Congress of the United States
Washington, DC 20515

March 17, 2004

Admiral David M. Stone
Acting Administrator
Transportation Security Administration
701 South 12th Street, West Tower
Arlington, VA 22202

Dear Admiral Stone:

We are writing regarding section 108 of Public Law 107-71, the *Aviation and Transportation Security Act* (ATSA), which allows an airport operator to submit an application to the Transportation Security Administration (TSA) to have the screening of passengers and property at the airport conducted by a qualified private screening company under a contract with the TSA. The law was designed to ensure that we have one level of security for all airports, both large and small. ATSA contemplates that an airport's choice to opt out will be made on the basis of a level playing field, which does not give unwarranted advantages to either method of providing security. We are seeking your assurances that there will be a level playing field, and that airports will have a clear understanding that this will be the case. Specifically, we want your assurances that:

1) Airports choosing to opt out of the federal program will not be given preferential treatment over those that stay in the federal program, especially when it comes to levels of staffing at the security checkpoints, funding for EDS systems, and the procedures followed at the checkpoint.

2) If an airport chooses to opt-out, it will have no more authority to give instructions to contract employees than it has to give instructions to federal employees.

Some airports appear to believe that they will increase their screener staffing if they opt out of using federal employees. It should be made clear that this is not the case, and that staffing levels for airports opting out of the program will be determined by the same methodology that is applied to airports that continue to use federal employees.

It is regrettable that airports are seriously considering opting out because they are not being staffed with necessary level of federal screeners.

The General Accounting Office (GAO) recently testified at a February 12, 2004 House Aviation Subcommittee hearing that 11 of 15 Category X airports it surveyed were below their authorized staffing levels for screeners. Additionally, preliminary data from another ongoing GAO audit suggests that there is widespread underutilization of deployed electronic baggage screening

systems at large airports because TSA does not have enough screeners to operate the equipment throughout the day. This understaffing at the security checkpoints is impairing both security and efficiency. We would urge you, prior to moving forward with any opt-out program, to establish staffing standards and deploy sufficient screeners and EDS systems at those airports currently in the federal program. This will help ensure that airports do not choose to opt out in the mistaken belief that switching to a contract system will add screeners.

We would also expect that the operating procedures at the checkpoints would be the same at both categories of airports. The switch to a private company should not be a basis for having more checkpoints, or more staffing at each checkpoint, or for following different procedures in screening. ATSA was crafted to ensure that we did not have a two-tiered security system.

It is our impression that some airport operators believe that they will have greater control over security if they opt out of the federal program. It is incumbent upon TSA to make it clear that the airport operator seeking to opt out of the program will have no greater ability to influence the security program than they have with the current federal system. ATSA requires that private screening companies contract directly with TSA, and be supervised by TSA officials, so as to ensure that our nation's security remains a direct responsibility of the federal government. Accordingly, a private screening company will be under contract with TSA, and will follow the instructions of the Federal Security Director, who will remain the person with direct responsibility for security matters. Whether the screeners are federal employees or contract employees, only the Federal Security Director will have the authority to implement any changes at that airport.

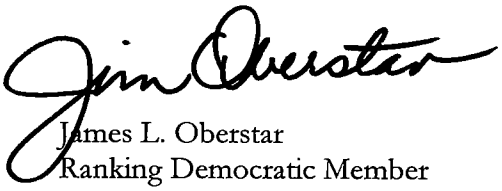
In addition, we want your assurances that any private security company that contracts with the TSA under the opt-out program will provide the same salaries and benefits to screeners. For example, it is our understanding that while the TSA provides a defined benefit pension plan to its employees, some private contractors under the pilot program do not extend such a benefit to their employees. In our view, this does not meet the ATSA requirement that a private screening company "provide compensation and benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel."

Because it is likely that both the House and the Senate will hold hearings on this issue in the near future, we request a written response to the questions set forth above no later than the close of business, April 1, 2004.

We thank you in advance for your cooperation.

Sincerely,

Peter A. DeFazio
Ranking Democratic Member
House Subcommittee on Aviation



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