

113TH CONGRESS
1ST SESSION

H. R. 1455

To prohibit subsidiaries of foreign-owned corporations from obtaining contracts for the performance of passenger and baggage security screening at domestic commercial airports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2013

Mr. THOMPSON of Mississippi (for himself, Mrs. LOWEY, and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To prohibit subsidiaries of foreign-owned corporations from obtaining contracts for the performance of passenger and baggage security screening at domestic commercial airports, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Contract Screener Reform and Accountability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORM

- Sec. 101. Prohibition of screening by subsidiary of a foreign-owned corporation.
- Sec. 102. Competition for private screening contracts.
- Sec. 103. Prohibition on certain subcontracting.
- Sec. 104. Flexibility in approving airport operator applications.
- Sec. 105. Enhanced standards for application assessments.
- Sec. 106. Timeline for awarding a contract for screening services.
- Sec. 107. Prohibition on bonuses and other awards.
- Sec. 108. Cost analysis.
- Sec. 109. Customer service.
- Sec. 110. Information on transition plans.

TITLE II—OVERSIGHT

- Sec. 201. Enhanced oversight.
- Sec. 202. Security breaches.
- Sec. 203. Covert testing of contract screener performance.
- Sec. 204. Contracting prohibition for compromising covert security testing.
- Sec. 205. Proper handling of sensitive security information.

TITLE III—WORKFORCE PROTECTIONS

- Sec. 301. Job and benefit protections.
- Sec. 302. Retention and discipline.
- Sec. 303. Protections for reporting deficiencies, waste, or vulnerabilities.

TITLE I—REFORM

1

2 **SEC. 101. PROHIBITION OF SCREENING BY SUBSIDIARY OF**
 3 **A FOREIGN-OWNED CORPORATION.**

4 Subsection (d) of section 44920 of title 49, United
 5 States Code, is amended—

6 (1) by striking “(d)” and all that follows
 7 through “The Under Secretary may enter” and in-
 8 serting the following:

9 “(d) STANDARDS FOR PRIVATE SCREENING COMPA-
 10 NIES.—The Under Secretary may enter”;

11 (2) by redesignating subparagraphs (A) and
 12 (B) as paragraphs (1) and (2), respectively, and
 13 moving such paragraphs two ems to the left; and

14 (3) by striking paragraph (2).

1 **SEC. 102. COMPETITION FOR PRIVATE SCREENING CON-**
2 **TRACTS.**

3 Section 44920 of title 49, United States Code, is
4 amended by striking subsection (h).

5 **SEC. 103. PROHIBITION ON CERTAIN SUBCONTRACTING.**

6 Section 44920 of title 49, United States Code, as
7 amended by section 102 of this Act, is further amended
8 by adding at the end the following new subsection:

9 “(h) PROHIBITION ON CERTAIN SUBCON-
10 TRACTING.—The Under Secretary is prohibited from en-
11 tering into any contract for screening services under this
12 section that would allow for the screening services to be
13 performed by a subcontractor.”.

14 **SEC. 104. FLEXIBILITY IN APPROVING AIRPORT OPERATOR**
15 **APPLICATIONS.**

16 Paragraph (2) of section 44920(b) of title 49, United
17 States Code, is amended by striking “shall” and inserting
18 “may”.

19 **SEC. 105. ENHANCED STANDARDS FOR APPLICATION AS-**
20 **SESSMENTS.**

21 Paragraph (2) of section 44920(b) of title 49, United
22 States Code, is amended by inserting before the period at
23 the end the following: “and at airports nationwide”.

1 **SEC. 106. TIMELINE FOR AWARDING A CONTRACT FOR**
2 **SCREENING SERVICES.**

3 Subsection (b) of section 44920 of title 49, United
4 States Code, is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(4) TIMELINE FOR AWARDING A CONTRACT
7 FOR SCREENING SERVICES.—

8 “(A) IN GENERAL.—Not later than 270
9 days after approving an application under para-
10 graph (1), the Under Secretary shall award a
11 contract to a qualified private screening com-
12 pany in accordance with subsections (c) and
13 (d).

14 “(B) NOTIFICATION.—If the Under Sec-
15 retary is unable to make an award in accord-
16 ance with subparagraph (A), the Under Sec-
17 retary shall notify the airport operator that
18 submitted the application at issue of the deter-
19 mination and the basis for such determination,
20 and about eligibility for reapplication in accord-
21 ance with subsection (a).”.

22 **SEC. 107. PROHIBITION ON BONUSES AND OTHER AWARDS.**

23 Section 44920 of title 49, United States Code, as
24 amended by section 105 of this Act, is further amended
25 by adding at the end the following new subsection:

1 “(i) PROHIBITION ON BONUSES AND OTHER
2 AWARDS.—The Under Secretary is prohibited from pro-
3 viding funding to any private screening company that pro-
4 vides screening services at an airport in excess of the
5 amount required for the performance of such screening
6 services.”.

7 **SEC. 108. COST ANALYSIS.**

8 Section 44920 of title 49, United States Code, as
9 amended by section 107 of this Act, is further amended
10 by adding at the end the following new subsection:

11 “(j) COST ANALYSIS.—

12 “(1) IN GENERAL.—Not later than 180 days
13 after the date of the enactment of this subsection,
14 the Comptroller General shall provide to the Under
15 Secretary guidance on how to conduct an analysis of
16 the total annual cost incurred by the Federal Gov-
17 ernment with respect to screening services provided
18 by private screening companies.

19 “(2) ACTION.—Not later than 180 days after
20 receipt of the guidance described in paragraph (1)
21 and annually thereafter, the Under Secretary shall
22 utilize such guidance to identify costs incurred by
23 the Federal Government as a result of overseeing
24 the performance of private screening companies,
25 compared with costs incurred by the Under Sec-

1 retary at airports that utilize Federal Government
2 personnel for passenger and baggage screening.”.

3 **SEC. 109. CUSTOMER SERVICE.**

4 Section 44920 of title 49, United States Code, as
5 amended by section 108 of this Act, is further amended
6 by adding at the end the following new subsection:

7 “(k) CUSTOMER SERVICE.—Each airport operator
8 utilizing contract passenger and baggage screeners em-
9 ployed by a private screening company shall prominently
10 display signs in the immediate vicinity of the passenger
11 screening area notifying the flying public that passenger
12 and baggage screening at that airport is conducted by con-
13 tract screening personnel and not by Federal Government
14 personnel. Such signs shall also display a contact number
15 and Internet website address maintained by such private
16 screening company for a passenger to report complaints
17 about his or her screening experience. Each private screen-
18 ing company with a contract for screening services at an
19 airport shall track all such passenger complaints and regu-
20 larly report such information to the Under Secretary
21 through, to the maximum extent practicable, the con-
22 tracting officer of each such private screening company.
23 The Under Secretary shall report such information to the
24 Committee on Homeland Security of the House of Rep-

1 representatives and the Committee on Commerce, Science,
2 and Transportation of the Senate upon request.”.

3 **SEC. 110. INFORMATION ON TRANSITION PLANS.**

4 Subsection (b) of section 44920 of title 49, United
5 States Code, as amended by section 106, is further amend-
6 ed by adding at the end the following new paragraph:

7 “(5) **TRANSITION.**—Not later than 90 days
8 after an airport operator provides notice to the
9 Under Secretary of the decision of such airport oper-
10 ator to discontinue the use of screening personnel of
11 a qualified private screening company and use
12 Transportation Security Officers for screening serv-
13 ices at the airport operated by such airport operator,
14 the Under Secretary shall provide such airport oper-
15 ator with information on how the Under Secretary
16 intends to carry out the transition of screening serv-
17 ices, including an anticipated timeline and key
18 benchmarks.”.

19 **TITLE II—OVERSIGHT**

20 **SEC. 201. ENHANCED OVERSIGHT.**

21 Section 44920 of title 49, United States Code, as
22 amended by section 109 of this Act, is further amended
23 by adding at the end the following new subsection:

24 “(1) **ENHANCED OVERSIGHT.**—Not later than 180
25 days after the date of the enactment of this subsection,

1 the Under Secretary shall develop and implement a system
2 to be carried out, to the maximum extent practicable, by
3 the contracting officer who oversees each respective pri-
4 vate screening company providing screening services at an
5 airport, to enhance monitoring of performance of each
6 such private screening company. The system shall, at a
7 minimum, provide year-to-year information about per-
8 formance by each such private screening company, and be
9 in a format to provide for comparison with airports in the
10 same category whose screening services are provided by
11 Federal Government personnel with respect to detection
12 rates of threats and threat image tests, recertification pass
13 rates, covert performance assessments, and evaluations
14 used to assess screener performance on various elements
15 that may affect security and a passenger's overall travel
16 experience.”.

17 **SEC. 202. SECURITY BREACHES.**

18 Section 44920 of title 49, United States Code, as
19 amended by section 201 of this Act, is further amended
20 by adding at the end the following new subsection:

21 “(m) SECURITY BREACHES.—

22 “(1) IN GENERAL.—A private screening com-
23 pany shall regularly report to the Under Secretary
24 each security breach at an airport where baggage
25 and passenger screening is conducted by such a pri-

1 vate screening company. Each such report shall in-
2 clude—

3 “(A) a detailed description of each security
4 breach;

5 “(B) information regarding where each
6 such breach occurred;

7 “(C) information regarding law enforce-
8 ment notification and response; and

9 “(D) any corrective action taken in re-
10 sponse to each such breach.

11 “(2) ANNUAL REPORTS.—The Under Secretary
12 shall submit to the Committee on Homeland Secu-
13 rity of the House of Representatives and the Com-
14 mittee on Commerce, Science, and Transportation of
15 the Senate an annual report containing the informa-
16 tion required pursuant to paragraph (1), including
17 the definition of ‘security breach’ used by the Under
18 Secretary for purposes of this subsection. To the ex-
19 tent practicable, the report shall be presented in a
20 non-classified format with a classified appendix
21 where necessary.”.

1 **SEC. 203. COVERT TESTING OF CONTRACT SCREENER PER-**
2 **FORMANCE.**

3 Section 44920 of title 49, United States Code, as
4 amended by section 202 of this Act, is further amended
5 by adding at the end the following new subsection:

6 “(n) COVERT TESTING.—The Comptroller General of
7 the United States shall conduct annual covert testing of
8 airports where private screening companies provide
9 screening services. To the extent practicable, such covert
10 testing shall be conducted at one airport with contract
11 screener personnel within each airport category that was
12 not the subject of covert testing by another Federal entity
13 during the same year. The Comptroller General shall sub-
14 mit to the Under Secretary and to the Committee on
15 Homeland Security of the House of Representatives and
16 the Committee on Commerce, Science, and Transportation
17 of the Senate a report that contains the results of such
18 covert testing. To the extent practicable, each such report
19 shall be presented in a non-classified format with a classi-
20 fied appendix where necessary.”.

21 **SEC. 204. CONTRACTING PROHIBITION FOR COMPRO-**
22 **MISING COVERT SECURITY TESTING.**

23 Subsection (d) of section 44920 of title 49, United
24 States Code, as amended by section 101 of this Act is fur-
25 ther amended—

1 (1) in paragraph (1), by striking “and” at the
2 end;

3 (2) in paragraph (2), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(3) on or after the date of the enactment of
8 this paragraph, neither the private screening com-
9 pany, nor its parent company, if applicable, has
10 compromised any covert security testing by notifying
11 individuals employed by such private screening com-
12 pany that such covert testing was occurring, or oth-
13 erwise been found to have knowingly compromised
14 covert testing conducted pursuant to subsection (n)
15 or any other covert test conducted by the Inspector
16 General of the Department of Homeland Security,
17 the Comptroller General of the United States, or the
18 Under Secretary.”.

19 **SEC. 205. PROPER HANDLING OF SENSITIVE SECURITY IN-**
20 **FORMATION.**

21 Section 44920 of title 49, United States Code, as
22 amended by section 203 of this Act, is further amended
23 by adding at the end the following new subsection:

24 “(o) PROPER HANDLING OF SENSITIVE SECURITY
25 INFORMATION.—The Under Secretary shall require each

1 private screening company that provides screening services
 2 at airports to provide all individuals employed by such pri-
 3 vate screening company with annual training for the prop-
 4 er handling of all sensitive information, including sensitive
 5 security information.”.

6 **TITLE III—WORKFORCE** 7 **PROTECTIONS**

8 **SEC. 301. JOB AND BENEFIT PROTECTIONS.**

9 Subsection (c) of section 44920 of title 49, United
 10 States Code, is amended to read as follows:

11 “(c) QUALIFIED PRIVATE SCREENING COMPANY.—

12 “(1) IN GENERAL.—Beginning on the date of
 13 the enactment of this subsection, a private screening
 14 company is qualified to provide screening services at
 15 an airport under this section if the company will
 16 only employ individuals to provide such services who
 17 meet all the requirements of this chapter applicable
 18 to Federal Government personnel who perform
 19 screening services at airports under this chapter, will
 20 provide the right of first refusal to existing Federal
 21 Government personnel, and presume that the per-
 22 sonnel who perform screening services at airports
 23 and are in good standing are qualified under this
 24 subsection, and will offer such individuals employ-
 25 ment with compensation and other benefits that is

1 equal to or greater than the level of compensation
2 and other benefits that such individuals were pro-
3 vided by the Federal Government at the time the
4 contract was awarded.

5 “(2) RULE OF CONSTRUCTION.—Nothing in
6 this subsection may be construed to require any pri-
7 vate screening company that is a qualified private
8 screening company as of the date that is one day be-
9 fore the date of the enactment of this subsection to
10 implement paragraph (1) with respect to any con-
11 tract that was entered into with the Under Secretary
12 before the date of the enactment of this sub-
13 section.”.

14 **SEC. 302. RETENTION AND DISCIPLINE.**

15 Section 44920 of title 49, United States Code, as
16 amended by section 205 of this Act, is further amended
17 by adding at the end the following new subsection:

18 “(p) RETENTION AND DISCIPLINE.—Each private
19 screening company with a contract for screening services
20 under this section that provides screening services at an
21 airport under this section shall, on a monthly basis, pro-
22 vide the Under Secretary with information on retention
23 rates of screeners and supervisory personnel employed by
24 each such private screening company at each such airport,
25 and a detailed description of adverse employment actions

1 taken against any of such screeners or supervisory per-
2 sonnel at each such airport. The Under Secretary shall
3 submit to the Committee on Homeland Security of the
4 House of Representatives and the Committee on Com-
5 merce, Science, and Transportation of the Senate, upon
6 request by either of such Committees, a report containing
7 the information required under this subsection.”.

8 **SEC. 303. PROTECTIONS FOR REPORTING DEFICIENCIES,**
9 **WASTE, OR VULNERABILITIES.**

10 (a) IN GENERAL.—Section 44920 of title 49, United
11 States Code, as amended by section 302 of this Act, is
12 further amended by adding at the end the following new
13 subsection:

14 “(q) PROTECTIONS FOR REPORTING DEFI-
15 CIENCIES.—

16 “(1) IN GENERAL.—Not later than 90 days
17 after the date of the enactment of this subsection,
18 the Under Secretary shall establish a process by
19 which any person may submit to the Under Sec-
20 retary a report regarding problems, deficiencies,
21 waste, or vulnerabilities with respect to screening
22 services provided at an airport where such services
23 are provided by a private screening company.

24 “(2) CONFIDENTIALITY.—The Under Secretary
25 shall keep confidential the identity of a person who

1 submits a report under paragraph (1), and any such
2 report shall be treated as protected information.

3 “(3) ACKNOWLEDGMENT OF RECEIPT.—If a re-
4 port submitted under paragraph (1) identifies the
5 person submitting such report, the Under Secretary
6 shall respond promptly to such person to acknowl-
7 edge receipt of such report.

8 “(4) STEPS TO ADDRESS PROBLEMS.—The
9 Under Secretary shall review and consider the infor-
10 mation provided in any report submitted under para-
11 graph (1) and shall, as necessary, take appropriate
12 steps under this title to address any problem, defi-
13 ciency, waste, or vulnerability identified in such re-
14 port.

15 “(5) RETALIATION PROHIBITED.—

16 “(A) PROHIBITION.—No private screening
17 company may discharge any employee or other-
18 wise discriminate against any employee with re-
19 spect to such employee’s compensation, terms,
20 conditions, or other privileges of employment
21 because such employee (or any person acting
22 pursuant to a request of such employee)—

23 “(i) notified the Under Secretary of
24 any problem, deficiency, waste, or vulner-
25 ability;

1 “(ii) refused to engage in any practice
2 made unlawful by this title, if such em-
3 ployee has identified the alleged illegality
4 to such employer;

5 “(iii) testified before or otherwise pro-
6 vided information relevant for Congress or
7 for any Federal or State proceeding re-
8 garding any provision (or proposed provi-
9 sion) of this title;

10 “(iv) commenced, caused to be com-
11 menced, or is about to commence or cause
12 to be commenced a proceeding under this
13 title;

14 “(v) testified or is about to testify in
15 any such proceeding; or

16 “(vi) assisted or participated or is
17 about to assist or participate in any man-
18 ner in such a proceeding or in any other
19 manner in such a proceeding or in any
20 other action to carry out the purposes of
21 this title.

22 “(B) SUSPENSION.—If the Under Sec-
23 retary determines that any private screening
24 company has engaged in retaliation in violation
25 of subparagraph (A), the Under Secretary shall

1 suspend the contract of such private screening
2 company to provide screening services.”.

3 (b) RULE OF CONSTRUCTION.—Nothing in sub-
4 section (q) of section 44920 of title 49, United States
5 Code, as added by subsection (a) of this section, may be
6 construed as in any manner affecting any other provision
7 of law relating to protections for the reporting of prob-
8 lems, deficiencies, waste, or vulnerabilities, including pro-
9 tections against retaliation related thereto.

○