

U.S. Senate Committee on Commerce, Science, and Transportation  
Hearing on “Transportation Security Administration Oversight:  
Confronting America’s Transportation Security Challenges”  
Written Questions for the Record from Ranking Member John Thune  
for Administrator John Pistole

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**Question:** Transportation Worker Identification Credentials (TWICs) are required to access ports and other secure facilities in the maritime sector. The Government Accountability Office (GAO) has issued two reports harshly critical of the TWIC program. And earlier this year, Congress required the Department of Homeland Security to conduct an effectiveness assessment of the program prior to promulgating a rule on automated card readers for TWIC cards at selected ports.

Has the Department begun this assessment? If so, are there any results that you can share with the Committee at this time?

**Response:** At the direction of the House and Senate Appropriations Committee, the Transportation Security Administration (TSA) and the United States Coast Guard (USCG) have conducted a security assessment addressing the benefits of the Transportation Worker Identification Credential (TWIC) program. The draft security assessment report is currently under review by USCG and TSA leadership.

**Question:** In conducting its 2011 report, GAO investigators were successful in accessing ports using counterfeit TWICs, authentic TWICs acquired through fraudulent means, and by fabricating phony business cases for accessing secure areas.

What steps has your agency taken over the past three years to address these concerns?

**Response:** The Transportation Security Administration (TSA) has worked with the United States Coast Guard to identify port access vulnerabilities when Transportation Worker Identification Credentials (TWICs) are used as “flash passes,” to include updates to training, access control policies, and business processes.

Ports establish the requirements for access to their secure facilities. Possession of a TWIC, while a necessary element for access, does not guarantee its holder the right of access. The TWIC is not a substitute for access control policy or trained and attentive security personnel. The Coast Guard works with the ports to ensure the enforcement of security practices for access to secure facilities, including unscheduled inspections using portable TWIC readers.

TSA has also implemented a variety of enrollment safeguards, such as federal training for trusted agents and the use of document authentication technology. Additionally, the Homeland Security Studies and Analysis Institute’s (HSSAI) Counterfeit Deterrence group conducted an evaluation of TWIC in November 2012 and provided input to the program for consideration in strengthening TWIC security. TSA is developing a Next Generation TWIC under TSA’s Technology Infrastructure Modernization Program, which incorporates the HSSAI recommendations and includes additional security features to further reduce the use of counterfeit TWICs. Considerations for the Next Generation TWIC are 1) card durability, appearance, and new security features; and 2) use of facial, iris, and other biometrics.

**Question:** What role will TSA have in the rulemaking that the Coast Guard is conducting related to TWIC card readers? What are your thoughts on the Coast Guard's decision to require card readers only at certain ports and on certain vessels?

**Response:** The Transportation Security Administration (TSA) and the United States Coast Guard (USCG) jointly administer the Transportation Worker Identification Credential (TWIC) program. TSA is responsible for enrollments, security threat assessments, credential production, and systems operations. The USCG is responsible for establishing and enforcing access control requirements for Maritime Transportation Security Act -regulated vessels and facilities. Regulations are developed through a thorough, coordinated process that involves all of DHS including TSA and USCG, enabling TSA to contribute information to USCG to help inform all aspects of the USCG's rulemaking, including but not limited to TWIC card reader technical specifications, qualified reader technology, and reader testing.

**Question:** At the hearing, I asked about TSA's implementation of the increased passenger security fee scheduled to take effect July 1st under the Bipartisan Budget Act of 2013. Senate and House Budget Committee Chairmen Murray and Ryan recently provided insight into their intentions in a letter to you on the subject, stating that their intent in drafting the legislation was that passengers would pay no more than twice the maximum fee on a round trip, no matter how many stopovers may occur during that round trip. It appears TSA intends to implement the fee increase in a manner that is inconsistent with the stated intent, even though the agency could implement the fee increase as requested by the authors. As you pledged to follow up with me on this question during the hearing, please provide a copy of the legal analysis and justification used by TSA in drafting the new security fee rule under the Bipartisan Budget Act. If none was provided to the Office of Management and Budget for consideration, please indicate as much and provide an analysis and justification for this hearing record.

**Response:** The Transportation Security Administration (TSA) has completed a rulemaking action to amend its regulations to implement restructuring of the September 11<sup>th</sup> Security Fee, enacted as part of the Bipartisan Budget Act of 2013 (BBA). In developing this rulemaking, TSA has carefully considered the text of 49 U.S.C. 44940, the statutory language amending 44940 under the BBA, and available legislative history. In the interim final rule published on June 20, 2014, which can be found in the Federal Register (<https://www.federalregister.gov/articles/2014/06/20/2014-14488/adjustment-of-passenger-civil-aviation-security-service-fee>), TSA provided the following explanation for removal of the round trip cap:

TSA is removing language that effectively applied a cap to the amount of the fee that could be imposed per "round trip." Under current § 1510.5(a), "passengers may not be charged for more than two enplanements per one-way trip or four enplanements per round trip." This provision effectively created a \$10 cap on round-trip travel—in other words, it set a \$10 cap on any itinerary that ended at its origin point, even if the itinerary included more than four \$2.50 enplanements with lengthy stopovers.

Thus, for instance, if a passenger purchased a round trip for an itinerary involving ten enplanements, each separated by a three-day stopover, but ultimately ending at the origin point, a \$10 fee would be imposed because the regulation caps a round trip at 4 enplanements. At the same time, a different passenger travelling on the same exact flights (same days, same planes, same stopovers and destinations) who does not purchase the travel as a single round trip itinerary could potentially be charged up to \$25.00 (\$2.50 x 10 enplanements). Thus, as a result of the distinction between round-trip and other itineraries, similarly situated passengers could be charged different fees.<sup>1</sup> TSA received comments on the 2001

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<sup>1</sup> In other words, under the current regulations, if Passenger A were to book such an itinerary beginning and ending at New York's John F. Kennedy International Airport (JFK), and Passenger B were to book the same exact itinerary, except that Passenger B planned to return to Boston, Passenger A would owe \$10, and

IFR questioning the round trip cap on the basis that it was not specifically stipulated in the statute and had the effect of decreasing revenue.<sup>2</sup>

As enacted by ATSA in 2001, section 44940(a) required imposition of a “uniform fee” on passengers, but specifically imposed a one-way cap on the fee amount in 44940(c). As discussed above, prior to the Budget Act amendments, section 44940(c) provided that the fee “may not exceed \$2.50 per enplanement in air transportation or intrastate air transportation that originates at an airport in the United States, except that the total amount of such fees may not exceed \$5.00 per one-way trip.” This language provided TSA with clear discretion to limit the amount of fee charged per enplanement and, therefore, to provide a cap on the amount charged per round trip. Amending section 44940(c) by mandating a fee of \$5.60 per one-way trip, as well as eliminating the cap language that was in the statute as enacted in 2001, is consistent with the authorizing language of section 44940(a) and the requirement to impose a “uniform fee.”

Accordingly, in the absence of statutory language authorizing such a cap, and in light of the fact that a round-trip cap under the revised fee structure would have the effect of the fee being far less for some passengers than the mandatory \$5.60 per one-way trip, this IFR does not include a limit on the number of one-way trips that can be charged per itinerary. TSA notes that by eliminating the round-trip cap, the restructured fee mitigates the likelihood of disparate treatment for substantially similar travel—some booked as round trips on one itinerary, and some not.

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Passenger B would owe \$25.00. Similarly, Passengers C and D could both fly on the same days, flights, stopovers, and destinations, but pay different fees based on how the air transportation was purchased (for example, Passenger C purchases air transportation as a single five-stopover round trip itinerary but Passenger D purchases the same air transportation in separate transactions, creating multiple itineraries).

<sup>2</sup> *See* Letter from Air Transport Association to Docket TSA-2001-11120 (dated March 1, 2002) available at [www.regulations.gov](http://www.regulations.gov) under Docket No. TSA-2001-11120-0032.

**Question:** Given TSA's interest in reducing or eliminating the need to remove shoes, laptops and liquids under its risk-based approach, how will TSA's new technology acquisitions and upgrades help facilitate this goal? Additionally, could TSA's technology acquisition plan aim to achieve risk-based screening on a passenger-by-passenger basis?

**Response:** The Transportation Security Administration's (TSA) new technology acquisitions and upgrades are designed to support TSA Pre✓™ expansion and facilitate specific goals to minimize divestiture requirements for passengers while enhancing security effectiveness. TSA has invested in, and began the testing of, enhanced algorithms on Advanced Technology systems that allow large electronics to remain in passengers' carry-on luggage. Additionally, further planned enhancements are aimed at easing current liquid restrictions. To ensure alignment between industry partners and TSA in meeting agency goals, TSA has released the TSA Security Capability Investment Plan aimed toward providing industry stakeholders insight into the capability investment areas. TSA continues to work closely with the Department of Homeland Security Science and Technology and interagency partners in the Departments of Defense and Justice to develop advanced technology in support of TSA's risk-based security needs.

In addition, TSA is investing in Credential Authentication Technology (CAT). This technology enables TSA to automatically authenticate identity documents that are presented to TSA by passengers during the security checkpoint screening process, further enhancing travel safety. In the future, CAT systems will integrate with the Secure Flight system through the Security Technology Integrated Program (IT program that automates exchange of information with various screening equipment, including the capability to dynamically transfer information between Transportation Security Equipment and vetting and security operations) in order to provide a passenger's risk status to the Travel Document Checker at the airport checkpoint. Additionally, TSA would like to develop an integrated system whereby a passenger's risk status would be correlated with appropriate screening technologies. By linking risk information with a more tailored approach to screening, TSA will be able to provide greater situational awareness, as well as the ability to rapidly adjust risk mitigation based on emerging threats and evolving environmental risk.

**Question:** After 9/11, the U.S. Congress mandated that TSA deploy Explosive Detection Systems (EDS) to screen 100 percent of checked baggage at all U.S. airports, and TSA deployed EDS with computer tomography (CT) technology in fulfilling this mandate. This technology is now available for security checkpoints as well, and we're seeing the application of such technology at airports overseas. Such systems could potentially address the need for improved screening while improving traveler experience by largely eliminating the need to remove liquids/laptops and increasing throughput.

Does TSA plan to bring this type of technology to the checkpoint?

**Response:** The Transportation Security Administration (TSA) in collaboration with the Department of Homeland Security (DHS) Science and Technology Directorate (S&T) has been monitoring the progression of computed tomography (CT) but is not planning on using this technology for checkpoint purposes. Historically, the issues with operationalizing CT for the checkpoint have been cost and size related. CT systems for the checkpoint have been roughly 50 percent more expensive than traditional projection X-ray systems, and the footprint is larger than currently deployed technologies.

However, TSA's Passenger Screening Program has hosted over six different companies who discussed their CT for checkpoint solutions and TSA collaborates with its international partners who utilize CT to exchange lessons learned. TSA will continue to actively monitor the technological developments of CT and its feasibility within the checkpoint environment. At this time, TSA does not have any plans to procure CT for use at the checkpoint to screen carry-on bags.

**Question:** I have heard concerns from those representing smaller concessionaires at airports that TSA, under Security Directive 1542-04-10, allows only 25 percent of an airport concessionaire's employees to hold security identification display area—or SIDA—badges. For small businesses with few employees, the limited number of employees allowed to hold SIDA badges may be problematic. This requirement could make it difficult for these small businesses to compete effectively for concessionaire contracts. For example, because certain contracts may require long continuous service hours during which a concessionaire's employees would need to access secure areas like the tarmac for various servicing, delivery, and trash disposal needs, the limited proportion of employees who would be allowed to hold a SIDA badge may disadvantage concessionaires with a relatively small number of employees.

Would you revisit TSA's current "one-size-fits-all" approach to SIDA badge issuance procedures and look at changes that may be necessary to facilitate and help small businesses compete on an equal playing field, while still providing the necessary security measures for airport facilities?

**Response:** Strong access controls to the sterile areas of our nation's airports are a crucial layer in our aviation security system. One way the Transportation Security Administration (TSA) manages access control is through limiting the number of secure identification display area (SIDA) badges issued at each airport, as these badges give individuals unfettered access to the sterile area. However, recognizing that this limitation was creating some hardships at larger airports, TSA worked with industry to develop options for addressing this issue.

In April 2013, TSA amended the national Airport Security Plan (ASP) (Change 13-02), to create flexibility by providing options in addition to the 25 percent measure in Security Directive 1542-04-10. The other options provided in the amendment included: (1) technology that, in lieu of general access, enables limited access to individuals to certain areas of the airport based on their specific job requirements; or (2) implementing physical improvements to the airport infrastructure that limit or eliminate the need for sterile area concessionaire employees working in the sterile area to have unescorted access to the SIDA. An example of this would be providing storage areas for consumable goods in the SIDA, thus negating frequent trips. Each airport operator must work with its respective Federal Security Director to amend the airport-specific, Airport Security Plan, as necessary. TSA remains dedicated to working with airport operators to lessen the burden of outdated security measures by updating them to meet present day security challenges, while using a risk and outcome-based approach.



**Question:** Your written testimony for this hearing stated: “It is my goal to consistently apply a risk-based approach to all aspects of TSA’s mission. Whether it is the deployment of Federal Air Marshalls (FAMs), the allocation of Transit Security Grant resources, or air cargo screening policies, TSA is working to implement a risk-based approach that allows us to deliver the most effective security in the most efficient manner.” With respect to TSA’s air cargo screening policies, how are you implementing a risk-based approach and how far along are you are in that implementation process?

**Response:** The “Trusted Shipper” concept is an essential element in enabling passenger carriers to apply principles of risk to the screening of inbound cargo without disruption to the global air cargo supply chain. The concept, currently implemented as standards in the Transportation Security Administration security programs requiring air carrier determinations, may in the future be implemented through the Air Cargo Advanced Screening program to provide an automated, data-driven, neutral platform for the determination of “trusted” shipper/shipment status. Automated segmentation of these shipments will more readily enable industry to apply appropriate tiered screening protocols, assisting both passenger carriers, and all-cargo carriers in processing “non-trusted” shipments for additional screening measures outlined in the appropriate security program.

**Question:** In your written testimony, you also referenced seeking employee feedback via the TSA Idea Factory, your web-based employee engagement tool, and receiving contributions from all levels of the organization. In contrast, however, the Partnership for Public Service (PPS) recently ranked TSA last out of all federal agencies in its annual innovation score based on a survey of federal employees. This ranking suggests TSA employees are not being encouraged and motivated to be creative and develop new ideas in their job.

How would you describe TSA's current culture for promoting innovation and new ideas, and how do you reconcile TSA's low ranking in the PPS survey with your description of TSA's efforts to solicit employee feedback in your testimony?

**Response:** Innovation and promoting new ideas is an integral part of the Transportation Security Administration's (TSA) current culture. Innovation has been one of TSA's core values since its formation in 2002. TSA defines innovation as embracing and standing ready for change; being courageous and willing to take on new challenges; and having an enterprising spirit and accepting risk-taking that comes along with innovation. In 2007, TSA launched the IdeaFactory, a web-based social media tool that allows all employees to submit, rate and comment on ideas to improve the organization. This gives the frontline workforce the ability to submit ideas and gain a voice in how the agency evolves. The IdeaFactory has changed the way TSA interacts with a large, geographically dispersed frontline workforce and has led the way in how the Federal government uses employee ideation tools to engage employees. The IdeaFactory was featured in the White House Innovation Gallery in 2009, and in 2011, it was honored with a Harvard Kennedy School Ash Center Bright Idea Award. TSA has implemented hundreds of employee suggestions over the last seven years improving areas such as communications, customer service, training, procedures and human resource policies.

Yet, technology cannot be the only solution for encouraging and motivating employees to be creative and develop new ideas in their jobs. Currently, the IdeaFactory is accessible only via TSA's network and many of the 46,000 frontline employees do not have ready access to computers. Additionally, because of TSA's critical security mission, the frontline workforce is expected to follow Standard Operating Procedures in their daily operations. Consistent application of security measures is critical to carrying out the mission and this may make employees feel as though new ideas are not consistently encouraged.

Future plans include making the tool more accessible to the workforce; training supervisors and managers to be responsive to new ideas and initiatives; and using senior leadership-sponsored IdeaFactory challenges to ask the workforce for input on specific ideas and programs.

**Question:** In your March 25, 2014 testimony to the House Appropriations Subcommittee on Homeland Security, you stated that TSA is letting private contractors know how much Screening Partnership Program (SPP) airports cost the government. But in testimony before the House Committee on Government Reform in January 2014, Assistant Administrator Kelly Hoggan stated that TSA does not consider some costs, such as federal employee benefits, in its federal cost estimate.

Since these and other costs associated with TSA screening that are incurred in accounts other than Screening Operations are not being considered, how do private contractors and the general public know whether the TSA's federal cost estimate provided to the private sector truly represents the entire cost paid by the taxpayer?

**Response:** When calculating the Federal Cost Estimate (FCE) that is included in the Request for Proposals (RFP) for privatized screening contracts, the Transportation Security Administration (TSA) includes all costs directly attributed to screening operations, which include indirect costs such as headquarters overhead, airport administrative staff and supplies, hiring and recruitment costs, information technology support and other cost items.

TSA excludes costs that fall outside annual appropriations, including future unfunded retirement liabilities, corporate tax adjustments, and general liability insurance. The FCE reflects those costs directly borne by the agency.

**Question:** You also stated in your House testimony that the SPP drives up the TSA's administrative costs, because the agency must employ more contract administration staff.

While increased SPP participation may necessarily increase TSA's contract oversight staff, wouldn't the TSA's overall administrative cost actually be reduced, because the SPP shifts some of TSA's significant human resources administrative responsibility to the private sector?

**Response:** Administrative costs for the Screening Partnership Program (SPP) are dependent on factors such as the number of airports in the program, the size and operational complexity of these airports, and the number of companies involved in providing services. For example, implementing or negotiating multiple changes at several airports with multiple contract providers may present greater challenges than managing these matters with fewer contract providers or airports. Similarly, multiple and overlapping contracting competitions may require more Transportation Security Administration Headquarters administrative resources to manage efficiently.

The SPP workforce currently represents less than 5 percent of total screeners in the field. The human resources administrative responsibility relieved by such a small number of workers moving to the private sector does not relieve enough workload for TSA personnel to result in meaningful staffing reductions.

**Question:** At the hearing, I asked about the impact of risk-based security initiatives on staffing models at airport checkpoints. Please provide additional, specific forecasted long term cost savings and staffing efficiencies that you expect TSA to achieve as a result of all risk-based security measures taken or planned at the agency.

**Response:** The Transportation Security Administration (TSA) began implementing a series of risk-based initiatives in 2011. TSA continues to expand risk-based security (RBS) efforts by adding new programs and populations selected for expedited screening by using intelligence and risk-based information. Staffing efficiencies are now being realized due to TSA meeting and surpassing its calendar year 2013 goal of providing expedited screening to 25 percent of the traveling public, and as a result, TSA included \$120 million in budget savings related to RBS efforts in the Fiscal Year (FY) 2015 Request.

TSA's general underlying assumption at this time is that TSA will be able to achieve an approximate 50 percent expedited screening rate by the end of calendar year 2014. However, this general assumption cannot be applied universally across all airports. Realized efficiencies are unique to each airport, based on the size of the checkpoints, the peak travel times, the number of participating air carriers, airport infrastructure configurations and other factors. TSA's Enhanced Staffing Model (ESM), which determines the workload for each checkpoint, will need to be run for each location to determine actual savings.

The ESM is updated for each airport in the summer preceding the upcoming fiscal year and reviewed on a regular basis. Although future system-wide staffing efficiencies, due to RBS efforts, are anticipated in FY 2016 and beyond, the specific impact at each airport and checkpoint in these out years has not been determined at this time.

**Question:** As the TSA has acquired Reveal Imaging Technologies (CT-80) x-ray machines, airports across the country have spent significant funds designing and building checked baggage systems laid out to accommodate these machines. I understand the agency is now in the process of upgrading and removing some of the machines to allow for better throughput on a per machine basis. However, with fewer machines, overall capacity in the event of an outage may be temporarily diminished even with the upgraded machines, and the full costs of accommodating the new machines are not clear. These potential capacity and cost problems would be particularly difficult for small airports. Please provide a full inventory of the machines, including a list of airports using the CT-80 machines and those machines that may be in storage. Please also provide a list of airports where the agency is proposing changes, and a description of what TSA intends to do with the existing machines, including a description of the agency's plan for how costs associated with the agency's moves will be borne. In your response, please be sure to detail any plans that may affect any of the South Dakota airports, including Sioux Falls, regarding checked baggage screening capacity and costs.

**Question:** Please provide a full inventory of the machines, including a list of airports using the CT-80 machines and those machines that may be in storage.

**Response:** As this information is designated For Official Use Only, the Transportation Security Administration is providing this information under a separate cover.

**Question:** Please also provide a list of airports where the agency is proposing changes, and a description of what TSA intends to do with the existing machines, including a description of the agency's plan for how costs associated with the agency's moves will be borne.

**Response:** As this information is designated For Official Use Only, the Transportation Security Administration is providing this information under a separate cover.

**Question:** Explanation of costs:

**Response:** TSA will fully fund the design and facility modification costs for both stand-alone and integrated Explosives Detection System (EDS) recapitalization projects, provided all costs are within current Planning Guidelines and Design Standards. For integrated EDS recapitalization projects, the infrastructure changes required to accommodate growth through the date of beneficial use plus five years are the responsibility of the airport.

In instances where airports have requested funding for integrated screening solutions where none existed before, TSA will enter into a cost share agreement with an airport to facilitate the design and construction of a Checked Baggage Inspection System. If funds are available, TSA will provide up to 90 percent (for large and medium hub airports) or 95 percent (for small and non-hub airports) of allowable/allocable costs associated with the project if the cost effectiveness analysis predicts a 10 year positive return on investment.

In instances where TSA has identified a requirement for a new or upgraded stand-alone EDS unit, TSA will fully fund the removal, upgrade, deployment and installation of the EDS.

**Question:** In your response, please be sure to detail any plans that may affect any of the South Dakota airports, including Sioux Falls, regarding checked baggage screening capacity and costs.

**Response:** One of the airports that the TSA has identified for CT-80 EDS upgrades is Sioux Falls Regional Airport (FSD) which currently has two baggage zones supported by two CT-80 EDS units in each zone. All CT-80 units in the field must be upgraded to meet enhanced detection standards. TSA will fully fund all costs associated with this upgrade project. TSA has completed one phase of the project by removing two CT-80 units that need to be upgraded by the vendor, Reveal, to the CT-80DR model. Current demand at FSD does not warrant two EDS in each zone; therefore, the two underutilized EDS units will be removed, upgraded to CT-80DRs, and reallocated in order to satisfy an existing operational need at another airport.

Should demand for baggage screening resources change, TSA will work with local airport authorities to accommodate new requirements.