

### **§ 1133. National Strategy for Public Transportation Security**

#### **(a) National Strategy**

Not later than 9 months after August 3, 2007, and based upon the previous and ongoing security assessments conducted by the Department and the Department of Transportation, the Secretary, consistent with and as required by section 114(t)<sup>1</sup> of title 49, shall develop and implement the modal plan for public transportation, entitled the “National Strategy for Public Transportation Security”.

#### **(b) Purpose**

##### **(1) Guidelines**

In developing the National Strategy for Public Transportation Security, the Secretary shall establish guidelines for public transportation security that—

- (A) minimize security threats to public transportation systems; and
- (B) maximize the abilities of public transportation systems to mitigate damage resulting from terrorist attack or other major incident.

##### **(2) Assessments and consultations**

In developing the National Strategy for Public Transportation Security, the Secretary shall—

- (A) use established and ongoing public transportation security assessments as the basis of the National Strategy for Public Transportation Security; and
- (B) consult with all relevant stakeholders, including public transportation agencies, nonprofit labor organizations representing public transportation employees, emergency responders, public safety officials, and other relevant parties.

#### **(c) Contents**

In the National Strategy for Public Transportation Security, the Secretary shall describe prioritized goals, objectives, policies, actions, and schedules to improve the security of public transportation.

#### **(d) Responsibilities**

The Secretary shall include in the National Strategy for Public Transportation Security a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, tribal governments, and appropriate stakeholders. The plan shall also include—

- (1) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities of Federal agencies; and
- (2) a process for coordinating existing or future security strategies and plans for public transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive-7; Executive Order No. 13416: Strengthening Surface Transportation Security dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities

dated September 28, 2004; and subsequent annexes and agreements.

#### **(e) Adequacy of existing plans and strategies**

In developing the National Strategy for Public Transportation Security, the Secretary shall use relevant existing risk assessments and strategies developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t)<sup>1</sup> of title 49 or Homeland Security Presidential Directive-7.

#### **(f) Funding**

There is authorized to be appropriated to the Secretary to carry out this section \$2,000,000 for fiscal year 2008.

(Pub. L. 110-53, title XIV, § 1404, Aug. 3, 2007, 121 Stat. 401.)

### **Editorial Notes**

#### **REFERENCES IN TEXT**

Section 114(t) of title 49, referred to in subsecs. (a) and (e), was redesignated section 114(s) of title 49 by Pub. L. 110-161, div. E, title V, § 568(a), Dec. 26, 2007, 121 Stat. 2092.

Executive Order No. 13416, referred to in subsec. (d)(2), is set out as a note under section 1101 of this title.

### **§ 1134. Security assessments and plans**

#### **(a) Public transportation security assessments**

##### **(1) Submission**

Not later than 30 days after August 3, 2007, the Administrator of the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary.

##### **(2) Secretarial review**

Not later than 60 days after receiving the submission under paragraph (1), the Secretary shall review and augment the security assessments received, and conduct additional security assessments as necessary to ensure that at a minimum, all high risk public transportation agencies, as determined by the Secretary, will have a completed security assessment.

##### **(3) Content**

The Secretary shall ensure that each completed security assessment includes—

- (A) identification of critical assets, infrastructure, and systems and their vulnerabilities; and
- (B) identification of any other security weaknesses, including weaknesses in emergency response planning and employee training.

#### **(b) Bus and rural public transportation systems**

Not later than 180 days after August 3, 2007, the Secretary shall—

- (1) conduct security assessments, based on a representative sample, to determine the specific needs of—
  - (A) local bus-only public transportation systems; and
  - (B) public transportation systems that receive funds under section 5311 of title 49; and

<sup>1</sup> See References in Text note below.

(2) make the representative assessments available for use by similarly situated systems.

**(c) Security plans**

**(1) Requirement for plan**

**(A) High risk agencies**

The Secretary shall require public transportation agencies determined by the Secretary to be at high risk for terrorism to develop a comprehensive security plan. The Secretary shall provide technical assistance and guidance to public transportation agencies in preparing and implementing security plans under this section.

**(B) Other agencies**

Provided that no public transportation agency that has not been designated high risk shall be required to develop a security plan, the Secretary may also establish a security program for public transportation agencies not designated high risk by the Secretary, to assist those public transportation agencies which request assistance, including—

- (i) guidance to assist such agencies in conducting security assessments and preparing and implementing security plans; and
- (ii) a process for the Secretary to review and approve such assessments and plans, as appropriate.

**(2) Contents of plan**

The Secretary shall ensure that security plans include, as appropriate—

- (A) a prioritized list of all items included in the public transportation agency's security assessment that have not yet been addressed;
- (B) a detailed list of any additional capital and operational improvements identified by the Department or the public transportation agency and a certification of the public transportation agency's technical capacity for operating and maintaining any security equipment that may be identified in such list;
- (C) specific procedures to be implemented or used by the public transportation agency in response to a terrorist attack, including evacuation and passenger communication plans and appropriate evacuation and communication measures for the elderly and individuals with disabilities;
- (D) a coordinated response plan that establishes procedures for appropriate interaction with State and local law enforcement agencies, emergency responders, and Federal officials in order to coordinate security measures and plans for response in the event of a terrorist attack or other major incident;
- (E) a strategy and timeline for conducting training under section 1137 of this title;
- (F) plans for providing redundant and other appropriate backup systems necessary to ensure the continued operation of critical elements of the public transportation system in the event of a terrorist attack or other major incident;

(G) plans for providing service capabilities throughout the system in the event of a terrorist attack or other major incident in the city or region which the public transportation system serves;

(H) methods to mitigate damage within a public transportation system in case of an attack on the system, including a plan for communication and coordination with emergency responders; and

(I) other actions or procedures as the Secretary determines are appropriate to address the security of the public transportation system.

**(3) Review**

Not later than 6 months after receiving the plans required under this section, the Secretary shall—

(A) review each security plan submitted;

(B) require the public transportation agency to make any amendments needed to ensure that the plan meets the requirements of this section; and

(C) approve any security plan that meets the requirements of this section.

**(4) Exemption**

The Secretary shall not require a public transportation agency to develop a security plan under paragraph (1) if the agency does not receive a grant under section 1135 of this title.

**(5) Waiver**

The Secretary may waive the exemption provided in paragraph (4) to require a public transportation agency to develop a security plan under paragraph (1) in the absence of grant funds under section 1135 of this title if not less than 3 days after making the determination the Secretary provides the appropriate congressional committees and the public transportation agency written notification detailing the need for the security plan, the reasons grant funding has not been made available, and the reason the agency has been designated high risk.

**(d) Consistency with other plans**

The Secretary shall ensure that the security plans developed by public transportation agencies under this section are consistent with the security assessments developed by the Department and the National Strategy for Public Transportation Security developed under section 1133 of this title.

**(e) Updates**

Not later than September 30, 2008, and annually thereafter, the Secretary shall—

- (1) update the security assessments referred to in subsection (a);
- (2) update the security improvement priorities required under subsection (f); and
- (3) require public transportation agencies to update the security plans required under subsection (c) as appropriate.

**(f) Security improvement priorities**

**(1) In general**

Beginning in fiscal year 2008 and each fiscal year thereafter, the Secretary, after consultation with management and nonprofit em-

ployee labor organizations representing public transportation employees as appropriate, and with appropriate State and local officials, shall utilize the information developed or received in this section to establish security improvement priorities unique to each individual public transportation agency that has been assessed.

**(2) Allocations**

The Secretary shall use the security improvement priorities established in paragraph (1) as the basis for allocating risk-based grant funds under section 1135 of this title, unless the Secretary notifies the appropriate congressional committees that the Secretary has determined an adjustment is necessary to respond to an urgent threat or other significant national security factors.

**(g) Shared facilities**

The Secretary shall encourage the development and implementation of coordinated assessments and security plans to the extent a public transportation agency shares facilities (such as tunnels, bridges, stations, or platforms) with another public transportation agency, a freight or passenger railroad carrier, or over-the-road bus operator that are geographically close or otherwise co-located.

**(h) Nondisclosure of information**

**(1) Submission of information to Congress**

Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

**(2) Disclosure of independently furnished information**

Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a public transportation agency under any other Federal law.

**(i) Determination**

In response to a petition by a public transportation agency or at the discretion of the Secretary, the Secretary may recognize existing procedures, protocols, and standards of a public transportation agency that the Secretary determines meet all or part of the requirements of this section regarding security assessments or security plans.

(Pub. L. 110-53, title XIV, §1405, Aug. 3, 2007, 121 Stat. 402.)

**§ 1135. Public transportation security assistance**

**(a) Security assistance program**

**(1) In general**

The Secretary shall establish a program for making grants to eligible public transportation agencies for security improvements described in subsection (b).

**(2) Eligibility**

A public transportation agency is eligible for a grant under this section if the Secretary has performed a security assessment or the agency has developed a security plan under

section 1134 of this title. Grant funds shall only be awarded for permissible uses under subsection (b) to—

- (A) address items included in a security assessment; or
- (B) further a security plan.

**(b) Uses of funds**

A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

**(1) Capital uses of funds, including—**

- (A) tunnel protection systems;
- (B) perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades;
- (C) redundant critical operations control systems;
- (D) chemical, biological, radiological, or explosive detection systems, including the acquisition of canines used for such detection;
- (E) surveillance equipment;
- (F) communications equipment, including mobile service equipment to provide access to wireless Enhanced 911 (E911) emergency services in an underground fixed guideway system;
- (G) emergency response equipment, including personal protective equipment;
- (H) fire suppression and decontamination equipment;
- (I) global positioning or tracking and recovery equipment, and other automated-vehicle-locator-type system equipment;
- (J) evacuation improvements;
- (K) purchase and placement of bomb-resistant trash cans throughout public transportation facilities, including subway exits, entrances, and tunnels;
- (L) capital costs associated with security awareness, security preparedness, and security response training, including training under section 1137 of this title and exercises under section 1136 of this title;
- (M) security improvements for public transportation systems, including extensions thereto, in final design or under construction;
- (N) security improvements for stations and other public transportation infrastructure, including stations and other public transportation infrastructure owned by State or local governments; and
- (O) other capital security improvements determined appropriate by the Secretary.

**(2) Operating uses of funds, including—**

- (A) security training and associated backfill, including training under section 1137 of this title and training developed by institutions of higher education and by nonprofit employee labor organizations, for public transportation employees, including front-line employees;
- (B) live or simulated exercises under section 1136 of this title;
- (C) public awareness campaigns for enhanced public transportation security;
- (D) canine patrols for chemical, radiological, biological, or explosives detection;
- (E) development of security plans under section 1134 of this title;