

“(3) DEFINITION OF LOW-RISK PASSENGER.—In this subsection, the term ‘low-risk passenger’ means a passenger who—

“(A) meets a risk-based, intelligence-driven criteria prescribed by the Administrator; or

“(B) undergoes a canine enhanced screening upon arrival at the passenger screening checkpoint.

“(4) TERMINATION.—The pilot program shall terminate on the date that is 120 days after the date it commences under paragraph (1).

“(5) BRIEFING.—Not later than 30 days after the termination date under paragraph (4), the Administrator shall brief the appropriate committees of Congress [Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] on the findings of the pilot program, including—

“(A) information relating to the security effectiveness and passenger facilitation effectiveness of the risk modified screening protocol;

“(B) a determination regarding whether the risk modified screening protocol was effective; and

“(C) if the Administrator determined that the protocol was effective, a plan for the deployment of the protocol at as many TSA passenger screening checkpoints as practicable.

“(6) IMPLEMENTATION.—In determining whether deployment of the protocol at a TSA passenger screening checkpoint at an airport is practicable, the Administrator shall consider—

“(A) the level of risk at the airport;

“(B) the available space at the airport;

“(C) passenger throughput levels at the airport;

“(D) the checkpoint configuration at the airport; and

“(E) adequate resources to appropriately serve passengers in TSA PreCheck security screening lanes at the passenger screening checkpoint.

“(f) WORKING GROUP.—

“(1) IN GENERAL.—In carrying out subsection (e), the Administrator shall establish a working group to advise the Administrator on the development of plans for the deployment of the protocol at TSA passenger screening checkpoints, other than designated TSA PreCheck security screening lanes, in the most effective and efficient manner practicable.

“(2) MEMBERS.—The working group shall be comprised of representatives of Category X, I, II, III, and IV airports and air carriers (as the term is defined in section 40102 of title 49, United States Code).

“(3) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.] shall not apply to the working group established under this subsection.

“(g) BRIEFINGS.—

“(1) IN GENERAL.—The Administrator shall brief, on a biannual basis, the appropriate committees of Congress on the implementation of subsections [sic] (a) until the Administrator certifies that only travelers who are members of trusted traveler programs specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at passenger screening checkpoints.

“(2) CERTIFICATION.—Upon a determination by the Administrator that only travelers who are members of a trusted traveler program specified in subsection (b) are permitted to use TSA PreCheck security screening lanes at checkpoints in accordance with subsection (a), the Administrator shall submit to the appropriate committees of Congress a written certification relating to such determination.

“(h) INSPECTOR GENERAL ASSESSMENTS.—The Inspector General of the Department [of Homeland Security] shall assess and transmit to the appropriate committees of Congress the Administrator’s implementation under subsection (a).

“(i) EXPANSION OF TSA PRECHECK PROGRAM ENROLLMENT.—

“(1) LONG-TERM STRATEGY.—Not later than 180 days after the date of enactment of this Act [Oct. 5, 2018],

the Administrator shall develop and begin the implementation [of] a long-term strategy to increase enrollment in the TSA PreCheck Program.

“(2) CONSIDERATIONS.—In developing the strategy under paragraph (1), the Administrator shall consider the following:

“(A) Partnering with air carriers (as the term is defined in section 40102 of title 49, United States Code) to incorporate PreCheck Program promotion opportunities in the reservation process described in section 1560.101 of title 49, Code of Federal Regulations;[.]

“(B) Including in the PreCheck Program of [sic] an individual who—

“(i) holds a Secret, Top Secret, or Top Secret/Sensitive Compartmented Information clearance, unless the individual has had the individual’s clearance revoked or did not pass a periodic re-investigation; or

“(ii) is a current, full-time Federal law enforcement officer.

“(C) Providing PreCheck Program enrollment flexibility by offering secure mobile enrollment platforms that facilitate in-person identity verification and application data collection, such as through biometrics.

“(D) Reducing travel time to PreCheck Program enrollment centers for applicants, including—

“(i) by adjusting the locations and schedules of existing PreCheck Program enrollment centers to accommodate demand;

“(ii) by seeking to colocate such enrollment centers with existing facilities that support the issuance of—

“(I) United States passports; and

“(II) Security Identification Display Area credentials (as the term is defined in section 1540.5 of title 49, Code of Federal Regulations) located in public, non-secure areas of airports if no systems of an airport operator are used in support of enrollment activities for such credentials; and

“(iii) by increasing the availability of PreCheck Program enrollment platforms, such as kiosks, tablets, or staffed laptop stations.

“(E) The feasibility of providing financial assistance or other incentives for PreCheck Program enrollment for—

“(i) children who are at least 12 years or older, but less than 18 years old;

“(ii) families consisting of 5 or more immediate family members;

“(iii) private sector entities, including small businesses, to establish PreCheck Program enrollment centers in their respective facilities; and

“(iv) private sector entities, including small business concerns (as the term is described in section 3 of the Small Business Act (15 U.S.C. 632)), to reimburse an employee for the cost of the PreCheck Program application.”

§ 44920. Screening partnership program

(a) IN GENERAL.—An airport operator may submit to the Administrator of the Transportation Security Administration an application to carry out the screening of passengers and property at the airport under section 44901 by personnel of a qualified private screening company pursuant to a contract entered into with the Transportation Security Administration.

(b) APPROVAL OF APPLICATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Administrator shall approve or deny the application.

(2) STANDARDS.—The Administrator shall approve an application submitted by an airport

operator under subsection (a) if the Administrator determines that the approval would not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport.

(3) REPORTS ON DENIALS OF APPLICATIONS.—

(A) IN GENERAL.—If the Administrator denies an application submitted by an airport operator under subsection (a), the Administrator shall provide to the airport operator, not later than 60 days following the date of the denial, a written report that sets forth—

- (i) the findings that served as the basis for the denial;
- (ii) the results of any cost or security analysis conducted in considering the application; and
- (iii) recommendations on how the airport operator can address the reasons for the denial.

(B) SUBMISSION TO CONGRESS.—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 a copy of any report provided to an airport operator under subparagraph (A).

(C) QUALIFIED PRIVATE SCREENING COMPANY.—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(D) SELECTION OF CONTRACTS AND STANDARDS FOR PRIVATE SCREENING COMPANIES.—

(1) IN GENERAL.—The Administrator shall, upon approval of the application, provide the airport operator with a list of qualified private screening companies.

(2) CONTRACTS.—The Administrator shall, to the extent practicable, enter into a contract with a private screening company from the list provided under paragraph (1) for the provision of screening at the airport not later than 120 days after the date of approval of an application submitted by the airport operator under subsection (a) if—

(A) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter;

(B) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Administrator determines that there are private screening companies owned and controlled by such citizens; and

(C) the selected qualified private screening company offered contract price is equal to or less than the cost to the Federal Govern-

ment to provide screening services at the airport.

(3) WAIVERS.—The Administrator may waive the requirement of paragraph (2)(B) for any company that is a United States subsidiary with a parent company that has implemented a foreign ownership, control, or influence mitigation plan that has been approved by the Defense Security Service of the Department of Defense prior to the submission of the application. The Administrator has complete discretion to reject any application from a private screening company to provide screening services at an airport that requires a waiver under this paragraph.

(E) SUPERVISION OF SCREENING PERSONNEL.—The Administrator shall—

(1) provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter; and

(2) undertake covert testing and remedial training support for employees of private screening companies providing screening at airports.

(F) TERMINATION OR SUSPENSION OF CONTRACTS.—The Administrator may suspend or terminate, as appropriate, any contract entered into with a private screening company to provide screening services at an airport under this section if the Administrator finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(G) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or such airport operator's decision not to submit an application; and

(2) any act of negligence, gross negligence, or intentional wrongdoing by—

(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

(B) employees of the Federal Government providing passenger and property security screening services at the airport.

(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.

(h) EVALUATION OF SCREENING COMPANY PROPOSALS FOR AWARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including title 48 of the Code of Federal Regulations and the Federal Advisory Committee Act (5 U.S.C. App.),¹ an airport operator that has applied and been approved to have security screening services carried out by a qualified private screening company under contract with the Administrator may nominate to the head of the contracting activity an individual to participate in the evaluation of proposals for the award of such contract.

(2) PARTICIPATION ON A PROPOSAL EVALUATION COMMITTEE.—Any participation on a proposal evaluation committee under paragraph (1) shall be conducted in accordance with chapter 21 of title 41.

(i)² INNOVATIVE SCREENING APPROACHES AND TECHNOLOGIES.—The Administrator shall encourage an airport operator to whom screening services are provided under this section to recommend to the Administrator innovative screening approaches and technologies. Upon receipt of any such recommendations, the Administrator shall review and, if appropriate, test, conduct a pilot project, and, if appropriate, deploy such approaches and technologies.

(i)² DEFINITION OF ADMINISTRATOR.—In this section, the term “Administrator” means the Administrator of the Transportation Security Administration.

(Added Pub. L. 107–71, title I, §108(a), Nov. 19, 2001, 115 Stat. 612; amended Pub. L. 109–90, title V, §547, Oct. 18, 2005, 119 Stat. 2089; Pub. L. 112–95, title VIII, §830(a)–(c), Feb. 14, 2012, 126 Stat. 135; Pub. L. 115–254, div. K, title I, §§1946(a), 1991(d)(17), Oct. 5, 2018, 132 Stat. 3585, 3636.)

Editorial Notes

REFERENCES IN TEXT

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, referred to in subsec. (g)(3), is subtitle G (§§861–865) of title VIII of Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2238, also known as the SAFETY Act, which is classified generally to part G (§441 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h)(1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, §§3(a), 7, Dec. 27, 2022, 136 Stat. 4197, 4361. For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

AMENDMENTS

2018—Pub. L. 115–254, §1946(a)(1), substituted “Screening partnership program” for “Security screening opt-out program” in section catchline.

Subsec. (a). Pub. L. 115–254, §1946(a)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: “On or after the last day of the 2-year period beginning on the date on which the Under Secretary

transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.”

Subsec. (b)(1). Pub. L. 115–254, §1946(a)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: “Not later than 120 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Under Secretary shall approve or deny the application.”

Subsec. (b)(2), (3). Pub. L. 115–254, §1946(a)(3)(B), substituted “Administrator” for “Under Secretary” wherever appearing.

Subsec. (d). Pub. L. 115–254, §1946(a)(4)(A), substituted “Selection of Contracts and Standards” for “Standards” in heading.

Subsec. (d)(1). Pub. L. 115–254, §1946(a)(4)(C)(i), substituted “The Administrator shall, upon approval of the application, provide the airport operator with a list of qualified private screening companies.” for “The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section only if the Under Secretary determines and certifies to Congress that—”. Former subpars. (A) and (B) of par. (1) redesignated subpars. (A) and (B), respectively, of par. (2).

Subsec. (d)(2). Pub. L. 115–254, §1946(a)(4)(C)(ii), inserted par. (2) designation, heading, and introductory provisions before former subpars. (A) and (B) of par. (1), thereby making them part of par. (2). Former par. (2) redesignated (3).

Subsec. (d)(2)(B). Pub. L. 115–254, §1946(a)(4)(D)(ii)(I), substituted “Administrator” for “Under Secretary”.

Subsec. (d)(2)(C). Pub. L. 115–254, §1946(a)(4)(D)(i), (ii)(II), (iii), added subpar. (C).

Subsec. (d)(3). Pub. L. 115–254, §1946(a)(4)(E), substituted “Administrator” for “Under Secretary” in two places and “paragraph (2)(B)” for “paragraph (1)(B)”.

Pub. L. 115–254, §1946(a)(4)(B), redesignated par. (2) as (3).

Subsec. (e). Pub. L. 115–254, §1946(a)(5)(B)–(E), substituted “The Administrator shall—” for “The Under Secretary shall”, inserted par. (1) designation before “provide Federal Government”, realigned margins, and added par. (2).

Pub. L. 115–254, §1946(a)(5)(A), substituted “Screening” for “Screened” in heading.

Subsec. (f). Pub. L. 115–254, §1946(a)(6), inserted “or Suspension” after “Termination” in heading, and, in text, substituted “Administrator” for “Under Secretary” in two places and “suspend or terminate, as appropriate,” for “terminate”.

Subsec. (g)(1). Pub. L. 115–254, §1991(d)(17)(A), substituted “subsection (a)” for “subsection (a) or section 44919”.

Subsec. (h). Pub. L. 115–254, §1946(a)(7), added subsec. (h) and struck out former subsec. (h). Prior to amendment, text read as follows: “As part of any submission of an application for a private screening company to provide screening services at an airport, the airport operator shall provide to the Under Secretary a recommendation as to which company would best serve the security screening and passenger needs of the airport, along with a statement explaining the basis of the operator’s recommendation.”

Subsec. (i). Pub. L. 115–254, §1991(d)(17)(B), added subsec. (i) defining “Administrator”.

Pub. L. 115–254, §1946(a)(7), added subsec. (i) relating to innovative screening approaches and technologies.

2012—Subsec. (b). Pub. L. 112–95, §830(a), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Under Secretary may approve any application submitted under subsection (a).”

Subsec. (d). Pub. L. 112–95, §830(b), designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), re-

¹ See References in Text note below.

² So in original. Two subssecs. (i) have been enacted.

spectively, of par. (1), realigned margins, and added par. (2).

Subsec. (h). Pub. L. 112-95, § 830(c), added subsec. (h).
2005—Subsec. (g). Pub. L. 109-90 added subsec. (g).

Statutory Notes and Related Subsidiaries

APPLICATIONS SUBMITTED BEFORE THE DATE OF ENACTMENT OF PUB. L. 115-254

Pub. L. 115-254, div. K, title I, § 1946(c), Oct. 5, 2018, 132 Stat. 3587, provided that: “Not later than 30 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator [of the Transportation Security Administration] shall approve or deny, in accordance with section 44920(b) of title 49, United States Code, as amended by this Act, each application submitted before the date of enactment of this Act, by an airport operator under subsection (a) of that section, that is awaiting such a determination.”

Executive Documents

CHANGE OF NAME

Defense Security Service of the Department of Defense changed to Defense Counterintelligence and Security Agency effective June 20, 2019, pursuant to Ex. Ord. No. 13467, set out as a note under section 3161 of Title 50, War and National Defense.

§ 44921. Federal flight deck officer program

(a) ESTABLISHMENT.—The Administrator shall establish a program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as “Federal flight deck officers”.

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The Administrator shall establish procedural requirements to carry out the program under this section.

(2) COMMENCEMENT OF PROGRAM.—The Administrator shall train and deputize pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

(A) The type of firearm to be used by a Federal flight deck officer.

(B) The type of ammunition to be used by a Federal flight deck officer.

(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not

leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot’s base airport.

(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

(M) Any other issues that the Administrator considers necessary.

(N) The Administrator’s decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

(4) PREFERENCE.—In selecting pilots to participate in the program, the Administrator shall give preference to pilots who are former military or law enforcement personnel.

(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119¹ of this title, information developed under paragraph (3)(E) shall not be disclosed.

(6) NOTICE TO CONGRESS.—The Administrator shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

(7) MINIMIZATION OF RISK.—If the Administrator determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Administrator shall take such actions as may be necessary to minimize that risk.

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

(1) IN GENERAL.—The Administrator shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

(2) TRAINING.—

(A) IN GENERAL.—The Administrator shall base the requirements for the training of

¹ See References in Text note below.