

Calendar No. 599

113TH CONGRESS
2^D SESSION**S. 1893****[Report No. 113–274]**

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 SENATE OF THE UNITED STATES

DECEMBER 20, 2013

Ms. AYOTTE (for herself, Mr. BLUNT, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 17, 2014

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

11 (2) TSA has not developed a multiyear tech-
12 nology investment plan. As a result, TSA has under-
13 utilized innovation opportunities within the private
14 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
19 reduced security effectiveness and wasted expendi-
20 tures.

21 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**
22 **QUISITION REFORM.**

23 (a) **IN GENERAL.**—Title XVI of the Homeland Secu-
24 rity Act of 2002 (116 Stat. 2312 et seq.) is amended to
25 read as follows:

“TITLE XVI—TRANSPORTATION SECURITY

“Subtitle A—General Provisions

“SEC. 1601. DEFINITIONS.

“In this title:

“(1) ADMINISTRATION.—The term ‘Administration’ means the Transportation Security Administration.

“(2) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Transportation Security Administration.

“(3) PLAN.—The term ‘Plan’ means the multiyear technology investment plan developed by the Administrator under section 1611.

“(4) SECURITY-RELATED TECHNOLOGY.—The term ‘security-related technology’ means any technology that assists the Administration in the prevention of, or defense against, threats to United States transportation systems, including threats to people, property, and information.

“Subtitle B—Transportation Security Administration Acquisition Improvements

“SEC. 1611. MULTIYEAR TECHNOLOGY INVESTMENT PLAN.

“(a) IN GENERAL.—The Administrator—

1 “(1) not later than 180 days after the date of
 2 the enactment of this subtitle, shall develop and sub-
 3 mit to Congress a strategic multiyear technology in-
 4 vestment plan, which may include a classified adden-
 5 dum to report sensitive transportation security risks,
 6 technology vulnerabilities, or other sensitive security
 7 information; and

8 “(2) to the extent possible, shall publish the
 9 Plan in an unclassified format within the public do-
 10 main.

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

13 “(1) the Under Secretary for Management;

14 “(2) the Chief Information Officer; and

15 “(3) the Under Secretary for Science and Tech-
 16 nology.

17 “(c) APPROVAL.—The Administrator may not publish
 18 the Plan under subsection (a)(2) until it has been ap-
 19 proved by the Secretary.

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

21 “(1) an analysis of transportation security risks
 22 and the associated technology gaps, including con-
 23 sideration of the most recent Quadrennial Homeland
 24 Security Review under section 707;

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

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

5 “(B) includes planned technology programs
6 and projects with defined objectives, goals, and
7 measures;

8 “(3) an analysis of current trends in domestic
9 and international passenger travel;

10 “(4) an identification of currently deployed se-
11 curity-related technologies that are at or near the
12 end of their lifecycle;

13 “(5) an identification of test, evaluation, mod-
14 eling, and simulation capabilities that will be re-
15 quired to support the acquisition of the security-re-
16 lated technologies to meet those needs;

17 “(6) an identification of opportunities for pub-
18 lic-private partnerships, small and disadvantaged
19 company participation, intragovernment collabora-
20 tion, university centers of excellence, and national
21 laboratory technology transfer;

22 “(7) an identification of the Administration’s
23 acquisition workforce needs that will be required for
24 the management of planned security-related tech-
25 nology acquisitions, including consideration of

1 leveraging acquisition expertise of other Federal
2 agencies;

3 “(8) an identification of the security resources,
4 including information security resources, that will be
5 required to protect security-related technology from
6 physical or cyber theft, diversion, sabotage, or at-
7 tack; and

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

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

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

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

24 “(3) leverage market research conducted by the
25 Under Secretary for Science and Technology to iden-

1 tify technologies that exist or are in development
 2 that, with or without adaptation, could be utilized to
 3 meet mission needs.

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

7 “(g) UPDATE AND REPORT.—Once every 2 years
 8 after the initial strategic Plan is submitted to Congress,
 9 the Administrator shall submit to Congress—

10 “(1) an update of the Plan; and

11 “(2) a report on the extent to which each secu-
 12 rity-related technology acquired by the Administra-
 13 tion since the last issuance or update of the Plan is
 14 consistent with the planned technology programs
 15 and projects identified under subsection (d)(2) for
 16 that technology.

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

18 “(a) ACQUISITION JUSTIFICATION.—Before the Ad-
 19 ministration implements any security-related technology
 20 acquisition, the Administrator, in accordance with the De-
 21 partment’s policies and directives, shall determine whether
 22 the acquisition is justified by conducting a comprehensive
 23 analysis that includes—

1 “(1) an identification of the type and level of
2 risk to transportation security that would be ad-
3 dressed by such technology acquisition;

4 “(2) an assessment of how the proposed acqui-
5 sition aligns to the multiyear technology investment
6 plan developed under section 1611;

7 “(3) a comparison of the total expected lifecycle
8 cost against the total expected quantitative and
9 qualitative benefits to transportation security;

10 “(4) an analysis of alternative security solutions
11 to determine if the proposed technology acquisition
12 is the most effective and cost-efficient solution based
13 on cost-benefit considerations;

14 “(5) an evaluation of the privacy and civil lib-
15 erties implications of the proposed acquisition that
16 includes, to the extent practicable, consultation with
17 organizations that advocate for the protection of pri-
18 vacy and civil liberties; and a determination that the
19 proposed acquisition is consistent with fair informa-
20 tion practice principles issued by the Privacy Officer
21 of the Department; and

22 “(6) confirmation that there are no significant
23 risks to human health and safety posed by the pro-
24 posed acquisition.

25 “(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 Commerce, Science, and Transportation of the Sen-
 7 ate and the Committee on Homeland Security of the
 8 House of Representatives—

9 “(A) the results of the comprehensive ac-
 10 quisition analysis required under this section;
 11 and

12 “(B) a certification by the Administrator
 13 that the security benefits justify the contract
 14 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—

19 “(A) may reduce the 30-day period under
 20 paragraph (1) to 5 days in order to rapidly re-
 21 spond; and

22 “(B) shall provide immediate notice of
 23 such imminent threat to the Committee on
 24 Commerce, Science, and Transportation of the

1 Senate and the Committee on Homeland Secu-
2 rity of the House of Representatives.

3 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
4 **REPORTS.**

5 **“(a) BASELINE REQUIREMENTS.—**

6 **“(1) IN GENERAL.—**Before the Administration
7 implements any security-related technology acqui-
8 sition, the appropriate acquisition official of the De-
9 partment shall establish and document a set of for-
10 mal baseline requirements.

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

13 **“(A)** include the estimated costs (including
14 lifecycle costs), schedule, and performance mile-
15 stones for the planned duration of the acquisi-
16 tion; and

17 **“(B)** identify the acquisition risks and a
18 plan for mitigating these risks.

19 **“(3) FEASIBILITY.—**In establishing the per-
20 formance milestones under paragraph (2)(A), the
21 appropriate acquisition official of the Department, to
22 the extent possible and in consultation with the
23 Under Secretary for Science and Technology, shall
24 ensure that achieving these milestones is techno-
25 logically feasible.

1 “(4) TEST AND EVALUATION PLAN.—The Ad-
2 ministrators, in consultation with the Under Sec-
3 retary for Science and Technology, shall develop a
4 test and evaluation plan that describes—

5 “(A) the activities that will be required to
6 assess acquired technologies against the per-
7 formance milestones established under para-
8 graph (2)(A);

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

14 “(C) an efficient schedule to ensure that
15 test and evaluation activities are completed
16 without undue delay.

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

19 “(A) subject to subparagraph (B), shall
20 utilize independent reviewers to verify and vali-
21 date the performance milestones and cost esti-
22 mates developed under paragraph (2) for a se-
23 curity-related technology that pursuant to sec-
24 tion 1611(d)(2) has been identified as a high

1 priority need in the most recent multiyear tech-
 2 nology investment plan; and

3 “(B) shall ensure that the utilization of
 4 independent reviewers does not unduly delay
 5 the schedule of any acquisition.

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

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

16 “(1) REVIEW.—

17 “(A) IN GENERAL.—The appropriate ac-
 18 quisition official of the Department shall review
 19 and assess each implemented acquisition to de-
 20 termine if the acquisition is meeting the base-
 21 line requirements established under subsection
 22 (a).

23 “(B) TEST AND EVALUATION ASSESS-
 24 MENT.—The review shall include an assessment
 25 of whether—

1 “(i) the planned testing and evalua-
2 tion activities have been completed; and

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

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

13 “(A) the results of any assessment that
14 finds that—

15 “(i) the actual or planned costs exceed
16 the baseline costs by more than 10 per-
17 cent;

18 “(ii) the actual or planned schedule
19 for delivery has been delayed by more than
20 180 days; or

21 “(iii) there is a failure to meet any
22 performance milestone that directly im-
23 pacts security effectiveness;

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

1 ~~“(C) a plan for corrective action.~~

2 **~~“SEC. 1614. INVENTORY UTILIZATION.~~**

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

8 ~~“(b) TRACKING OF INVENTORY.—~~

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

11 ~~“(A) the location of security-related equip-~~
 12 ~~ment in such inventory;~~

13 ~~“(B) the utilization status of security-re-~~
 14 ~~lated technology in such inventory; and~~

15 ~~“(C) the quantity of security-related equip-~~
 16 ~~ment in such inventory.~~

17 ~~“(2) INTERNAL CONTROLS.—The Administrator~~
 18 ~~shall implement internal controls to ensure accurate~~
 19 ~~data on security-related technology utilization.~~

20 ~~“(c) LOGISTICS MANAGEMENT.—~~

21 ~~“(1) IN GENERAL.—The Administrator shall es-~~
 22 ~~tablish logistics principles for managing inventory in~~
 23 ~~an effective and efficient manner.~~

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

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

7 “(B) unduly diminish surge capacity for
 8 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 this subtitle, and annually thereafter, the Administrator
 12 shall submit a report to the Committee on Commerce,
 13 Science, and Transportation of the Senate and the Com-
 14 mittee on Homeland Security of the House of Representa-
 15 tives that includes—

16 “(1) a restatement of the Administration’s pub-
 17 lished goals for contracting with small businesses;
 18 including small and disadvantaged businesses;

19 “(2) the Administration’s performance record
 20 with respect to meeting the goals referred to in
 21 paragraph (1) during the preceding fiscal year;

22 “(3) if the goals referred to in paragraph (1)
 23 were not met or the Administration’s performance
 24 was below the published goals of the Department—

1 “(A) an itemized list of challenges, includ-
2 ing deviations from the Administration’s sub-
3 contracting plans; that contributed to the level
4 of performance during the preceding fiscal year;
5 and

6 “(B) the extent to which contract bundling
7 was a contributing factor to such level of per-
8 formance;

9 “(4) an action plan, with benchmarks, for ad-
10 dressing each of the challenges identified in para-
11 graph (3)(A), which—

12 “(A) was prepared after consultation with
13 the Secretary of Defense and the heads of Fed-
14 eral departments and agencies that achieved
15 their published goals for prime contracting with
16 small and minority owned businesses; including
17 small and disadvantaged businesses; in prior
18 fiscal years; and

19 “(B) identifies policies and procedures that
20 could be incorporated by the Administration in
21 furtherance of achieving the Administration’s
22 published goal for such contracting; and

23 “(5) a status report on the implementation of
24 the action plan that was developed in the preceding
25 fiscal year in accordance with paragraph (4).

1 **“SEC. 1616. CONSISTENCY WITH THE FEDERAL ACQUISITION REGULATION AND DEPARTMENTAL**
 2 **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) ~~CLERICAL 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
 11 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.”.

12 (c) ~~PRIOR AMENDMENTS NOT AFFECTED.~~—Nothing
 13 in 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 the enactment of this Act.

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

17 (a) ~~IMPLEMENTATION OF PREVIOUS RECOMMENDATIONS.~~—Not later than 1 year after the date of the enact-

1 ment of this Act, the Comptroller General of the United
 2 States shall submit a report to Congress that contains an
 3 assessment of the Transportation Security Administra-
 4 tion's implementation of recommendations regarding the
 5 acquisition of technology that were made by the Govern-
 6 ment Accountability Office before the date of the enact-
 7 ment of this Act.

8 (b) IMPLEMENTATION OF SUBTITLE B OF TITLE
 9 XVI.—Not later than 1 year after the date of the enact-
 10 ment of this Act and 3 years thereafter, the Comptroller
 11 General of the United States shall submit a report to Con-
 12 gress that contains an evaluation of the Transportation
 13 Security Administration's progress in implementing sub-
 14 title B of title XVI of the Homeland Security Act of 2002
 15 (116 Stat. 2312), including any efficiencies, cost savings,
 16 or delays that have resulted from such implementation.

17 **SEC. 5. REPORT ON FEASIBILITY OF INVENTORY TRACK-**
 18 **ING.**

19 Not later than 90 days after the date of the enact-
 20 ment of this Act, the Administrator of the Transportation
 21 Security Administration shall submit a report to Congress
 22 on the feasibility of tracking transportation security-re-
 23 lated technology of the Administration through automated
 24 information and data capture technologies.

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

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

6 (1) an evaluation of the Transportation Secu-
7 rity Administration's testing and evaluation activi-
8 ties related to security-related technologies;

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 acquisition
13 needs, planned procurements, and acquisitions
14 for technology programs and projects; and

15 (B) security-related technologies that have
16 been tested, evaluated, and certified for use by
17 the Administration are not procured by the Ad-
18 ministration, including the reasons for such
19 failure to procure; and

20 (3) recommendations—

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

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

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

3 This Act and the amendments made by this Act shall
 4 be carried out using amounts otherwise available for such
 5 purpose. No additional funds are authorized to be appro-
 6 priated to carry out this Act or such amendments.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Transportation Security*
 9 *Acquisition Reform Act”.*

10 **SEC. 2. FINDINGS.**

11 *Congress finds the following:*

12 *(1) The Transportation Security Administration*
 13 *has not consistently implemented Department of*
 14 *Homeland Security policies and Government best*
 15 *practices for acquisition and procurement.*

16 *(2) The Transportation Security Administration*
 17 *has only recently developed a multiyear technology*
 18 *investment plan, and has underutilized innovation*
 19 *opportunities within the private sector, including*
 20 *from small businesses.*

21 *(3) The Transportation Security Administration*
 22 *has faced challenges in meeting key performance re-*
 23 *quirements for several major acquisitions and pro-*
 24 *curements, resulting in reduced security effectiveness*
 25 *and wasted expenditures.*

1 **SEC. 3. TRANSPORTATION SECURITY ADMINISTRATION AC-**
 2 **QUISITION REFORM.**

3 (a) *IN GENERAL.*—*Title XVI of the Homeland Secu-*
 4 *rity Act of 2002 (116 Stat. 2312) is amended to read as*
 5 *follows:*

6 **“TITLE XVI—TRANSPORTATION**
 7 **SECURITY**

8 **“Subtitle A—General Provisions**

9 **“SEC. 1601. DEFINITIONS.**

10 *“In this title:*

11 *“(1) ADMINISTRATION.—The term ‘Administra-*
 12 *tion’ means the Transportation Security Administra-*
 13 *tion.*

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

17 *“(3) PLAN.—The term ‘Plan’ means the strategic*
 18 *5-year technology investment plan developed by the*
 19 *Administrator under section 1611.*

20 *“(4) SECURITY-RELATED TECHNOLOGY.—The*
 21 *term ‘security-related technology’ means any tech-*
 22 *nology that assists the Administration in the preven-*
 23 *tion of, or defense against, threats to United States*
 24 *transportation systems, including threats to people,*
 25 *property, and information.*

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

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

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

6 “(1) *not later than 180 days after the date of the*
 7 *enactment of the Transportation Security Acquisition*
 8 *Reform Act, develop and submit to Congress a stra-*
 9 *tegic 5-year technology investment plan, that may in-*
 10 *clude a classified addendum to report sensitive trans-*
 11 *portation security risks, technology vulnerabilities, or*
 12 *other sensitive security information; and*

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

15 “(b) *CONSULTATION.*—*The Administrator shall de-*
 16 *velop the Plan in consultation with—*

17 “(1) *the Under Secretary for Management;*

18 “(2) *the Under Secretary for Science and Tech-*
 19 *nology;*

20 “(3) *the Chief Information Officer; and*

21 “(4) *the aviation industry stakeholder advisory*
 22 *committee established by the Administrator.*

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

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

2 “(1) *an analysis of transportation security risks*
3 *and the associated capability gaps that would be best*
4 *addressed by security-related technology, including*
5 *consideration of the most recent Quadrennial Home-*
6 *land Security Review under section 707;*

7 “(2) *a set of security-related technology acquisi-*
8 *tion needs that—*

9 “(A) *is prioritized based on risk and associ-*
10 *ated capability gaps identified under paragraph*
11 *(1); and*

12 “(B) *includes planned technology programs*
13 *and projects with defined objectives, goals,*
14 *timelines, and measures;*

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

17 “(4) *an identification of currently deployed secu-*
18 *rity-related technologies that are at or near the end*
19 *of their lifecycles;*

20 “(5) *an identification of test, evaluation, mod-*
21 *eling, and simulation capabilities, including target*
22 *methodologies, rationales, and timelines necessary to*
23 *support the acquisition of the security-related tech-*
24 *nologies expected to meet the needs under paragraph*
25 *(2);*

1 “(6) 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 “(7) 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 agen-
11 cies;

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

16 “(9) an identification of initiatives to streamline
17 the Administration’s acquisition process and provide
18 greater predictability and clarity to small, medium,
19 and large businesses, including the timeline for test-
20 ing and evaluation;

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

23 “(11) a strategy for consulting airport manage-
24 ment, airline representatives, and Federal security di-
25 rectors whenever an acquisition will lead to the re-

1 *moval of equipment at airports, and how the strategy*
 2 *for consulting with such officials of the relevant air-*
 3 *ports will address potential negative impacts on com-*
 4 *mercial passengers or airport operations; and*

5 *“(12) in consultation with the National Insti-*
 6 *tutes of Standards and Technology, an identification*
 7 *of security-related technology interface standards, in*
 8 *existence or if implemented, that could promote more*
 9 *interoperable passenger, baggage, and cargo screening*
 10 *systems.*

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

14 *“(1) leverage emerging technology trends and re-*
 15 *search and development investment trends within the*
 16 *public and private sectors;*

17 *“(2) incorporate private sector input, including*
 18 *from the aviation industry stakeholder advisory com-*
 19 *mittee established by the Administrator, through re-*
 20 *quests for information, industry days, and other in-*
 21 *novative means consistent with the Federal Acquisi-*
 22 *tion Regulation; and*

23 *“(3) in consultation with the Under Secretary*
 24 *for Science and Technology, identify technologies in*
 25 *existence or in development that, with or without ad-*

1 *aptation, are expected to be suitable to meeting mis-*
 2 *sion needs.*

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

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

10 “(1) *an update of the Plan; and*

11 “(2) *a report on the extent to which each secu-*
 12 *rity-related technology acquired by the Administra-*
 13 *tion since the last issuance or update of the Plan is*
 14 *consistent with the planned technology programs and*
 15 *projects identified under subsection (d)(2) for that se-*
 16 *curity-related technology.*

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

18 “(a) *ACQUISITION JUSTIFICATION.—Before the Ad-*
 19 *ministration implements any security-related technology*
 20 *acquisition, the Administrator, in accordance with the De-*
 21 *partment’s policies and directives, shall determine whether*
 22 *the acquisition is justified by conducting an analysis that*
 23 *includes—*

24 “(1) *an identification of the scenarios and level*
 25 *of risk to transportation security from those scenarios*

1 *that would be addressed by the security-related tech-*
2 *nology acquisition;*

3 “(2) *an assessment of how the proposed acquisi-*
4 *tion aligns to the Plan;*

5 “(3) *a comparison of the total expected lifecycle*
6 *cost against the total expected quantitative and quali-*
7 *tative benefits to transportation security;*

8 “(4) *an analysis of alternative security solutions,*
9 *including policy or procedure solutions, to determine*
10 *if the proposed security-related technology acquisition*
11 *is the most effective and cost-efficient solution based*
12 *on cost-benefit considerations;*

13 “(5) *an assessment of the potential privacy and*
14 *civil liberties implications of the proposed acquisition*
15 *that includes, to the extent practicable, consultation*
16 *with organizations that advocate for the protection of*
17 *privacy and civil liberties;*

18 “(6) *a determination that the proposed acquisi-*
19 *tion is consistent with fair information practice prin-*
20 *ciples issued by the Privacy Officer of the Depart-*
21 *ment;*

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

1 “(8) *an estimate of the benefits to commercial*
2 *aviation passengers.*

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

4 “(1) *IN GENERAL.—Not later than the end of the*
5 *30-day period preceding the award by the Adminis-*
6 *tration of a contract for any security-related tech-*
7 *nology acquisition exceeding \$30,000,000, the Admin-*
8 *istrator shall submit to the Committee on Commerce,*
9 *Science, and Transportation of the Senate and the*
10 *Committee on Homeland Security of the House of*
11 *Representatives—*

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

14 “(B) *a certification by the Administrator*
15 *that the benefits to transportation security jus-*
16 *tify the contract cost.*

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

20 “(A) *may reduce the 30-day period under*
21 *paragraph (1) to 5 days to rapidly respond to*
22 *the threat; and*

23 “(B) *shall immediately notify the Com-*
24 *mittee on Commerce, Science, and Transpor-*
25 *tation of the Senate and the Committee on*

1 *Homeland Security of the House of Representa-*
 2 *tives of the known or suspected imminent threat.*

3 **“SEC. 1613. ACQUISITION BASELINE ESTABLISHMENT AND**
 4 **REPORTS.**

5 “(a) *BASELINE REQUIREMENTS.*—

6 “(1) *IN GENERAL.*—*Before the Administration*
 7 *implements any security-related technology acquisi-*
 8 *tion, the appropriate acquisition official of the De-*
 9 *partment shall establish and document a set of formal*
 10 *baseline requirements.*

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

13 “(A) *include the estimated costs (including*
 14 *lifecycle costs), schedule, and performance mile-*
 15 *stones for the planned duration of the acquisi-*
 16 *tion;*

17 “(B) *identify the acquisition risks and a*
 18 *plan for mitigating these risks; and*

19 “(C) *assess the personnel necessary to man-*
 20 *age the acquisition process, manage the ongoing*
 21 *program, and support training and other oper-*
 22 *ations as necessary.*

23 “(3) *FEASIBILITY.*—*In establishing the perform-*
 24 *ance milestones under paragraph (2)(A), the appro-*
 25 *priate acquisition official of the Department, to the*

1 *extent possible and in consultation with the Under*
2 *Secretary for Science and Technology, shall ensure*
3 *that achieving these milestones is technologically fea-*
4 *sible.*

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

9 “(A) *the activities that are expected to be*
10 *required to assess acquired technologies against*
11 *the performance milestones established under*
12 *paragraph (2)(A);*

13 “(B) *the necessary and cost-effective com-*
14 *bination of laboratory testing, field testing, mod-*
15 *eling, simulation, and supporting analysis to en-*
16 *sure that such technologies meet the Administra-*
17 *tion’s mission needs;*

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

21 “(D) *if commercial aviation passengers are*
22 *expected to interact with the security-related*
23 *technology, methods that could be used to meas-*
24 *ure passenger acceptance of and familiarization*
25 *with the security-related technology.*

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

3 “(A) *subject to subparagraph (B), shall uti-*
 4 *lize independent reviewers to verify and validate*
 5 *the performance milestones and cost estimates de-*
 6 *veloped under paragraph (2) for a security-re-*
 7 *lated technology that pursuant to section*
 8 *1611(d)(2) has been identified as a high priority*
 9 *need in the most recent Plan; and*

10 “(B) *shall ensure that the use of inde-*
 11 *pendent reviewers does not unduly delay the*
 12 *schedule of any acquisition.*

13 “(6) *STREAMLINING ACCESS FOR INTERESTED*
 14 *VENDORS.*—*The Administrator shall establish a*
 15 *streamlined process for an interested vendor of a secu-*
 16 *rity-related technology to request and receive appro-*
 17 *priate access to the baseline requirements and test*
 18 *and evaluation plans that are necessary for the ven-*
 19 *dor to participate in the acquisitions process for that*
 20 *technology.*

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

23 “(1) *REVIEW.*—

24 “(A) *IN GENERAL.*—*The appropriate acqui-*
 25 *sition official of the Department shall review and*

1 *assess each implemented acquisition to determine*
 2 *if the acquisition is meeting the baseline require-*
 3 *ments established under subsection (a).*

4 *“(B) TEST AND EVALUATION ASSESS-*
 5 *MENT.—The review shall include an assessment*
 6 *of whether—*

7 *“(i) the planned testing and evaluation*
 8 *activities have been completed; and*

9 *“(ii) the results of that testing and*
 10 *evaluation demonstrate that the perform-*
 11 *ance milestones are technologically feasible.*

12 *“(2) REPORT.—Not later than 30 days after*
 13 *making a finding described in clause (i), (ii), or (iii)*
 14 *of subparagraph (A), the Administrator shall submit*
 15 *a report to the Committee on Commerce, Science, and*
 16 *Transportation of the Senate and the Committee on*
 17 *Homeland Security of the House of Representatives*
 18 *that includes—*

19 *“(A) the results of any assessment that finds*
 20 *that—*

21 *“(i) the actual or planned costs exceed*
 22 *the baseline costs by more than 10 percent;*

23 *“(ii) the actual or planned schedule for*
 24 *delivery has been delayed by more than 180*
 25 *days; or*

1 “(iii) there is a failure to meet any
2 performance milestone that directly impacts
3 security effectiveness;

4 “(B) the cause for that excessive costs, delay,
5 or failure; and

6 “(C) a plan for corrective action.

7 **“SEC. 1614. INVENTORY UTILIZATION.**

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

13 “(b) *TRACKING OF INVENTORY.*—

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

16 “(A) the location of security-related equip-
17 ment in the inventory under subsection (a);

18 “(B) the utilization status of security-re-
19 lated technology in the inventory under sub-
20 section (a); and

21 “(C) the quantity of security-related equip-
22 ment in the inventory under subsection (a).

23 “(2) *INTERNAL CONTROLS.*—The Administrator
24 shall implement internal controls to ensure up-to-date

1 *accurate data on security-related technology owned,*
 2 *deployed, and in use.*

3 “(c) *LOGISTICS MANAGEMENT.*—

4 “(1) *IN GENERAL.*—*The Administrator shall es-*
 5 *tablish logistics principles for managing inventory in*
 6 *an effective and efficient manner.*

7 “(2) *LIMITATION ON JUST-IN-TIME LOGISTICS.*—
 8 *The Administrator may not use just-in-time logistics*
 9 *if doing so—*

10 “(A) *would inhibit necessary planning for*
 11 *large-scale delivery of equipment to airports or*
 12 *other facilities; or*

13 “(B) *would unduly diminish surge capacity*
 14 *for response to a terrorist threat.*

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

16 *“Not later than 90 days after the date of enactment*
 17 *of the Transportation Security Acquisition Reform Act, and*
 18 *annually thereafter, the Administrator shall submit a re-*
 19 *port to the Committee on Commerce, Science, and Trans-*
 20 *portation of the Senate and the Committee on Homeland*
 21 *Security of the House of Representatives that includes—*

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

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

5 “(A) a list of challenges, including devi-
6 ations from the Administration’s subcontracting
7 plans, and factors that contributed to the level of
8 performance during the preceding fiscal year;

9 “(B) an action plan, with benchmarks, for
10 addressing each of the challenges identified in
11 subparagraph (A), which—

12 “(i) was prepared after consultation
13 with the Secretary of Defense and the heads
14 of Federal departments and agencies that
15 achieved their published goals for prime
16 contracting with small and minority owned
17 businesses, including small and disadvan-
18 taged businesses, in prior fiscal years; and

19 “(ii) identifies policies and procedures
20 that could be incorporated by the Adminis-
21 tration in furtherance of achieving the Ad-
22 ministration’s published goal for such con-
23 tracting; and

24 “(3) a status report on the implementation of the
25 action plan that was developed in the preceding fiscal

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

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

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (116 Stat. 2135) is amended by striking the items relating to title XVI and inserting the following:

“Subtitle A—General Provisions

“Subtitle B—Transportation Security Administration Acquisition Improvements

“Sec. 1616. Consistency with the Federal acquisition regulation and departmental policies and directives.”

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

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

2 (a) *IMPLEMENTATION OF PREVIOUS RECOMMENDA-*
 3 *TIONS.*—Not later than 1 year after the date of the enact-
 4 *ment of this Act, the Comptroller General of the United*
 5 *States shall submit a report to Congress that contains an*
 6 *assessment of the Transportation Security Administration’s*
 7 *implementation of recommendations regarding the acquisi-*
 8 *tion of security-related technology that were made by the*
 9 *Government Accountability Office before the date of the en-*
 10 *actment of this Act.*

11 (b) *IMPLEMENTATION OF SUBTITLE B OF TITLE*
 12 *XVI.*—Not later than 1 year after the date of the enactment
 13 *of this Act and 3 years thereafter, the Comptroller General*
 14 *of the United States shall submit a report to Congress that*
 15 *contains an evaluation of the Transportation Security Ad-*
 16 *ministration’s progress in implementing subtitle B of title*
 17 *XVI of the Homeland Security Act of 2002 (116 Stat. 2312),*
 18 *including any efficiencies, cost savings, or delays that have*
 19 *resulted from such implementation.*

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

21 *Not later than 90 days after the date of the enactment*
 22 *of this Act, the Administrator of the Transportation Secu-*
 23 *rity Administration shall submit a report to Congress on*
 24 *the feasibility of tracking security-related technology, in-*
 25 *cluding software solutions, of the Administration through*
 26 *automated 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 the enactment*
4 *of this Act, the Comptroller General of the United States*
5 *shall 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 *This Act and the amendments made by this Act shall*
4 *be carried out using amounts otherwise available for such*
5 *purpose. No additional funds are authorized to be appro-*
6 *priated to carry out this Act or such amendments.*

Calendar No. 599

113TH CONGRESS
2D Session

S. 1893

[Report No. 113-274]

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.

NOVEMBER 17, 2014

Reported with an amendment