



One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

June 30, 2023

The Honorable David P. Pekoske
Administrator
Transportation Security Administration
6595 Springfield Center Dr.
Springfield, VA 20598-6005

Dear Administrator Pekoske:

We write to request information and documents on the Transportation Security Administration's (TSA) ongoing administrative disputes with airlines regarding security service fees. It is our understanding that current administrative disputes between airlines and TSA involve over \$50 million and, in some cases, have been pending with no timeline for resolution. Accordingly, airlines are forced to wait years to have these matters resolved.

As you know, TSA collects security service fees from air carriers to cover the cost of security services performed at airports. The fees are collected by the air carriers from the passenger and then remitted to TSA in the following month.¹ To ensure the proper amount is paid, TSA may audit the payments by the airlines.² Similarly, the airlines may seek refunds for fees that are paid mistakenly or in excess;³ for instance, if a passenger is involuntarily transferred from one airline to another, both airlines might pay the fee to TSA resulting in an overpayment.⁴

However, problems arise at TSA once a dispute concerning proper payment occurs, as an appeals process was not fully contemplated in the regulations or statute. Specifically, if an airline challenges an alleged underpayment or seeks a refund of an overpayment, they are thrust into an administrative review process that has no timelines.⁵ As such, airlines that challenge the amounts paid typically wait years to have their claims resolved—during which, the airlines have no way of determining the status of TSA's review. Thus, for extended periods of time, airlines seeking refunds are denied the use of funds (with no interest ever being due) and their day in court, and airlines challenging a TSA assessment must hold a contingent liability on their books.

Given these concerns, we are requesting that TSA provide certain information and documents to the Committee that will help assess the administrative fee disputes currently

¹ See 49 U.S.C. § 44940(d); 49 C.F.R. § 1510.13.

² 49 U.S.C. § 44940(e)(4); see also 49 C.F.R. § 1510.15, § 1510.17, § 1510.19.

³ 49 U.S.C. § 44940(g).

⁴ See *United Airlines, Inc. v. Transportation Security Admin.*, 20 F.4th 57, 62-64 (D.C. Cir. 2021).

⁵ See 49 C.F.R. § 89.21(f) (as to challenging a TSA allegation that an airline has underpaid).

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pending before TSA. Please provide answers to the following questions no later than July 21, 2023.

1. How many refund claims and administrative disputes regarding security service fees are currently pending before TSA?
2. How many refund claims and administrative disputes regarding security service fees have been resolved by TSA?
3. What is the value of each pending administrative dispute and refund claim?
4. How long has each refund claim and administrative dispute been pending?
5. What is the average amount of time it takes TSA to resolve an administrative dispute or to process a refund claim?

Additionally, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on July 28, 2023:

1. All documents, including training materials, discussing or identifying the administrative dispute process for security service fees identified at 49 C.F.R. § 89.21(f);
2. All internal documents governing TSA's handling of refund requests, as allowed by 49 U.S.C. § 44940(g), including criteria TSA applies to refund requests; and
3. All internal documents governing how TSA conducts audits of security service fees.

Under House Rule X, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy and has special oversight functions of "all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security."

An attachment contains instructions for responding to this request. Should you or your staff have any questions, please do not hesitate to contact Homeland Security Committee staff at (202) 226-8417. Thank you for your attention to this important matter.

Sincerely,



Mark E. Green, MD
Chairman
Committee on Homeland Security



Carlos A. Gimenez
Chairman
Subcommittee on Transportation
and Maritime Security

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cc: The Honorable Bennie Thompson, Ranking Member
Committee on Homeland Security

The Honorable Shri Thanedar, Ranking Member
Subcommittee on Transportation and Maritime Security