



February 2016

# TRANSPORTATION SECURITY

## TSA Has Taken Actions to Address Transportation Security Acquisition Reform Act Requirements

# GAO Highlights

Highlights of [GAO-16-285](#), a report to congressional committees

## Why GAO Did This Study

Within DHS, TSA is the federal agency with primary responsibility for preventing and defending against terrorist and other threats to domestic transportation systems. From fiscal years 2002 through August 2015, TSA obligated \$13.4 billion to acquire security-related technologies such as through the Electronic Baggage Screening Program and the Passenger Screening Program. However, GAO and the DHS Office of Inspector General have reported that TSA did not fully follow DHS policies in deploying Advanced Imaging Technology systems to screen passengers and in estimating costs to screen checked baggage, and faced challenges in managing inventory. Enacted in December 2014, TSARA specifies measures that TSA must take to improve transparency and accountability in acquiring security-related technologies.

TSARA contains a provision that GAO report to Congress on TSA's progress in implementing TSARA. This report examines TSA's actions taken toward addressing TSARA. GAO is not fully evaluating the extent to which TSA is implementing the act at this time because TSA has not undertaken an acquisition of security-related technology subject to the requirements of the act since its enactment. Pursuant to TSARA, GAO will report again on TSA's implementation of the act in approximately 3 years. TSA provided technical comments on a draft of this report which GAO incorporated as appropriate. DHS did not provide formal comments.

View [GAO-16-285](#). For more information, contact Jennifer Grover at (202) 512-7141 or [groverj@gao.gov](mailto:groverj@gao.gov).

February 2016

## TRANSPORTATION SECURITY

### TSA Has Taken Actions to Address Transportation Security Acquisition Reform Act Requirements

## What GAO Found

The Transportation Security Administration (TSA) in the Department of Homeland Security (DHS) has policies and procedures that generally address requirements of the December 2014 Transportation Security Acquisition Reform Act (TSARA). Specifically, TSA policy and procedures address TSARA requirements for justifying acquisitions, establishing baselines, managing inventory, and submitting plans, among other requirements.

### Justifying Acquisitions

TSA had taken action toward addressing most TSARA requirements related to justifying acquisitions prior to TSARA's enactment because they were required by existing DHS and TSA acquisition policies. Consistent with TSARA, TSA amended its policies to notify Congress within 30 days of awarding contracts exceeding \$30 million for the acquisition of security-related technology. According to agency officials, TSA has not made any such new acquisitions since the enactment of TSARA.

### Acquisition Baselines

TSA policies require that it prepare an acquisition program baseline, risk management plan, and staffing requirements before acquiring security-related technology. Consistent with TSARA, TSA established policies to notify Congress within 30 days of making a finding of performance failures, schedule delays, or cost overruns constituting a breach against acquisition program baselines. TSA reported that it had not experienced breaches in any existing acquisitions (i.e., those in place prior to December 2014) since the enactment of TSARA.

### Managing Inventory

TSA's policies and procedures address TSARA requirements for using existing units before procuring more equipment; tracking the location, use, and quantity of security-related equipment in inventory; and using just-in-time delivery to avoid warehousing equipment.

### Submitting Plans

TSA submitted its Technology Investment Plan and Small Business Report to Congress as required by TSARA. The Technology Investment Plan addresses required elements such as identifying security gaps and security-related technology needs and processes. The Small Business Report includes an action plan for integrating the concerns of small businesses into acquisition processes and increasing outreach to targeted small businesses.

DHS and TSA officials said that TSA has not yet identified any efficiencies, cost savings, or delays from its implementation of TSARA. They added that because many of the policies and procedures that meet the provisions of the act were in place prior to the enactment of TSARA, it was unlikely for TSARA to result in major efficiencies, cost savings, or delays. According to TSA officials, TSA has developed mechanisms to monitor various aspects of TSARA, such as tracking progress in implementing planned technology programs.

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## Abbreviations

AD 102	Acquisition Management Directive 102-01
AIT	Advanced Imaging Technology
DHS	Department of Homeland Security
EBSP	Electronic Baggage Screening Program
FAR	Federal Acquisition Regulation
HSAM	Department of Homeland Security Acquisition Manual
HSAR	Department of Homeland Security Acquisition Regulation
HUBZone	Historically Underutilized Business Zones
NIST	National Institute of Standards and Technology
Plan	Strategic Five-Year Technology Investment Plan for Aviation Security
PSP	Passenger Screening Program
TEMP	Test and Evaluation Master Plan
TSA	Transportation Security Administration
TSARA	Transportation Security Acquisition Reform Act

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February 17, 2016

The Honorable John Thune  
Chairman  
The Honorable Bill Nelson  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Michael McCaul  
Chairman  
The Honorable Bennie G. Thompson  
Ranking Member  
Committee on Homeland Security  
House of Representatives

The Transportation Security Administration (TSA) in the Department of Homeland Security (DHS) is the federal agency with primary responsibility for the prevention of and defense against terrorist and other threats to the United States' transportation systems. To address such threats, TSA spends billions of dollars to develop, acquire, use, and maintain security-related technologies.<sup>1</sup> According to TSA officials, from fiscal years 2002 through August 2015, TSA has obligated approximately \$13.4 billion to support the planning, testing, procurement, deployment, installation, and maintenance of security-related technologies.<sup>2</sup> For example, TSA officials stated that they obligated \$10.9 billion and \$2.5 billion respectively to the Electronic Baggage Screening Program (EBSP) and the Passenger Screening Program (PSP), including approximately \$164 million for the procurement and installation of Advanced Imaging Technology (AIT) systems for the screening of passengers at airport passenger security checkpoints. While TSA has obligated billions of dollars on security-related technology, it has also faced several

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<sup>1</sup>The Transportation Security Acquisition Reform Act (TSARA) defines "security-related technology" as any technology that assists TSA in the prevention of, or defense against, threats to United States transportation systems, including threats to people, property, and information. Pub. L. No. 113-245, § 3(a), 128 Stat. 2871, 2872 (2014); 6 U.S.C. § 561(4).

<sup>2</sup>According to TSA officials, the total obligations are through August 31, 2015.

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acquisitions challenges. For example, in January 2012, we concluded TSA did not fully follow DHS acquisition policies when acquiring AIT systems, resulting in DHS approving deployment of the equipment without full knowledge of TSA's revised technical specifications.<sup>3</sup> Further, in April 2012, we found that TSA's methods for developing life cycle cost estimates for EBSP did not fully adhere to best practices for developing these estimates.<sup>4</sup> The DHS Office of Inspector General has also issued several reports pertaining to TSA's challenges in managing security-related technology inventory.<sup>5</sup>

The Transportation Security Acquisition Reform Act (TSARA), enacted in December 2014, addresses acquisition of security-related technologies by, among other things, specifying measures for TSA to implement that align with identified best practices and improve transparency and accountability.<sup>6</sup> TSARA includes a number of requirements for TSA, including developing and submitting a strategic 5-year technology

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<sup>3</sup>In January 2012, we issued a classified report on TSA's procurement and deployment of AIT systems, also referred to as full-body scanners, used to screen passengers at airport passenger security checkpoints. GAO, *TSA's Advanced Imaging Technology: Adherence to DHS Acquisition Policies and Technology Effectiveness*, GAO-12-142C (Washington, D.C.: Jan. 11, 2012). We recommended that TSA brief Congress on the effectiveness of AIT systems and TSA implemented the recommendation. See GAO, *Transportation Security: Status of GAO Recommendations on TSA's Security-Related Technology Acquisitions*, GAO-16-176 (Washington, D.C.: Feb. 17, 2016) for additional information.

<sup>4</sup>GAO, *Checked Baggage Screening: TSA Has Deployed Optimal Systems at the Majority of TSA-Regulated Airports, but Could Strengthen Cost Estimates*, GAO-12-266 (Washington, D.C.: Apr. 27, 2012). We recommended that in order to strengthen the credibility, comprehensiveness, and reliability of TSA's cost estimates and related savings estimates for EBSP, TSA should follow cost-estimating best practices. In response, TSA implemented a management directive that applies DHS guidance and best practices from the GAO Cost Estimating and Assessment Guide and updated its cost estimating best practices to include four characteristics of a high quality and reliable cost estimate.

<sup>5</sup>See, for example, Department of Homeland Security, Office of Inspector General, *Transportation Security Administration Logistics Center – Inventory Management*, OIG-13-82 (Washington, D.C.: Apr. 26, 2013).

<sup>6</sup>See Pub. L. No. 113-245, 128 Stat. 2871; H.R. Rpt. No. 113-275 (Nov. 21, 2013). Specifically, section 3(a) of TSARA amends title XVI of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2312 (2002), as amended, by adding section 1601 and sections 1611 through 1616, which may also be found at 6 U.S.C. §§ 561, 563-563e. In this report, references to TSARA will generally be cited to title 6 of the U.S. Code unless otherwise indicated. Section 3(c) of TSARA further provides that nothing in section 3 should be construed to affect any amendment made by title XVI of the Homeland Security Act as in effect before TSARA's enactment.

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investment plan and other reports to Congress, adhering to various acquisitions and inventory policies and procedures, meeting small business contracting goals, and ensuring consistency with the Federal Acquisition Regulation (FAR) and departmental policies and directives.

TSARA contains a provision for GAO to submit a report to Congress that evaluates TSA's progress toward implementing TSARA and includes efficiencies, cost savings, or delays that may have resulted from implementation.<sup>7</sup> We could not fully evaluate the extent to which TSA is implementing TSARA because TSA has not undertaken an acquisition of security-related technology subject to the requirements of the act since its enactment. Pursuant to TSARA, however, GAO will report again on TSA's implementation of TSARA in approximately three years. Thus, this report examines TSA's actions taken toward addressing TSARA.

To determine TSA's actions toward addressing the applicable requirements of TSARA, we examined TSA documents and guidance and conducted interviews regarding acquisition justifications, establishing baseline requirements, and inventory utilization.<sup>8</sup> Specifically, we compared TSA policies and procedures, TSA's TSARA Implementation Strategy Memorandum, and supporting documentation to applicable requirements in TSARA. We interviewed DHS and TSA officials with responsibilities in each area to gain insights on the extent to which TSA's development of policies and procedures were consistent with the act. To determine the extent to which the strategic 5-year technology investment plan and report to Congress on small business contracting goals addressed each element specified in TSARA, we conducted an analysis using two analysts to independently review the plan and a third analyst to

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<sup>7</sup>See Pub. L. No. 113-245, § 4(b), 128 Stat. at 2878 (providing that GAO shall submit a report to Congress, not later than 1 year after TSARA's enactment and 3 years thereafter, that contains an evaluation of TSA's progress in implementing section 3 of TSARA, including any efficiencies, cost savings, or delays that have resulted from such implementation).

<sup>8</sup>We reviewed the DHS Acquisition Management Directive 102-01 (July 28, 2015), the *DHS Instruction Manual 102-01-001*, and the DHS Acquisition Management Instruction/Guidebook Appendices, which are collectively referred to as AD 102, as well as the *Department of Homeland Security Acquisition Manual* (HSAM). We also reviewed TSA Management Directive 200.57, *Personal Property Management* (July 28, 2014), and inventory manuals including the *Personal Property Management Manual* and the *Security Equipment Management Manual*.

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adjudicate differences.<sup>9</sup> We interviewed agency officials to clarify information and provide insights into the policies and procedures they used to develop these plans. We also interviewed DHS and TSA officials to determine whether they reported any cost savings, efficiencies, or delays in program areas based on TSARA's implementation. To determine whether TSA is able to ensure it executes its responsibilities under TSARA in a manner consistent with and not duplicative of the FAR and departmental policies and directives, we reviewed TSA's TSARA Implementation Strategy Memorandum and supporting documentation, examined DHS and TSA acquisition policy and guidance, and interviewed DHS and TSA acquisition officials to determine the policies and procedures they used to determine whether TSA's acquisition policies were consistent with the FAR and other acquisition policies.

We conducted this performance audit from April 2015 to February 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions on our audit objectives.

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## Background

As a DHS component, TSA follows the department's policies and procedures for managing its acquisition programs. DHS has established policies and procedures for acquisition management, test and evaluation, and resource allocation. The department uses these policies and procedures to deliver systems that are intended to close critical capability gaps and enable DHS to execute its missions and achieve its goals. DHS's policies govern TSA's acquisition programs and are primarily set forth in DHS Acquisition Management Directive 102-01 (AD 102).<sup>10</sup> DHS acquisition policy establishes that an acquisition decision authority shall review the program through the acquisition life cycle phases. Under this directive, an important aspect of an acquisition decision authority's review

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<sup>9</sup>TSA, *Strategic Five-Year Technology Investment Plan for Aviation Security: 2015 Report to Congress* (Aug. 12, 2015). TSA, *Small-Business Contracting Goals Report: Fiscal Year 2014 Report to Congress* (Apr. 27, 2015).

<sup>10</sup>As previously cited, AD 102 refers to the DHS Acquisition Management Directive 102-01, the *DHS Instruction Manual 102-01-001*, and the DHS Acquisition Management Instruction/Guidebook Appendices.

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and approval of acquisition programs is to ensure that key acquisition documents are completed, including (1) a life cycle cost estimate, which provides an exhaustive and structured accounting of all resources and associated cost elements required to develop, produce, deploy, and sustain a program, and (2) the acquisition program baseline, which establishes a program's cost, schedule, and performance parameters. When an acquisition program exceeds cost, schedule, or performance thresholds, it is considered to be in breach.

TSA's acquisition policies, which supplement DHS policies, generally designate roles and responsibilities and identify the procedures that TSA is to use to implement the requirements in DHS policies. For example, a TSA policy designates an official to ensure TSA's acquisition programs comply with AD 102, including the review and approval of key acquisition program management documents and determining required acquisition documentation for TSA programs.<sup>11</sup> In addition, a TSA policy guide provides the procedures that TSA is to use to meet the acquisition review and reporting requirements defined in AD 102.<sup>12</sup>

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## TSA Has Generally Addressed TSARA Requirements

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TSA Policies and Procedures Address TSARA's Requirements for Justifying Acquisitions, Establishing Baselines, Managing Inventory, and Consistency with the FAR

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<sup>11</sup>TSA Management Directive No. 300.8, *Acquisition Program Review and Reporting* (June 26, 2014).

<sup>12</sup>TSA, *Acquisition Program Review and Reporting Implementation Guide* (Arlington, V.A.: June 26, 2014).

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## Justifying Acquisitions

TSA has policies and procedures that address TSARA's requirements for justifying acquisitions, including a security-related technology acquisition. TSA had implemented most of these procedures prior to TSARA's enactment because they were required by existing DHS and TSA policy. For acquisition justifications, TSARA provides that before TSA implements any security-related technology acquisition the agency must, in accordance with DHS policies and directives, conduct an analysis to determine whether the acquisition is justified, or whether the benefits exceed the cost of the acquisition.<sup>13</sup> TSA's policies and procedures address this requirement. One change resulting from TSARA is the requirement that TSA notify Congress at least 30 days preceding contract awards for new security-related technology acquisitions exceeding \$30 million, which TSA addressed by developing new procedures.<sup>14</sup> See appendix I for our detailed analysis on the status of TSA's efforts to implement all TSARA requirements.

TSA policies and procedures address TSARA provisions related to justifying acquisitions by requiring the development and approval of specific acquisition documents, including a concept of operations and an analysis of alternatives, prior to the implementation of an acquisition.<sup>15</sup> The concept of operations is to include identifying scenarios of transportation security risk and assessing how the use of the proposed acquisition would help improve transportation security. The analysis of alternatives is to include identifying different security solutions, including technology and non-technology solutions, and an analysis of the operational effectiveness, cost, and benefits of each viable solution.

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<sup>13</sup>6 U.S.C. § 563a(a).

<sup>14</sup>§ 563a(b) (providing specifically that not later than the end of the 30-day period preceding an award of a contract for any security-related technology acquisition exceeding \$30 million, TSA must submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives, the results of the comprehensive acquisition justification under § 563a(a) and a certification that the benefits to transportation security justify the contract costs).

<sup>15</sup>TSA policies identify the procedures that TSA is to use to implement DHS AD 102's acquisition justification requirements. These policies include TSA Management Directive No. 300.8, *Acquisition Program Review and Reporting* (June 26, 2014), and its *Implementation Guide* (June 26, 2014), as well as Internal Guidance and Procedure Memorandum 0500, *Notifications and Press Releases* (Sept. 29, 2015).

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## Establishing Acquisition Baselines

Regarding the requirement that congressional notification be made in advance of obtaining acquisitions of more than \$30 million, TSA amended its policies to include the 30-day notification for contracts exceeding \$30 million awarded after TSARA's enactment. TSA also developed a template for a notification letter to Congress that is to include a certification by the TSA Administrator.<sup>16</sup> Consistent with TSARA, TSA is to provide 5-day notice for contract awards that exceed \$30 million to facilitate a rapid response if there is a known or suspected imminent threat to transportation security.<sup>17</sup> TSA officials stated they will continue to provide 5-day notice for all individual task order awards or delivery order awards exceeding \$1 million or more based on policies in effect prior to TSARA's enactment. According to TSA officials, TSA has not yet awarded a contract for security-related technology in excess of \$30 million since TSARA's enactment. These officials also said that there have been no acquisitions related to a known or suspected imminent threat to transportation security that would require TSA to immediately notify Congress since TSARA's enactment.

TSA has policies and procedures in place that address TSARA's requirements to establish acquisition baselines and review whether acquisitions are meeting these requirements. These policies and procedures were largely established prior to TSARA's enactment. For example, TSA acquisition policies require that TSA prepare an acquisition program baseline, a risk management plan, and the acquisition program office staffing requirements before obtaining an acquisition. According to TSARA, TSA must report a breach if there is a cost overrun of more than 10 percent, a delay in actual or planned schedule for delivery of more

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<sup>16</sup>According to TSA, the congressional reporting requirement applies to the award of contracts for the acquisition of security-related technology equipment and does not apply to the acquisition of any services that may be related to the technology equipment. Further, the reporting requirement does not apply to individual task and delivery orders that are awarded under an existing indefinite-quantity contract or blanket purchase agreement. The certification is a statement by the Administrator that verifies the benefits of an acquisition to transportation security and justifies the contract cost.

<sup>17</sup>See § 563a(b)(2).

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than 180 days, or a failure to meet any performance milestone that directly affects security effectiveness.<sup>18</sup>

TSA's TSARA Implementation Strategy Memorandum addresses TSARA's requirements for reporting breaches to Congress. Specifically, the memorandum designates the Office of Acquisition as being responsible for implementing TSARA breach requirements and includes procedures that outline the steps TSA should take to notify DHS and Congress about breaches. According to TSA's TSARA Implementation Strategy Memorandum, TSA had existing policies that require breach memorandums and remediation plans when breaches occur. The procedures state that in the event of a breach, TSA will provide a report to Congress that includes the cause and type of breach and a corrective action plan. In addition, TSA officials have briefed acquisition program staff about TSARA's breach notification requirement changes. Prior to TSARA's enactment, TSA followed DHS's acquisition policies that defines breaches against an acquisition program baseline as performance failures, schedule delays, or cost overruns of up to 15 percent, and did not mandate reporting breaches to congressional committees.<sup>19</sup> As required by TSARA, TSA established procedures to notify Congress within 30 days of schedule delays, cost overruns, or performance failures constituting a breach against acquisition program baselines.<sup>20</sup> As of December 2015, TSA reported that it had not experienced such breaches in any existing acquisitions since TSARA's enactment.

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<sup>18</sup>See § 563b(b)(2) (providing that in the event of a breach that meets the thresholds established in TSARA, TSA must report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security of the House of Representatives).

<sup>19</sup>Under DHS's acquisition policies, an acquisition program baseline cost breach is defined as a failure to meet the threshold value for either the acquisition cost or life cycle cost and should as a maximum be set no higher than 15 percent above the objective cost of the program.

<sup>20</sup>See § 563b(b)(2). TSA officials said that its notification requirements are limited to those security-related technology acquisition programs identified on the DHS Master Acquisition Oversight List, which account for most TSA security-related acquisitions. The Master Acquisition Oversight List, maintained by the DHS Office of Program Accountability and Risk Management, identifies all major acquisition programs under its oversight and included in the Comprehensive Acquisition Status Report, an annual report to Congress. These programs are required to adhere to AD 102.

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## Managing Inventory

TSA's policies and procedures address TSARA requirements for managing inventory related to, among other things, (1) using existing units before procuring more equipment; (2) establishing policies and procedures to track the location, use, and quantity of security-related equipment in inventory; and (3) providing for the exception from using just-in-time logistics, a process that involves delivering equipment directly from manufacturers to airports to avoid the need to warehouse equipment.<sup>21</sup>

For example, TSA's *Security Equipment Management Manual* describes the policies and procedures that require TSA to use equipment in its inventory if, for example, an airport opens a new terminal or it recapitalizes security-related technology at the end of its life cycles. Additionally, the current TSA system tracks the location, utilization status, and quantity of security-related equipment in inventory. Further, TSA's policies and procedures describe TSA's system of internal controls in place prior to TSARA's enactment to conduct reviews, which require reporting and following up on corrective actions.<sup>22</sup> TSA's *Security Equipment Management Manual* provides for two exemptions from just-in-time logistics that are applicable if just-in-time logistics would (1) inhibit planning needed for large-scale equipment delivery to airports or other facilities or (2) reduce TSA's ability to respond to a terrorist threat.

## Executing Responsibilities under TSARA Consistent with the FAR and Departmental Policies

In accordance with TSARA, TSA must execute its acquisition-related responsibilities in a manner consistent with and not duplicative of, the FAR and DHS policies and directives.<sup>23</sup> TSA policy documents state that TSA is required to ensure that its policies and directives are in accordance with the FAR and DHS acquisition and inventory policies and procedures. According to TSA's TSARA Implementation Strategy Memorandum, TSA was able to address this requirement. For example, TSA formed a working group, chaired by TSA Executive Secretariat staff, as part of an effort to ensure that TSA implemented TSARA in a manner

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<sup>21</sup>See § 563c.

<sup>22</sup>TSA, *Standard Operating Procedure: Internal Control Branch Control Reviews* (Mar. 24, 2010).

<sup>23</sup>See § 563e.

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that was consistent with the FAR and DHS policies and directives.<sup>24</sup> DHS officials further reported that TSA's actions towards implementation of TSARA requirements is part of DHS's Acquisition Review Board process and has not led to any duplication or inconsistency with the FAR or AD 102.

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## TSA Developed and Submitted Its Technology Investment Plan and a Small Business Report Generally in Accordance with TSARA

### Technology Investment Plan

TSA submitted a Strategic Five-Year Technology Investment Plan (the Plan) to Congress that generally addresses TSARA-mandated elements.<sup>25</sup> For example, the Plan that TSA submitted to Congress identifies capability gaps and security-related technology acquisition needs and procedures.<sup>26</sup> Specifically, the Plan describes TSA's test, evaluation, modeling, and simulation capabilities, and identifies security-related technologies that are at or near the end of their life cycles.<sup>27</sup> In addition, the Plan identifies TSA's efforts to provide the private sector with greater predictability and clarity about TSA's security-related technology needs and acquisition procedures by sharing testing documents and plans. TSA also took steps to ensure that the Plan adhered to TSARA by (1) consulting with DHS officials and an advisory committee, (2) obtaining

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<sup>24</sup>The TSA Office of the Executive Secretariat manages the assignment, preparation, executive clearance, and final disposition of official documents for approval or signature by the Administrator and Deputy Administrator, including correspondence to Congress, action and decision memoranda, and congressionally-mandated reports. It reports to the TSA Chief of Staff/Office of the Administrator.

<sup>25</sup>See § 563a.

<sup>26</sup>TSARA required submission of this report not later than 180 days after the date of enactment, which was December 18, 2014. § 563(a)(1). TSA submitted the report to Congress on August 13, 2015.

<sup>27</sup>While TSA has responsibility for securing all modes of transportation, TSA officials explained that TSA acquires security-related technology for the aviation sector and not for other modes of transportation, such as mass transit or railway systems. As such, TSA officials told us that they focused the Plan solely on aviation security-related technologies.

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approval of the Secretary of Homeland Security prior to publishing the Plan, (3) incorporating private sector input on the Plan, and (4) identifying the nongovernment persons who contributed to writing the Plan.

## Small Business Report

TSARA required TSA to submit a report to congressional committees on TSA's performance record in meeting its published small business contracting goals during fiscal year 2014.<sup>28</sup> In April 2015, TSA reported for fiscal year 2014 that it fell 1.5 percent short of its small business contracting goal of 23 percent, and 1.6 percent short of its Historically Underutilized Business Zones (HUBZone) program goal of 3 percent of its total contracts.<sup>29</sup> To meet its small business contracting goal, TSA would have had to award an additional \$22 million in contracts to small businesses of its \$1.5 billion in total contracts. According to TSA officials, small businesses' limited ability to support security-related technology acquisition and TSA's existing large scale prime contract awards to large businesses for human resources and information technology are part of the challenges that it faces in meeting its small business goals.

TSARA provides that if the small business contracting goals are not met, or if the agency's performance is below the published DHS small business contracting goals, TSA's report is to include a list of challenges that contributed to TSA's performance and an action plan, prepared after consultation with other federal departments and agencies.<sup>30</sup> The report submitted by TSA includes an action plan for integrating small business concerns into the acquisition planning procedures and enhancing outreach to disabled, women-owned and HUBZone businesses. TSA's small business officials also said that they attend monthly meetings with officials from other DHS components' small business units and conduct outreach events with small businesses. To develop the action plan, TSA

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<sup>28</sup>§ 563d (providing specifically that TSA, not later than 90 days after TSARA's enactment and annually thereafter, shall submit its report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives). TSA submitted its first report under this section on April 27, 2015.

<sup>29</sup>The HUBZone Program provides federal contracting assistance for qualified small business concerns located in historically underutilized business zones, in an effort to increase employment opportunities, investment, and economic development in those areas.

<sup>30</sup>Specifically, TSARA provides that such a report shall include a list of challenges, including deviations from TSA's subcontracting plans, and factors that contributed to the level of performance during the preceding fiscal year. § 563d(2)(A).

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did not consult with the Secretary of Defense and the heads of federal departments and agencies that met their small business goals as required by TSARA.<sup>31</sup> However, TSA officials said that they met with the Department of Defense Office of Small Business Programs after they developed the action plan and the agency plans to fully comply with TSARA's small business requirements in the future.

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### DHS and TSA Officials Report That It Is Too Early to Determine Whether Efforts to Implement TSARA Will Result in Any Efficiencies, Cost Savings, or Delays

DHS and TSA officials reported that to date TSA has not identified any efficiencies, cost savings, or delays from its implementation of TSARA. TSA officials further stated that because many of their current policies and procedures that met the provisions of the law were in place prior to TSARA's enactment, it was unlikely for TSARA to result in major cost savings, efficiencies, or delays. TSA officials reported that they recently developed a mechanism to track its progress in implementing follow-on actions identified in the Plan, such as ongoing stakeholder engagement, as well as to track progress and identify challenges and best practices in implementing TSARA requirements to help update the Plan.

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### Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. DHS did not provide formal comments but provided technical comments from TSA which we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7141 or [groverj@gao.gov](mailto:groverj@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last

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<sup>31</sup>See § 563d(2)(B)(i).

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page of this report. GAO staff who made key contributions to this report are listed in appendix II.

A handwritten signature in black ink that reads "Jennifer Grover". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jennifer A. Grover  
Director, Homeland Security and Justice

# Appendix I: Status of TSA Efforts to Address TSARA Requirements

In the following tables, we identify the status of Transportation Security Administration (TSA) efforts to address requirements of the Transportation Security Acquisition Reform Act (TSARA).<sup>1</sup>

**Table 1: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563**

Statute	Requirement	Status
6 U.S.C. § 563(a)	<p>The TSA Administrator shall, within 180 days of the Transportation Security Acquisition Reform Act's (TSARA) enactment (enacted Dec. 18, 2014), develop and submit to Congress a strategic 5-year technology investment plan (the Plan).</p> <ul style="list-style-type: none"> <li>The Plan may include a classified addendum to report sensitive transportation security risks, technology vulnerabilities, or other sensitive security information.</li> <li>To the extent possible, the Plan shall be published in an unclassified format in the public domain.</li> </ul>	TSA submitted the Plan, which addresses the acquisition of security-related technologies for aviation security, to Congress on August 13, 2015, and released it to the public on September 2, 2015. <sup>a</sup>
§ 563(b)	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.	According to TSA documentation, TSA developed the Plan in consultation with the specified Department of Homeland Security (DHS) officials and Aviation Security Advisory Committee. <sup>b</sup>
§ 563(c)	The Administrator must obtain approval of the DHS Secretary prior to publishing the unclassified Plan in the public domain.	According to TSA documentation, TSA obtained approval of the DHS Office of the Executive Secretary prior to publishing the Plan in the public domain. <sup>c</sup>

<sup>1</sup>See Pub. L. No. 113-245, 128 Stat. 2871 (2014). Specifically, section 3(a) of TSARA amends title XVI of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2312 (2002), as amended, by adding section 1601 and sections 1611 through 1616, which may also be found at 6 U.S.C. §§ 561, 563-563e. In this report, references to TSARA will generally be cited to title 6 of the U.S. Code unless otherwise indicated. Section 3(c) of TSARA further provides that nothing in the section 3 should be construed to affect any amendment made by title XVI of the Homeland Security Act as in effect before TSARA's enactment.

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563(d)	The Plan shall include—	
§ 563(d)(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. <sup>d</sup>	The Plan cites and describes TSA’s procedures for analyzing transportation security risks and the associated capability gaps that would be addressed by security-related technology, including a list of general non-prioritized capability gaps. <sup>e</sup> TSA officials told us that they have prepared a more detailed, prioritized list of capability gaps that has not been provided to Congress. TSA officials stated that they are in the process of determining how to transmit this sensitive information to Congress, which could result in the submission of a sensitive addendum to the Plan. <sup>f</sup> As of December 2015, TSA officials could not provide us with a date by which they would provide the document to Congress.
§563(d)(2)	A set of security-related technology acquisition needs that is prioritized based on risk and associated capability gaps identified by the analysis completed under § 563(d)(1) and includes planned technology programs and projects with defined objectives, goals, timelines, and measures.	The Plan identifies security-related technology acquisition needs and planned technology programs and projects. The Plan includes the Electronic Baggage Screening Program (EBSP) and the Passenger Screening Program (PSP) needs based on risk and capability gaps that are prioritized. The Plan also includes planned technology programs and projects with defined objectives, goals, and timelines. While the Plan does not include information about measures for planned technology programs and projects, TSA provided documentation containing information about measures.
§ 563(d)(3)	An analysis of current and forecast trends in domestic and international passenger travel.	The Plan includes an analysis of forecast trends in domestic and international passenger travel.
§ 563(d)(4)	An identification of currently deployed security-related technologies that are at or near the end of their life cycles.	The Plan identifies currently deployed security-related technologies that are at or near the end of their life cycles.
§ 563(d)(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 § 563(d)(2).	The Plan describes TSA’s test, evaluation, modeling, and simulation capabilities. For example, according to TSA, the agency plans to develop a modeling and simulations lab that is intended to assess security performance, security risk, and flow of commerce impacts.
§ 563(d)(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.	The Plan describes TSA’s efforts for public-private partnerships, small and disadvantaged company participation, intragovernment collaboration, university centers of excellence, and national laboratory technology transfer.

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563(d)(7)	An identification of the TSA's acquisition workforce needs for the management of planned security-related technology acquisitions, including consideration of leveraging acquisition expertise of other federal agencies.	The Plan describes TSA's procedures for identifying its acquisition workforce needs. The Plan does not specifically identify workforce needs because TSA officials stated that a workforce needs report they developed was approved after the Plan was completed. In addition, TSA officials stated that the workforce needs information in the report was considered sensitive. TSA officials stated that they would provide specific information about the needs to Congress if requested.
§ 563(d)(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.	The Plan identifies security resources to protect security-related technology from threats, including access controls, information technology security policies, and physical security. The Plan also describes TSA's efforts to develop a comprehensive information technology security framework, including enhanced testing methodologies during qualification and operational testing. In addition, TSA provided a cybersecurity framework and associated plan for transportation security equipment and released information assurance requirements to the vendor community.
§ 563(d)(9)	An identification of initiatives to streamline TSA's acquisition process and provide greater predictability and clarity to small, medium-size, and large businesses, including the timeline for testing and evaluation.	The Plan identifies initiatives to streamline TSA's acquisition procedures by sharing testing documents and plans with businesses to provide them with additional information about TSA's security-related technology needs and acquisition procedures.
§ 563(d)(10)	An assessment of the impact to commercial aviation passengers.	The Plan describes TSA's procedures for assessing the impact that security-related technology may have on the experience of commercial aviation passengers when implemented. However, the Plan does not include the assessment.
§ 563(d)(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.	The Plan describes TSA's strategy for consulting relevant stakeholders, including airport management, air carrier representatives, and federal security directors, on issues required by TSARA. The strategy was incorporated into TSA guidance at the time of TSARA's enactment.
§ 563(d)(12)	In consultation with the National Institute of Standards and Technology (NIST), an identification of security-related technology interface standards, in existence or if implemented, that could promote more interoperable passenger, baggage, and cargo screening systems.	The Plan states that TSA works with NIST to enhance the interoperability of these systems. The Plan also states that TSA is working with NIST to develop standards for explosive material to support testing of TSA's explosives detection equipment.
§ 563(e)	The Plan shall, to the extent possible and in a manner consistent with fair and equitable practices—	
§ 563(e)(1)	Leverage emerging technology trends and research and development investment trends within the public and private sectors.	The Plan describes TSA efforts to leverage these trends from the public and private sectors.

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563(e)(2)	Incorporate private sector input, including from the aviation industry advisory committee established by the Administrator, through requests for information, industry days, and other innovative means consistent with the Federal Acquisition Regulation (FAR).	TSA held industry forum working sessions and industry days, and issued a request for information, to obtain private sector input on the Plan. Agency officials said that TSA incorporated private sector input as appropriate.
§563(e)(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.	The Plan identifies technologies expected to meet its needs, and TSA provided documentation that it consulted with the Under Secretary for Science and Technology to do so.
§ 563(f)	The Administrator shall include with the Plan a list of nongovernment persons that contributed to the writing of the Plan.	The Plan includes a list of nongovernment persons who contributed to the writing of the Plan.
§ 563(g)	Beginning 2 years after the date the Plan is submitted to Congress under § 563(a), and biennially thereafter, the Administrator shall submit to Congress— <ul style="list-style-type: none"> <li>• An update of the plan.</li> <li>• A report on the extent to which each security-related technology acquired by TSA since the last issuance or update of the Plan is consistent with the planned technology program and projects identified under § 563(d)(2) for that security-related technology.</li> </ul>	Not applicable until 2 years after the date the Plan is submitted to Congress.

Source: GAO analysis of TSARA and DHS and TSA documentation. | GAO-16-285

<sup>a</sup>The Plan is required to address “security-related technology,” which TSARA defines as “any technology that assists TSA in the prevention of, or defense against, threats to United States transportation systems, including threats to people, property, and information.” 6 U.S.C. § 561(4). While TSA has responsibility for securing all modes of transportation, TSA officials explained that it acquires security-related technology for the aviation sector and not for other modes of transportation, such as mass transit or railway systems. As such, TSA officials told us that they focused the Plan solely on aviation security-related technology.

<sup>b</sup>The Aviation Security Advisory Committee is TSA’s primary external advisory group for aviation security matters and whose membership includes various airline industry associations.

<sup>c</sup>The DHS Office of the Executive Secretary processes all internal communication, decision management, briefings, liaison activity between offices, and external correspondence for the department.

<sup>d</sup>See § 347 (requiring, in general, that the Secretary of Homeland Security conduct a review of the homeland security of the nation every four years).

<sup>e</sup>According to TSA officials, the Plan does not contain a prioritized list of capability gaps because the information is sensitive.

<sup>f</sup>According to TSA officials, TSARA authorizes, but does not require, TSA to include a classified or otherwise sensitive addendum to the Plan that is submitted to Congress. See § 563(a)(1).

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**Table 2: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563a**

<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
6 U.S.C. § 563a(a)	Before TSA implements any security-related technology acquisition, the Administrator, in accordance with Department of Homeland Security (DHS) policies and directives, shall determine whether the acquisition is justified by conducting an analysis that includes— <sup>a</sup>	
§ 563a(a)(1)	An identification of the scenarios and level of risk to transportation security from those scenarios that would be addressed by the security-related technology acquisition.	TSA policies and procedures in place prior to the Transportation Security Acquisition Reform Act's (TSARA) enactment require each acquisition program to have an analysis of alternatives and a concept of operations prior to contract award. <sup>b</sup>
§ 563a(a)(2)	An assessment of how the proposed acquisition aligns to the strategic 5-year technology investment plan (the Plan).	TSA policies and procedures in place prior to TSARA's enactment require each acquisition program to have a mission need statement prior to contract award. The mission need statement is required to link to TSA strategic plans, such as the Plan. According to TSA officials, the agency plans to implement the requirement for future acquisitions by referencing the Plan in acquisition programs' mission need statements.
§ 563a(a)(3)	A comparison of the total expected life cycle cost against the total expected quantitative and qualitative benefits to transportation security.	TSA policies and procedures in place prior to TSARA's enactment require each acquisition program to have an analysis of alternatives prior to contract award. <sup>c</sup>
§ 563a(a)(4)	An analysis of alternative security solutions, including policy or procedure solutions, to determine if the proposed security-related technology acquisition is the most effective and cost-efficient solution based on cost-benefit considerations.	TSA policies and procedures in place prior to TSARA's enactment require each acquisition program to have an analysis of alternatives prior to contract award.
§ 563a(a)(5)	An assessment of the potential privacy and civil liberties implications of the proposed acquisition that includes, to the extent practicable, consultation with organizations that advocate for the protection of privacy and civil liberties.	TSA policies and procedures in place prior to TSARA's enactment address privacy and civil liberties issues by, for example, requiring acquisition programs to conduct a privacy threshold analysis and, if applicable, a privacy impact assessment prior to contract award. <sup>d</sup> TSA officials stated that the Office of Civil Rights and Liberties consults with organizations that advocate for the protection of privacy and civil liberties when deemed practicable.
§ 563a(a)(6)	A determination that the proposed acquisition is consistent with fair information practice principles issued by the DHS Privacy Officer.	TSA policies and procedures in place prior to TSARA's enactment require that the DHS Privacy Officer approve privacy compliance documents to ensure that personally identifiable information is handled in compliance with fair information practice principles. <sup>e</sup>
§ 563a(a)(7)	Confirmation that there are no significant risks to human health or safety posed by the proposed acquisition.	TSA policies and procedures in place prior to TSARA's enactment provide that an agency official is responsible for ensuring compliance with applicable occupational, safety, and health standards in the acquisition of systems, equipment, and personal property.

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563a(a)(8)	An estimate of the benefits to commercial aviation passengers.	TSA policies and procedures in place prior to TSARA's enactment require each acquisition program to estimate benefits to commercial aviation passengers in a mission need statement and an analysis of alternatives prior to contract award.
§ 563a(b)(1)	Not later than the end of the 30-day period preceding the award by TSA of a contract for any security-related technology acquisition exceeding \$30 million, 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 (the Committees) the results of the comprehensive acquisition justification under § 563a(a) and a certification by the Administrator that the benefits to transportation security justify the contract cost.	In accordance with TSARA, TSA changed its policies and procedures to include an additional notification to Congress 30 days preceding contract awards for any security-related technology acquisition exceeding \$30 million. <sup>f</sup> According to TSA officials, as of December 2015, TSA has not awarded any new contracts for security-related technology acquisition in excess of \$30 million since TSARA's enactment. As a result, according to agency officials, TSA has not had to submit any acquisition justification reports to Congress in accordance with TSARA's requirements.
§ 563a(b)(2)	If there is a known or suspected imminent threat to transportation security, the Administrator may reduce the 30-day period under § 563a(b)(1) to 5 days to rapidly respond to the threat and shall immediately notify the Committees of the known or suspected imminent threat.	TSA changed its policy to incorporate the exception to the 30-day notification requirement. TSA officials said that the TSA Office of Intelligence and Analysis would provide the requisite notification to the Committees in the event of a related acquisition. These officials also said that, as of December 2015, the circumstances that would authorize TSA to reduce the 30-day notice period to a 5-day notice period have not arisen since TSARA's enactment.

Source: GAO analysis of TSARA and DHS and TSA documentation. | GAO-16-285

<sup>a</sup>TSA policies and procedures in place prior to the Transportation Security Acquisition Reform Act's enactment require a determination of whether an acquisition, including a security-related technology acquisition, is justified by conducting an analysis before TSA implements an acquisition. Our review of TSA's TSARA Implementation Strategy Memorandum identified that the policies and procedures TSA has in place align with TSARA requirements. According to TSA and DHS officials DHS Acquisition Management Directive 102-01 (AD 102) (July 28, 2015) establishes the policies and procedures for justifying an acquisition prior to obtaining approval to make a contract award.

<sup>b</sup>The analysis of alternatives is to include identifying different security solutions, including technology and non-technology solutions, and an analysis of the operational effectiveness, cost, and benefits of each viable solution. The concept of operations is to include identifying transportation security risk scenarios and assessing how the use of the proposed acquisition would help improve transportation security.

<sup>c</sup>As discussed previously, the analysis of alternatives is to include identifying different security solutions, including technology and non-technology solutions, and an analysis of the operational effectiveness, cost, and benefits of each viable solution.

<sup>d</sup>Privacy impact assessments are generally required for acquisitions that are designated as information technology systems.

<sup>e</sup>DHS developed these policies and procedures pursuant to section 222 of the Homeland Security Act of 2002, as amended. See 6 U.S.C. § 142. These privacy compliance documents include the privacy threshold analysis and the privacy impact assessment. In addition, the fair information practice principles issued by the DHS Privacy Officer include (1) transparency, (2) individual participation, (3) purpose specification, (4) data minimization, (5) use limitation, (6) data quality and integrity, (7) security, and (8) accountability and auditing.

<sup>f</sup>Prior to TSARA's enactment, TSA policies and procedures required the agency to provide notification to Congress within 5-days of any contract award. TSA officials, explained that in the case of indefinite delivery/indefinite quantity contracts or blanket purchase agreements in excess of \$30 million entered into before TSARA's enactment, individual task order or delivery order awards made pursuant to such

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contracts are not subject to 30-day advance congressional notification requirement; rather such awards will remain subject to TSA's policy (applicable to all TSA acquisitions prior to TSARA's enactment) of providing 5-day congressional notification.

**Table 3: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563b**

<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
6 U.S.C. § 563b(a)(1)	Before TSA implements any security-related technology acquisition, the appropriate acquisition official of the department shall establish and document a set of formal baseline requirements.	Department of Homeland Security (DHS) policies and procedures in place prior to the Transportation Security Acquisition Reform Act's (TSARA) enactment require the DHS Under Secretary of Management to establish an acquisition program baseline before implementing any security-related technology acquisition. <sup>a</sup>
§ 563b(a)(2)	The baseline requirements under § 563b(a)(1) shall—	
§ 563b(a)(2)(A)	Include the estimated costs (including life cycle costs), schedule, and performance milestones for the planned duration of the acquisition.	TSA policies and procedures in place prior to TSARA's enactment require the agency to include these milestones in acquisition program baselines.
§ 563b(a)(2)(B)	Identify the acquisition risks and a plan for mitigating those risks.	TSA policies and procedures in place prior to TSARA's enactment require the agency to identify acquisition risks and a plan for mitigating those risks in the acquisition plans and risk management plans for acquisition programs prior to contract awards.
§ 563b(a)(2)(C)	Assess the personnel necessary to manage the acquisition process, manage the ongoing program, and support training and other operations as necessary.	TSA policies and procedures in place prior to TSARA's enactment require the agency to assess the personnel necessary to manage the acquisition process, manage the ongoing program, and support training and other operations as necessary, for acquisition programs.
§ 563b(a)(3)	In establishing the performance milestones under § 563b(a)(2)(A), the appropriate acquisition official of the department, to the extent possible and in consultation with the Under Secretary for Science and Technology, shall ensure that achieving those milestones is technologically feasible.	DHS policies and procedures in place prior to TSARA's enactment designated the DHS Under Secretary of Management, to the extent possible and in consultation with the Under Secretary for Science and Technology, as being responsible for ensuring that achieving the performance milestones is technologically feasible. These issues are to be discussed at acquisition review boards and documented in acquisition decision memorandums.
§ 563b(a)(4)	The Administrator, in consultation with the Under Secretary for Science and Technology, shall develop a test and evaluation plan that describes—	
§ 563b(a)(4)(A)	The activities that are expected to be required to assess acquired technologies against the performance milestones established under § 563b(a)(2)(A).	TSA policies and procedures in place prior to TSARA's enactment require the approval of the Test and Evaluation Master Plan (TEMP) by the Office of the Director of Operational Test and Evaluation who reports to the DHS Under Secretary for Science and Technology. <sup>b</sup>

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563b(a)(4)(B)	The necessary and cost-effective combination of laboratory testing, field testing, modeling, simulation, and supporting analysis to ensure that such technologies meet TSA's mission needs.	TSA policies and procedures in place prior to TSARA's enactment require the agency to develop a TEMP that describes the objectives of all development and evaluation test and evaluation activities, including modeling and simulation tools used in the test and evaluation process to determine the system technical performance and operational effectiveness.
§ 563b(a)(4)(C)	An efficient planning schedule to ensure that test and evaluation activities are completed without undue delay.	TSA policies and procedures in place prior to TSARA's enactment require the agency to develop a TEMP, which includes a schedule that identifies all critical test and evaluation activities and events.
§ 563b(a)(4)(D)	If commercial aviation passengers are expected to interact with the security-related technology, methods that could be used to measure passenger acceptance of and familiarization with the security-related technology.	TSA policies and procedures in place prior to TSARA's enactment require the agency to develop a TEMP. TSA officials stated the approval of the TEMP by the Office of the Director of Operational Test and Evaluation who reports to the DHS Under Secretary for Science and Technology, would reflect consideration of methods to measure passenger acceptance of and familiarization with the security-related technology.
§ 563b(a)(5)	The appropriate acquisition official of the department— <ul style="list-style-type: none"> <li>• Subject to § 563b(a)(5)(B), shall utilize independent reviewers to verify and validate the performance milestones and cost estimates developed under paragraph § 563b(a)(2) for a security-related technology that pursuant to § 563(d)(2) has been identified as a high-priority need in the most recent Plan.</li> <li>• Shall ensure that the use of independent reviewers does not unduly delay the schedule of any acquisition.</li> </ul>	DHS policies and procedures in place prior to TSARA's enactment require the DHS Under Secretary of Management to use independent reviewers, including an operational test agent and a director of the cost analysis division, and a TSA life cycle cost estimate review board. TSA officials stated that the independent reviewers would verify and validate the performance milestones and cost estimates.
§ 563b(a)(6)	The Administrator shall establish a streamlined process for an interested vendor of a security-related technology to request and receive appropriate access to the baseline requirements and test and evaluation plans that are necessary for the vendor to participate in the acquisitions process for that technology.	TSA practices in place prior to TSARA's enactment enable interested vendors to participate in the security-related technology acquisition process, including regularly holding industry days for interested vendors, and sharing the Test and Evaluation Process Guide and Testing Documents and Test Plans with interested vendors, according to TSA officials.

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<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
§ 563b(b)(1)(A)	<p>The appropriate acquisition official of the department shall review and assess each implemented acquisition to determine if the acquisition is meeting the baseline requirements established under § 563b(a).</p> <p>The review shall include an assessment of whether—</p> <ul style="list-style-type: none"> <li>• The planned testing and evaluation activities have been completed.</li> <li>• The results of that testing and evaluation demonstrate that the performance milestones are technologically feasible.</li> </ul>	<p>DHS policies and procedures in place prior to TSARA's enactment require the DHS Under Secretary of Management to review and assess each implemented acquisition to determine if the acquisition is meeting the baseline requirements established under § 563b(a). The review includes acquisition review boards and operational test and evaluation procedures to assess whether the planned testing and evaluation activities have been completed and the results of that testing and evaluation demonstrate that the performance milestones are technologically feasible.</p>
§ 563b(b)(2)	<p>Not later than 30 days after making a finding that the actual or planned costs exceed the baseline costs by more than 10 percent, the actual or planned schedule for delivery has been delayed by more than 180 days, or there is a failure to meet any performance milestones that directly impacts security effectiveness (that is, a breach finding), the Administrator shall submit a report to the Committees that includes—<sup>c</sup></p> <ul style="list-style-type: none"> <li>• The results of any assessment that finds a breach.</li> <li>• The cause for such excessive costs, delay, or failure.</li> <li>• A plan for corrective action.</li> </ul>	<p>TSA had policies and procedures in place prior to TSARA's enactment to address breaches based on existing standards and developed a process that addresses the new breach requirements under TSARA. TSA officials said they have taken steps to brief acquisition program staff about TSARA's breach notification requirements by holding a town hall meeting and providing written documentation of the changes. In addition, TSA stated that it will notify DHS and submit the report to congressional committees within 30 days of a cost, schedule, or performance breach.</p> <p>According to TSA officials, as of December 2015, TSA has not experienced a breach in any of its existing acquisitions since the enactment of TSARA.</p>

Source: GAO analysis of TSARA and DHS and TSA documentation. | GAO-16-285

<sup>a</sup>As of December 2015, DHS and TSA have not yet implemented a prior GAO recommendation to ensure that future baselines for all of TSA's major acquisition programs capture the overall historical record of change. DHS concurred with this recommendation and stated that TSA would begin to incorporate an addendum to future acquisition program baselines that will provide a single source document to show the changes to cost, schedule, and performance metrics, beginning with the initial program baseline and showing traceability of all interim approved versions to the current baselines. DHS estimated it would complete this effort by April 30, 2016. GAO, *Homeland Security Acquisitions: Major Program Assessments Reveal Actions Needed to Improve Accountability*, [GAO-15-171SP](#) (Washington, D.C.: Apr. 22, 2015).

<sup>b</sup>A TEMP outlines an acquisition program's test and evaluation strategy which describes the developmental and operational testing needed to determine technical performance, limitations, and operational effectiveness and suitability.

<sup>c</sup>Specifically, TSA is to submit reports in accordance with this provision to the Committee on Commerce, Science, and Technology of the Senate, and the Committee on Homeland Security of the House of Representatives.

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**Table 4: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563c**

<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
6 U.S.C. § 563c(a)	Before the procurement of additional quantities of equipment to fulfill a mission need, the Administrator, to the extent practicable, shall utilize any existing units in TSA's inventory to meet that need.	TSA's <i>Security Equipment Management Manual</i> describes the policies and procedures that require TSA to use equipment in its inventory if, for example, an airport opens a new terminal or it recapitalizes security-related technology at the end of its life cycles.
§ 563c(b)(1)	The Administrator shall establish a process for tracking— <ul style="list-style-type: none"> <li>• The location of security-related equipment in the inventory under § 563c(a).</li> <li>• The utilization status of security-related technology in the inventory under § 563c(a).</li> <li>• The quantity of security-related equipment in the inventory under § 563c(a).</li> </ul>	TSA policies and procedures in place prior to the Transportation Security Acquisition Reform Act's (TSARA) enactment establish a process for tracking the location, utilization status, and quantity of security-related equipment in inventory. <sup>a</sup> The current system relies on a manual data entry process for tracking the location, utilization status, and quantity of security-related equipment in inventory.
§ 563c(b)(2)	The Administrator shall implement internal controls to ensure up-to-date accurate data on security-related technology owned, deployed, and in use.	TSA policies and procedures describe the agency's system of internal controls in place prior to TSARA enactment to conduct reviews, require reporting, and following up on corrective actions. <sup>b</sup>
§ 563c(c)(1)	The Administrator shall establish logistics principles for managing inventory in an effective and efficient manner.	TSA has established principles for managing inventory in the <i>Personal Property Management Manual</i> , which state that TSA should (1) maximize the return on investment, (2) manage inventory effectively, (3) minimize the cost of management systems, (4) make excess property the first source of supply, (5) maximize reuse, (6) meet national disposal objectives, (7) enhance recycling and energy conservation efforts, and (8) ensure property managers are well trained.
§ 563c(c)(2)	The Administrator may not use just-in-time logistics if doing so (A) would inhibit necessary planning for large-scale delivery of equipment to airports or other facilities, or (B) would unduly diminish surge capacity for response to a terrorist threat.	TSA policies and procedures in place prior to TSARA's enactment limit just-in-time logistics if doing so would inhibit necessary planning for large-scale delivery of equipment to airports or other facilities, or would unduly diminish surge capacity for response to a terrorist threat. <sup>c</sup>

Source: GAO analysis of TSARA and TSA documentation. | GAO-16-285

<sup>a</sup>These policies and procedures include the TSA Management Directive 200.57, Personal Property Management (July 28, 2014), and the *Personal Property Management Manual*.

<sup>b</sup>TSA, Standard Operating Procedure: Internal Control Branch Control Reviews (Mar. 24, 2010).

<sup>c</sup>TSA updated its *Security Equipment Management Manual* after TSARA's enactment to include all procedures previously in place prior to TSA's enactment. Just-in-time logistics involve delivering equipment directly from manufacturers to airports to avoid the need to store equipment in warehouses.

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**Table 5: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563d**

<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
6 U.S.C. § 563d	Not later than 90 days after the date of enactment of the Transportation Security Acquisition Reform Act (TSARA), and annually thereafter, the TSA Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives (the Committees) that includes—	
§ 563d(1)	TSA's performance record with respect to meeting its published small business contracting goals during the preceding fiscal year.	In April 2015, TSA submitted the requisite report to congressional committees indicating that it had not met its small business goals for fiscal year 2014. <sup>a</sup>
§ 563d(2)	If the goals described in § 563d(1) were not met or TSA's performance was below the published small business contracting goals of the Department of Homeland Security (DHS)—	
§ 563d(2)(A)	A list of challenges, including deviations from TSA's subcontracting plans, and factors that contributed to the level of performance during the preceding fiscal year.	The report includes the list of challenges and contributing factors to TSA's performance. <sup>b</sup> These include small businesses' limited ability to support security-related technology acquisition and TSA's large scale prime contract awards to large businesses as part of the challenges that it faces in meeting its small business goals.
§ 563d(2)(B)	An action plan, with benchmarks, for addressing each of the challenges identified in § 563d(2)(A) that— <sup>c</sup>	
§ 563d(2)(B)(i)	Is prepared after consultation with the Secretary of Defense and the heads of federal departments and agencies that achieved their published goals for prime contracting with small and minority-owned businesses, including small and disadvantaged businesses, in prior fiscal years.	TSA did not consult with the Secretary of Defense and the heads of federal departments and agencies that met their small business goals before preparing the action plan. Examples of federal departments and agencies that met their small business goals include the Departments of Agriculture, Interior, and Transportation. However, TSA officials said that they met with the Department of Defense Office of Small Business Programs after they developed the action plan and the agency plans to fully comply with TSARA's small business requirements in the future.
§ 563d(2)(B)(ii)	Identifies policies and procedures that could be incorporated by TSA in furtherance of achieving TSA's published goal for such contracting.	The report identifies policies and procedures that include (1) ensuring the TSA small business program is an integrated member of acquisition planning approvals and reviews and (2) requiring the use of the electronic market research repository as a part of mandated market research activities.
§ 563d(3)	A status report on the implementation of the action plan that was developed in the preceding fiscal year in accordance with § 563d(2)(B), if such a plan was required.	Not applicable until the submission of the next annual report.

Source: GAO analysis of TSARA and DHS and TSA documentation. | GAO-16-285

<sup>a</sup>TSA submitted the report on April 27, 2015; TSARA was enacted on December 18, 2014.

**Appendix I: Status of TSA Efforts to Address  
TSARA Requirements**

<sup>b</sup>TSARA provides that the Small Business Report shall include, among other things, a list of challenges, including deviations from TSA's subcontracting plans. § 563d(2)(A). The report does not identify deviations from TSA's subcontracting plans because, according to the director of TSA's small business programs, there were no such deviations in fiscal year 2014.

<sup>c</sup>The report includes an action plan with benchmarks for integrating small business concerns into the acquisition planning procedures and enhancing outreach to disabled, women-owned, and Historically Underutilized Business Zones (HUBZone) businesses.

**Table 6: Status of Transportation Security Administration (TSA) Efforts to Address 6 U.S.C. § 563e**

<b>Statute</b>	<b>Requirement</b>	<b>Status</b>
6 U.S.C. § 563e	The TSA Administrator shall execute the responsibilities set forth in §§ 563-563d in a manner consistent with, and not duplicative of, the Federal Acquisition Regulation (FAR) and Department of Homeland Security's (DHS) policies and directives.	TSA formed a working group, chaired by TSA Executive Secretariat staff, as part of an effort to ensure that the Transportation Security Acquisition Reform Act (TSARA) was implemented in a manner that was consistent with the FAR and DHS policies and directives. The working group developed the TSARA Implementation Strategy Memorandum, which stated that the agency addressed TSARA requirements while being consistent with the FAR and DHS policies and directives, including DHS Acquisition Management Directive 102-01 and the <i>Department of Homeland Security Acquisition Manual (HSAM)</i> . <sup>a</sup>

Source: GAO analysis of TSARA and DHS and TSA documentation. | GAO-16-285

<sup>a</sup>According to DHS, the HSAM establishes for the DHS uniform department-wide acquisition procedures, which implement or supplement the FAR and the Department of Homeland Security Acquisition Regulation (HSAR), and other agency regulations and statutory requirements. All acquisitions within the department follow the HSAM unless otherwise excluded by the FAR, HSAR or the HSAM.

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# Appendix II: GAO Contact and Staff Acknowledgments

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## GAO Contact

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## Staff Acknowledgments

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