

TRANSPARENCY IN TECHNOLOGICAL ACQUISITIONS ACT
OF 2017

MARCH 20, 2017.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 1353]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1353) to amend the Homeland Security Act of 2002 to require certain additional information to be submitted to Congress regarding the strategic 5-year technology investment plan of the Transportation Security Administration, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 1353 is to amend the Homeland Security Act of 2002 (Pub. L. 107-296) to require certain additional information to be submitted to Congress regarding the strategic 5-year technology investment plan of the Transportation Security Administration.

BACKGROUND AND NEED FOR LEGISLATION

Congress previously enacted legislation to require a 5-year technology investment plan for the Transportation Security Administration (TSA), in order to provide greater transparency for policymakers and stakeholders into the direction TSA intends to go in technology procurement. Unfortunately, TSA issued disparate strategic guidance among different documents, thus continued to cause confusion among industry stakeholders. This legislation will ensure that TSA's 5-year plan is updated more consistently and that Congress and stakeholders are informed of any changes in procurement costs.

HEARINGS

The Committee did not hold any legislative hearings on H.R. 1353 in the 115th Congress. However, this legislation was informed by a Subcommittee on Transportation and Protective Security hearing on February 2, 2017, entitled "The Future of the Transportation Security Administration." The Subcommittee received testimony from Mr. Roger Dow, CEO, U.S. Travel Association; Ms. Nina E. Brooks, Head of Security, Airports Council International; and Mr. J. David Cox, National President, American Federation of Government Employees.

In the 114th Congress, the Subcommittee on Transportation Security held a hearing on January 7, 2016, entitled "Transportation Security Acquisition Reform: Examining Remaining Challenges," at which the Subcommittee received testimony from Mr. Steven Wallen, Director, Explosives Division, Homeland Security Advanced Research Projects Agency, Science and Technology Directorate, U.S. Department of Homeland Security; Ms. Jill Vaughan, Assistant Administrator, Office of Security Technologies, Transportation Security Administration, U.S. Department of Homeland Security; Ms. Michele Mackin, Director, Office Acquisition and Sourcing Management, U.S. Government Accountability Office; and Mr. TJ Schulz, Executive Director, Security Manufacturers Coalition. This hearing informed the Subcommittee's oversight and subsequent legislation on the issue of technology procurement significantly.

COMMITTEE CONSIDERATION

The Committee met on March 8, 2017, to consider H.R. 1353, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 1353.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1353, the Transparency in Technological Acquisitions Act of 2017, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 1353 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation is intended to enhance the overall accountability of and insight into TSA's technology procurement. This will be accomplished by making the current biannual requirement for a 5-year plan an annual requirement and by supplying Congress with information about acquisitions completed during the preceding and current Fiscal Year in which the report is submitted. The legislation also directs TSA to inform Congress of changes in procurement costs, changes to procurement plans related to the report, as well as equipment lifecycle information.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 1353 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 1353 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 1353 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Transparency in Technological Acquisitions Act of 2017”.

Sec. 2. Information Required to be Submitted to Congress under the Strategic 5-year Technology Investment Plan of the Transportation Security Administration.

This section amends the Homeland Security Act of 2002 to require the Transportation Security Administration (TSA) to annually report to Congress information about technological acquisitions completed in the preceding and current fiscal year. The section also directs the Administrator of TSA to submit to required Congressional committees notice of any increase or decrease in the dollar

amount allocated to the procurement of a technology or increase in the number of units of a technology. Additionally, this section requires the Administrator to submit to Congress a report on technology begin used after its operational lifecycle or its useful life projection, as specified by either the manufacturer or TSA's own 5-year technology investment plan. Finally, TSA is required to notify airports and airlines of any changes to the 5-year technology investment plan.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

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**TITLE XVI—TRANSPORTATION
SECURITY**

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

SEC. 1611. 5-YEAR TECHNOLOGY INVESTMENT PLAN.

(a) IN GENERAL.—The Administrator shall—

(1) not later than 180 days after the date of the enactment of the Transportation Security Acquisition Reform Act, develop and submit to Congress a strategic 5-year technology investment plan, that may include a classified addendum to report sensitive transportation security risks, technology vulnerabilities, or other sensitive security information; and

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

(b) CONSULTATION.—The Administrator shall develop the Plan in consultation with—

(1) the Under Secretary for Management;

(2) the Under Secretary for Science and Technology;

(3) the Chief Information Officer; and

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

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

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

(1) an analysis of transportation security risks and the associated capability gaps that would be best addressed by security-related technology, including consideration of the most recent quadrennial homeland security review under section 707;

(2) a set of security-related technology acquisition needs that—

(A) is prioritized based on risk and associated capability gaps identified under paragraph (1); and

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

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

(4) an identification of currently deployed security-related technologies that are at or near the end of their lifecycles;

(5) an identification of test, evaluation, modeling, and simulation capabilities, including target methodologies, rationales, and timelines necessary to support the acquisition of the security-related technologies expected to meet the needs under paragraph (2);

(6) an identification of opportunities for public-private partnerships, small and disadvantaged company participation, intragovernment collaboration, university centers of excellence, and national laboratory technology transfer;

(7) an identification of the Administration's acquisition workforce needs for the management of planned security-related technology acquisitions, including consideration of leveraging acquisition expertise of other Federal agencies;

(8) an identification of the security resources, including information security resources, that will be required to protect security-related technology from physical or cyber theft, diversion, sabotage, or attack;

(9) an identification of initiatives to streamline the Administration's acquisition process and provide greater predictability and clarity to small, medium, and large businesses, including the timeline for testing and evaluation;

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

(11) a strategy for consulting airport management, air carrier representatives, and Federal security directors whenever an acquisition will lead to the removal of equipment at airports, and how the strategy for consulting with such officials of the relevant airports will address potential negative impacts on commercial passengers or airport operations; and

(12) in consultation with the National Institutes of Standards and Technology, an identification of security-related technology interface standards, in existence or if implemented, that could promote more interoperable passenger, baggage, and cargo screening systems.

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

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

(2) incorporate private sector input, including from the aviation industry stakeholder advisory committee established by the Administrator, through requests for information, industry days, and other innovative means consistent with the Federal Acquisition Regulation; and

(3) in consultation with the Under Secretary for Science and Technology, identify technologies in existence or in development that, with or without adaptation, are expected to be suitable to meeting mission needs.

(f) DISCLOSURE.—The Administrator shall include with the Plan a list of nongovernment persons that contributed to the writing of the Plan.

(g) UPDATE AND REPORT.—Beginning 2 years after the date the Plan is submitted to Congress under subsection (a), and [biennially] annually thereafter, the Administrator shall submit to Congress—

(1) an update of the Plan; [and]

(2) a report on the extent to which each security-related technology acquired by the Administration since the last issuance or update of the Plan is consistent with the planned technology programs and projects identified under subsection (d)(2) for that security-related technology[.]; and

(3) information about acquisitions completed during the fiscal year preceding the fiscal year during which the report is submitted.

(h) NOTICE OF COVERED CHANGES TO PLAN.—

(1) NOTICE REQUIRED.—The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives notice of any covered change to the Plan by not later than 90 days after the date on which the change is made.

(2) DEFINITION OF CHANGE.—In this subsection, the term “covered change” means an increase or decrease in the dollar amount allocated to the procurement of a technology or an increase or decrease in the number of a technology.

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