of the Homeland Security Act of 2002, as amended*  
14 *by section 3, including any efficiencies, cost savings, or*  
15 *delays that have resulted from such implementation.*

16 **SEC. 5. REPORT ON FEASIBILITY OF INVENTORY TRACKING.**

17       *Not later than 90 days after the date of enactment of*  
18 *this Act, the Administrator of the Transportation Security*  
19 *Administration shall submit a report to Congress on the*  
20 *feasibility of tracking security-related technology, including*  
21 *software solutions, of the Administration through auto-*  
22 *mated information and data capture technologies.*

1 **SEC. 6. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF**  
2 **TSA'S TEST AND EVALUATION PROCESS.**

3 *Not later than 1 year after the date of enactment of*  
4 *this Act, the Comptroller General of the United States shall*  
5 *submit a report to Congress that includes—*

6 *(1) an evaluation of the Transportation Security*  
7 *Administration's testing and evaluation activities re-*  
8 *lated to security-related technology;*

9 *(2) information on the extent to which—*

10 *(A) the execution of such testing and eval-*  
11 *uation activities is aligned, temporally and oth-*  
12 *erwise, with the Administration's annual budget*  
13 *request, acquisition needs, planned procurements,*  
14 *and acquisitions for technology programs and*  
15 *projects; and*

16 *(B) security-related technology that has been*  
17 *tested, evaluated, and certified for use by the Ad-*  
18 *ministration but was not procured by the Ad-*  
19 *ministration, including the reasons the procure-*  
20 *ment did not occur; and*

21 *(3) recommendations—*

22 *(A) to improve the efficiency and efficacy of*  
23 *such testing and evaluation activities; and*

24 *(B) to better align such testing and evalua-*  
25 *tion with the acquisitions process.*

1 **SEC. 7. NO ADDITIONAL AUTHORIZATION OF APPROPRIA-**  
2 **TIONS.**

3 *No additional funds are authorized to be appropriated*  
4 *to carry out this Act or the amendments made by this Act.*

Attest:

*Secretary.*

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H.R. 2719**

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**AMENDMENT**