

114TH CONGRESS
1ST SESSION

H. R. 3415

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

JULY 29, 2015

Mr. THOMPSON of Mississippi 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 “Aviation Screening Contractor Reform and Account-
6 ability Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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. Discretion regarding the approval of 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.
 Sec. 111. Technical corrections.

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.
 Sec. 206. Office of Inspector General Oversight.

TITLE III—WORKFORCE PROTECTIONS

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

1 **TITLE I—REFORM**
 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 Assistant Secretary of Homeland Security
 11 (Transportation Security Administration) may enter”;

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

4 (3) by striking paragraph (2) (relating to waiv-
5 ers).

6 **SEC. 102. COMPETITION FOR PRIVATE SCREENING CON-**
7 **TRACTS.**

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

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

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

14 “(h) PROHIBITION ON CERTAIN SUBCON-
15 TRACTING.—The Administrator of the Transportation Se-
16 curity Administration may not enter into any contract for
17 screening services under this section that would allow for
18 such services to be performed by a subcontractor.”.

19 **SEC. 104. DISCRETION REGARDING THE APPROVAL OF AP-**
20 **PLICATIONS.**

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

1 **SEC. 105. ENHANCED STANDARDS FOR APPLICATION AS-**
2 **SESSMENTS.**

3 Paragraph (2) of section 44920(b) of title 49, United
4 States Code, is amended by inserting before the period at
5 the end the following: “or at airports nationwide”.

6 **SEC. 106. TIMELINE FOR AWARDING A CONTRACT FOR**
7 **SCREENING SERVICES.**

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

11 “(4) TIMELINE FOR AWARDING A CONTRACT
12 FOR SCREENING SERVICES.—

13 “(A) IN GENERAL.—Not later than 270
14 days after approval of an application under
15 paragraph (1), the Administrator of the Trans-
16 portation Security Administration shall award a
17 contract to a qualified private screening com-
18 pany in accordance with subsections (c) and
19 (d).

20 “(B) NOTIFICATION.—If the Administrator
21 of the Transportation Security Administration
22 is unable to make an award in accordance with
23 subparagraph (A), the Administrator shall no-
24 tify the airport operator that submitted the ap-
25 plication at issue of the determination and the
26 basis for such determination, and about eligi-

1 bility for reapplication in accordance with sub-
2 section (a).”.

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

4 Section 44920 of title 49, United States Code, as
5 amended by section 103 of this Act, is further amended
6 by adding at the end the following new subsection:

7 “(i) PROHIBITION ON BONUSES AND OTHER
8 AWARDS.—The Administrator of the Transportation Se-
9 curity Administration may not provide funding to any pri-
10 vate screening company that provides screening services
11 at an airport in excess of the amount required for the per-
12 formance of such screening services.”.

13 **SEC. 108. COST ANALYSIS.**

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

17 “(j) COST ANALYSIS.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this subsection,
20 the Comptroller General of the United States shall
21 provide to the Administrator of the Transportation
22 Security Administration guidance on how to conduct
23 an analysis of the total annual cost incurred by the
24 Federal Government with respect to screening serv-
25 ices provided by private screening companies.

1 “(2) ACTION.—Not later than 180 days after
2 receipt of the guidance described in paragraph (1)
3 and annually thereafter, the Administrator of the
4 Transportation Security Administration shall utilize
5 such guidance to identify costs incurred by the Fed-
6 eral Government as a result of overseeing the per-
7 formance of private screening companies, compared
8 with costs incurred by the Administrator at airports
9 that utilize Federal Government personnel for pas-
10 senger and baggage screening.”.

11 **SEC. 109. CUSTOMER SERVICE.**

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

15 “(k) CUSTOMER SERVICE.—Each airport operator
16 utilizing contract passenger and baggage screeners em-
17 ployed by a private screening company shall prominently
18 display signs in the immediate vicinity of the passenger
19 screening area notifying the flying public that passenger
20 and baggage screening at the airport operated by such air-
21 port operator is conducted by contract screening personnel
22 and not by Federal Government personnel. Such signs
23 shall also display a contact number and Internet Web site
24 address maintained by such private screening company for
25 a passenger to report complaints about his or her screen-

1 ing experience. Each private screening company with a
2 contract for screening services at an airport shall track
3 all such passenger complaints and regularly report such
4 information to the Administrator of the Transportation
5 Security Administration through, to the maximum extent
6 practicable, the contracting officer of each such private
7 screening company. The Administrator shall report such
8 information to the Committee on Homeland Security of
9 the House of Representatives and the Committee on
10 Homeland Security and Governmental Affairs and the
11 Committee on Commerce, Science, and Transportation of
12 the Senate upon request.”.

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

14 Subsection (b) of section 44920 of title 49, United
15 States Code, as amended by section 106 of this Act, is
16 further amended by adding at the end the following new
17 paragraph:

18 “(5) **TRANSITION.**—Not later than 90 days
19 after an airport operator provides notice to the Ad-
20 ministrator of the Transportation Security Adminis-
21 tration of the decision of such airport operator to
22 discontinue the use of screening personnel of a quali-
23 fied private screening company and use Transpor-
24 tation Security Officers for screening services at the
25 airport operated by such airport operator, the Ad-

1 administrator shall provide such airport operator with
2 information on how the Administrator intends to
3 carry out the transition of screening services, includ-
4 ing an anticipated timeline and key benchmarks.”.

5 **SEC. 111. TECHNICAL CORRECTIONS.**

6 Section 44920 of title 49, United States Code, is
7 amended by striking “Under Secretary” each place it ap-
8 pears and inserting “Administrator of the Transportation
9 Security Administration”.

10 **TITLE II—OVERSIGHT**

11 **SEC. 201. ENHANCED OVERSIGHT.**

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

15 “(l) **ENHANCED OVERSIGHT.**—Not later than 180
16 days after the date of the enactment of this subsection,
17 the Administrator of the Transportation Security Admin-
18 istration shall develop and implement a system to be car-
19 ried out, to the maximum extent practicable, by the con-
20 tracting officer who oversees each respective private
21 screening company providing screening services at an air-
22 port, to enhance monitoring of performance of each such
23 private screening company. Such system shall, at a min-
24 imum, provide year-to-year information about perform-
25 ance by each such private screening company, and be in

1 a format to provide for comparison with airports in the
2 same category whose screening services are provided by
3 Federal Government personnel with respect to detection
4 rates of threats and threat image tests, recertification pass
5 rates, covert performance assessments, and evaluations
6 used to assess screener performance on various elements
7 that may affect security and a passenger’s overall travel
8 experience.”.

9 **SEC. 202. SECURITY BREACHES.**

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

13 “(m) SECURITY BREACHES.—

14 “(1) IN GENERAL.—A private screening com-
15 pany shall regularly report to the Administrator of
16 the Transportation Security Administration each se-
17 curity breach at an airport where baggage and pas-
18 senger screening is conducted by such a private
19 screening company. Each such report shall include
20 the following:

21 “(A) A detailed description of each secu-
22 rity breach.

23 “(B) Information regarding where each
24 such breach occurred.

1 “(C) Information regarding law enforce-
2 ment notification and response.

3 “(D) Any corrective action taken in re-
4 sponse to each such breach.

5 “(2) ANNUAL REPORTS.—The Administrator of
6 the Transportation Security Administration shall
7 submit to the Committee on Homeland Security of
8 the House of Representatives and the Committee on
9 Homeland Security and Governmental Affairs and
10 the Committee on Commerce, Science, and Trans-
11 portation of the Senate an annual report containing
12 the information required pursuant to paragraph (1),
13 including the definition of ‘security breach’ used by
14 the Administrator for purposes of this subsection.
15 To the extent practicable, each such report shall be
16 presented in a non-classified format with a classified
17 appendix where necessary.”.

18 **SEC. 203. COVERT TESTING OF CONTRACT SCREENER PER-**
19 **FORMANCE.**

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

23 “(n) COVERT TESTING.—The Comptroller General of
24 the United States shall conduct annual covert testing of
25 airports where private screening companies provide

1 screening services. To the extent practicable, such covert
2 testing shall be conducted at one airport with contract
3 screener personnel within each airport category that was
4 not the subject of covert testing by another Federal entity
5 during the same year. The Comptroller General shall sub-
6 mit to the Administrator of the Transportation Security
7 Administration and to the Committee on Homeland Secu-
8 rity of the House of Representatives and the Committee
9 on Homeland Security and Governmental Affairs and the
10 Committee on Commerce, Science, and Transportation of
11 the Senate a report that contains the results of such covert
12 testing. To the extent practicable, each such report shall
13 be presented in a non-classified format with a classified
14 appendix where necessary.”.

15 **SEC. 204. CONTRACTING PROHIBITION FOR COMPRO-**
16 **MISING COVERT SECURITY TESTING.**

17 Subsection (d) of section 44920 of title 49, United
18 States Code, as amended by section 101 of this Act, is
19 further amended—

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

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

24 (3) by adding at the end the following new
25 paragraph:

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

14 **SEC. 205. PROPER HANDLING OF SENSITIVE SECURITY IN-**
15 **FORMATION.**

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

19 “(o) **PROPER HANDLING OF SENSITIVE SECURITY**
20 **INFORMATION.**—The Administrator of the Transportation
21 Security Administration shall require each private screen-
22 ing company that provides screening services at airports
23 to provide all individuals employed by each such private
24 screening company with annual training for the proper

1 handling of all sensitive information, including sensitive
2 security information.”.

3 **SEC. 206. OFFICE OF INSPECTOR GENERAL OVERSIGHT.**

4 The Inspector General of the Department of Home-
5 land Security shall annually submit to the Committee on
6 Homeland Security of the House of Representatives and
7 the Committee on Homeland Security and Governmental
8 Affairs and the Committee on Commerce, Science, and
9 Transportation of the Senate a review the performance of
10 the Transportation Security Administration with respect
11 to the requirements of section 44920 of title 49, United
12 States Code, as amended by this Act.

13 **TITLE III—WORKFORCE**
14 **PROTECTIONS**

15 **SEC. 301. JOB, COMPENSATION, AND BENEFITS PROTEC-**
16 **TIONS.**

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

19 “(c) **QUALIFIED PRIVATE SCREENING COMPANY.—**

20 “(1) **IN GENERAL.—**Beginning on the date of
21 the enactment of this subsection, a private screening
22 company is qualified to provide screening services at
23 an airport under this section if such company will
24 only employ individuals to provide such services who
25 meet all the requirements of this chapter applicable

1 to Federal Government personnel who perform
2 screening services at airports under this chapter.

3 “(2) FEDERAL GOVERNMENT PERSONNEL.—A
4 private screening company under paragraph (1) shall
5 provide the right of first refusal to Federal Govern-
6 ment personnel employed to perform screening serv-
7 ices at an airport at the time the contract is award-
8 ed, and presume that such Federal Government per-
9 sonnel are in good standing and are qualified under
10 this subsection, and shall offer compensation and
11 benefits that are not less than the level of compensa-
12 tion and other benefits provided to such Federal
13 Government personnel at the time such contract is
14 awarded.

15 “(3) QUALIFIED PRIVATE SCREENING COMPANY
16 PERSONNEL.—In the event a private screening com-
17 pany under paragraph (1) is seeking to succeed a
18 qualified private screening company at an airport,
19 such company shall provide the right of first refusal
20 to personnel employed to perform screening services
21 at such airport at the time the contract is awarded,
22 and presume that such personnel are in good stand-
23 ing and are qualified under this subsection, and, at
24 the direction of the Administrator of the Transpor-
25 tation Security Administration, shall offer compensa-

1 tion and other benefits at a level required pursuant
2 to subsection (c) of section 6707 of title 41, United
3 States Code, and that is not less than the level of
4 compensation and other benefits provided to Federal
5 Government personnel at the time such contract is
6 awarded.

7 “(4) RULE OF CONSTRUCTION.—Nothing in
8 this subsection may be construed to require any pri-
9 vate screening company that is a qualified private
10 screening company as of the date that is one day be-
11 fore the date of the enactment of this subsection to
12 implement paragraph (1) with respect to any con-
13 tract that was entered into with the Administrator
14 of the Transportation Security Administration be-
15 fore such date of enactment.”.

16 **SEC. 302. RETENTION AND DISCIPLINE.**

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

20 “(p) RETENTION AND DISCIPLINE.—Each private
21 screening company with a contract for screening services
22 under this section that provides screening services at an
23 airport under this section shall, on a monthly basis, pro-
24 vide the Administrator of the Transportation Security Ad-
25 ministration with information on retention rates of screen-

1 ers and supervisory personnel employed by each such pri-
2 vate screening company at each such airport, and a de-
3 tailed description of adverse employment actions taken
4 against any of such screeners or supervisory personnel at
5 each such airport. The Administrator shall submit to the
6 Committee on Homeland Security of the House of Rep-
7 resentatives and the Committee on Homeland Security
8 and Governmental Affairs and the Committee on Com-
9 merce, Science, and Transportation of the Senate, upon
10 request by any of such Committees, a report containing
11 the information required under this subsection.”.

12 **SEC. 303. PROTECTIONS FOR REPORTING DEFICIENCIES,**
13 **WASTE, OR VULNERABILITIES.**

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

18 “(q) PROTECTIONS FOR REPORTING DEFI-
19 CIENCIES.—

20 “(1) IN GENERAL.—Not later than 90 days
21 after the date of the enactment of this subsection,
22 the Administrator of the Transportation Security
23 Administration shall establish a process by which
24 any person may submit to the Administrator a re-
25 port regarding problems, deficiencies, waste, or

1 vulnerabilities with respect to screening services pro-
2 vided at an airport where such services are provided
3 by a private screening company.

4 “(2) CONFIDENTIALITY.—The Administrator of
5 the Transportation Security Administration shall
6 keep confidential the identity of a person who sub-
7 mits a report under paragraph (1), and any such re-
8 port shall be treated as protected information.

9 “(3) ACKNOWLEDGMENT OF RECEIPT.—If a re-
10 port submitted under paragraph (1) identifies the
11 person submitting such report, the Administrator of
12 the Transportation Security Administration shall re-
13 spond promptly to such person to acknowledge re-
14 ceipt of such report.

15 “(4) STEPS TO ADDRESS PROBLEMS.—The Ad-
16 ministrator of the Transportation Security Adminis-
17 tration shall review and consider the information
18 provided in any report submitted under paragraph
19 (1) and shall, as necessary, take appropriate steps
20 under this title to address any problem, deficiency,
21 waste, or vulnerability identified in such report.

22 “(5) RETALIATION PROHIBITED.—

23 “(A) PROHIBITION.—No private screening
24 company may discharge any employee or other-
25 wise discriminate against any employee with re-

1 spect to such employee’s compensation, terms,
2 conditions, or other privileges of employment
3 because such employee (or any person acting
4 pursuant to a request of such employee)—

5 “(i) notified the Administrator of the
6 Transportation Security Administration of
7 any problem, deficiency, waste, or vulner-
8 ability;

9 “(ii) refused to engage in any practice
10 made unlawful by this title, if such em-
11 ployee has identified the alleged illegality
12 to such employer;

13 “(iii) testified before or otherwise pro-
14 vided information relevant for Congress or
15 for any Federal or State proceeding re-
16 garding any provision of this title;

17 “(iv) commenced, caused to be com-
18 menced, or is about to commence or cause
19 to be commenced a proceeding under this
20 title;

21 “(v) testified or is about to testify in
22 any such proceeding; or

23 “(vi) assisted or participated or is
24 about to assist or participate in any man-
25 ner in such a proceeding or in any other

1 manner in such a proceeding or in any
2 other action to carry out the purposes of
3 this title.

4 “(B) SUSPENSION.—If the Administrator
5 of the Transportation Security Administration
6 determines that any private screening company
7 has engaged in retaliation in violation of sub-
8 paragraph (A), the Administrator shall suspend
9 the contract of such private screening company
10 to provide screening services.”.

11 (b) RULE OF CONSTRUCTION.—Nothing in sub-
12 section (q) of section of title 49, United States Code, as
13 added by subsection (a) of this section, may be construed
14 as in any manner affecting any other provision of law re-
15 lating to protections for the reporting of problems, defi-
16 ciencies, waste, or vulnerabilities, including protections
17 against retaliation related thereto.

○