

## H.R. 1455

### “CONTRACT SCREENER REFORM AND ACCOUNTABILITY ACT”

#### FACT SHEET

##### Background:

The *Aviation and Transportation Security Act* (P.L. 107-71), signed into law by President Bush in the wake of the terrorist attacks of September 11, 2001, established the Transportation Security Administration (TSA) as the Federal agency responsible for securing our nation’s transportation system. That law contained a provision, intended to quell opposition to federalizing the nations’ screener workforce, requiring TSA to conduct a pilot program whereby five airports would use contract screeners. After the three year pilot, TSA established the Screening Partnership Program (SPP) which permits airport operators to request that contract screeners be used instead of Federalized screeners.

During the nine years since SPP was established, TSA Administrators in both the Bush and Obama Administrations approved applications from airport operators, often submitted by small, low-volume airports. Dissatisfied with the pace of proliferation of contract screeners, opponents of TSA inserted language in February 2012 to the Conference Report for the *FAA Modernization and Reform Act of 2012* (P.L. 112-95) that significantly altered the program, even as TSA, just two weeks before, had approved a new airport in Montana for the program. The language limits TSA’s discretion to approve or deny an airport’s application to use contract screeners, allows subsidiaries of foreign-owned corporations to receive contracts for screening services, and requires airport operators to list a preferred vendor on their application. All the while, the language did nothing to ensure proper oversight and monitoring of contract screeners.

Through the oversight work of the Committee on Homeland Security, the Government Accountability Office (GAO), and the Department of Homeland Security Office of Inspector General, several serious vulnerabilities and deficiencies within the SPP have been identified.

- For instance, in December of 2012, GAO reported that TSA’s performance evaluations of contract screeners are insufficient to determine whether the screening services provided are equal to or greater than those provided by Federalized screeners.<sup>1</sup>
- Further, GAO found that on some performance measures, contract screeners perform less well than their Federalized counterparts.<sup>2</sup>
- In addition, in comparing the actual cost of SPP airports against the estimated cost incurred at these same airports using a Federal workforce, TSA has reported that the cost

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<sup>1</sup> GOVERNMENT ACCOUNTABILITY OFFICE, SCREENING PARTNERSHIP PROGRAM: TSA SHOULD ISSUE MORE GUIDANCE TO AIRPORTS AND MONITOR PRIVATE VERSUS FEDERAL SCREENER PERFORMANCE, GAO-13-16SU (2012).

<sup>2</sup> *Id.*

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of contract screeners is consistently higher than their Federal counterparts, with significant percentage differences at larger, busier airports.

- For example, in Fiscal Year 2012, the cost of contract screeners at Rochester International Airport, the third largest SPP airport, was \$13,666,701 – 46.3% greater than the \$9,338,652 that TSA estimated it would cost to employ a Federal workforce at the same airport.
- In response to the Committee’s oversight work, TSA has reported numerous security breaches occurring regularly at SPP airports nationwide, including at San Francisco International Airport (SFO), one of the nation’s largest and busiest airports.
- These breaches include contract screener personnel not detecting prohibited items such as knives and bullets in carry-on baggage, improperly clearing passengers without verification of their identity, and failing to conduct additional screening of passengers who are referred to secondary screening.
- For example, on August 21, 2009, a passenger at a security checkpoint at SFO alarmed the walk-through metal detector and was referred to the secondary area for additional screening. The passenger promptly let herself out of the secondary screening area and collected her accessible property. It was three minutes before an employee of the private screening company noticed that she was missing.
- Contract screener personnel have also been found to have mishandled sensitive security information.
- For example, on July 18, 2010, a new hire training manual containing sensitive security information (SSI) about screening practices was stolen after a private security company employee in possession of the manual removed it from SFO.
- In addition to the challenges faced by TSA in evaluating and monitoring contract screeners, a private security company with SPP contracts has thwarted covert efforts to evaluate screener performance.
- The Department of Homeland Security Office of Inspector General has reported that the contractor responsible for screening at SFO compromised covert testing by tracking

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testers throughout the airport and alerting screening personnel when the testers were approaching a checkpoint.<sup>3</sup>

- Currently, there is no requirement that private screening companies report customer complaints regarding their screening experience to TSA or Congress.

These examples of serious vulnerabilities and deficiencies within the SPP underscore the need for greater oversight of the program and changes to the requirements for contractor eligibility. Representative Bennie G. Thompson, Ranking Member of the Committee on Homeland Security, introduced the “Contract Screener Reform and Accountability Act of 2013” to do just that by, among other things:

- Prohibiting subsidiaries of foreign-owned corporations from obtaining contracts for screening services;
- Mandating covert testing of contract screeners so that their performance can be monitored and compared to airports where screening is carried out by TSA and protecting the integrity of those tests by imposing penalties for compromising such testing;
- Requiring security breaches at airports with contracted screening services to be reported;
- Ensuring national security through training for the proper handling of sensitive security information at SPP airports; and
- Enhancing customer service for the flying public who are screened at SPP airports.

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<sup>3</sup> OFFICE OF INSPECTOR GENERAL, AUDIT REPORT: REVIEW OF ALLEGATIONS REGARDING SAN FRANCISCO INTERNATIONAL AIRPORT, OIG-07-04, at 8 (2006).