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BEFORE THE
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
CONCERNING
THE TRANSPORTATION SECURITY ADMINISTRATION'S SCREENING
PARTNERSHIP PROGRAM

JANUARY 14, 2014



Good morning Chairman Mica, Ranking Member Connolly, and Members of the Subcommittee.

Thank you for inviting me here today to testify on the Transportation Security Administration's (TSA) Screening Partnership Program (SPP). My testimony will focus on the results of our audit of SPP, which were included in a report issued in June 2013. I will also briefly summarize the Government Accountability Office (GAO) audit report on SPP, which was issued in December 2012.

We performed this audit in response to requests from Senator Roy Blunt (Missouri) and Senator Bob Corker (Tennessee). The Senators had concerns about TSA's management of SPP, as well as the procurement process at Kansas City International Airport.

As of January 2013, 16 airports were participating in SPP, under which an airport operator may apply to use a private company to screen passengers and baggage rather than use Federal Government screening personnel. TSA reviews and approves applications to participate, awards contracts to private screening companies, and oversees the private screening workforce. We performed this audit to determine whether TSA administered SPP in accordance with Federal regulations.

TSA administered the program in accordance with the *FAA Modernization and Reform Act of 2012*, but could improve aspects of its administration. Specifically, TSA's files for its five most recent decisions to approve airports' applications to participate included documents that had not been finalized, as well as documents with inaccurate information. In addition, TSA did not document the rationale used to decide on four of the five contracts awarded during 2011 and 2012.

TSA had these issues because it did not develop and implement procedures to ensure that application evaluation and procurement decisions were adequately documented. The Component also did not have quality assurance procedures to ensure that the most relevant and accurate information was used to determine eligibility and approve participation in SPP. As a result, TSA risks making incorrect decisions on applications and procurements, and thus, may miss opportunities to save funds.

Background

SPP was established in 2001 under the *Aviation and Transportation Security Act (ATSA)* (P.L. 107-71). Under SPP, airports can apply to TSA to use personnel from private companies to screen passengers and baggage. In 2002, five airports began participating in a 2-year pilot program; they elected to transition into the permanent program in 2004. In the same year, TSA began accepting applications from other airports.

Until 2011, TSA had no criteria when considering whether to approve airports' applications to participate in SPP. In 2012, under the *FAA Modernization and Reform Act of 2012* (P.L. 112-95), TSA was required to—

- Approve an application when determining that doing so would not compromise security or detrimentally affect the cost-efficiency or effectiveness of passenger and baggage screening at the airport;
- Decide on an application within 120 days of receipt; and
- Provide a written report to the applicant and Congress when rejecting an application, identifying why the application was rejected and recommending how to improve the application for future approval.

Once an application is approved, TSA contracts with a qualified company to provide screening at the airport. According to ATSA, to enter into a contract, TSA must conclude and certify to Congress that the level of screening services and protection will be equal to or greater than the level that Federal screeners provide. TSA considers a private screening company qualified if the company's screening personnel meet all ATSA requirements for Federal screening personnel. The company must provide at least the same level of compensation and benefits to its employees that Federal employees receive.

TSA Federal Security Directors are responsible for overall airport security, provide oversight of screening operations, and ensure effective and efficient security operations. As of January 2013, TSA provided oversight for screening operations at 450 airports, including 16 airports participating in SPP.

TSA developed a process to evaluate airports' SPP applications and award contracts, which TSA senior management approved after we concluded our audit work. According to TSA Office of Security Operations personnel, the application process begins when the Program Management Office (PMO) receives the airport application. The TSA Integrated Project Team analyzes the application and advises the Office of Security Operations Assistant Administrator on the effect of its acceptance on TSA's Federal screening.

The PMO's estimate of the cost of using private screeners at the airport and an Office of Security Operations estimate for using Federal screeners are given to the Integrated Project Team to review. TSA management personnel receive and review both estimates before they are presented to the TSA Administrator, who uses them to decide whether to approve or reject applications. Once approved, the TSA Office of Acquisition begins the procurement process. When an application is rejected, the PMO informs the applicant and Congress about the reasons for rejection and how the applicant might improve the application.

The procurement process includes solicitation, evaluation, selection, and contract award. During solicitation, TSA selects evaluation factors, develops a source selection plan, establishes evaluation standards, holds a pre-proposal conference, and visits and surveys sites. In evaluating proposals, evaluation teams independently review proposals and submit evaluation reports.

Following evaluation, the TSA Source Selection Authority selects a screening company and provides a written selection decision to the contracting officer. Contract award documentation is then finalized and approved.

SPP Application Process

Prior to passage of the *FAA Modernization and Reform Act of 2012* (2012 Act), ATSA was in effect, and it did not include criteria for TSA in approving SPP applications; TSA could approve any SPP application submitted. Also prior to the 2012 Act, there were no criteria beyond defining a qualified private screening company and how private screeners would be compensated. TSA complied with the requirements of the 2012 Act in approving the five SPP applications submitted after its passage. However, TSA did not ensure that documents related to decisions on these five applications were finalized and accurate. Because decisionmakers rely on the information in this documentation, it should be as accurate and complete as possible.

From 2004 through 2008, TSA approved 19 SPP applications. During 2009 and 2010, five SPP applications were received, but none were approved. In 2011, the TSA Administrator decided that the Component would no longer approve SPP applications unless airports demonstrated “a clear and substantial benefit” to the Federal Government.

Since the 2012 Act was passed, TSA approved five applications, two of which were submitted during 2009 and 2010. Although it approved these five applications, TSA indicated that actual program participation was conditional on private screening providers meeting the Act’s requirements of effective and cost-efficient screening. As of January 2013, 16 airports were participating in SPP, but TSA indicated that it had not yet awarded contracts for these 5 airports.

During our audit, we reviewed applications from the following five airports, which TSA approved since the passage of the 2012 Act:

- Orlando Sanford International Airport (Florida)
- Sacramento International Airport (California)¹
- Glacier Park International Airport (Montana)
- Bert Mooney Airport (Montana)
- Bozeman Yellowstone International Airport (Montana)

TSA made decisions on these applications within 120 days of receiving them, but TSA’s files included inaccurate documents.² For example, 14 of 25 (56 percent) of the documents that TSA used to evaluate these five applications were not finalized. We also identified errors in the documents. For example, we noted the following errors in two separate documents:

- A document included an incorrect figure, which resulted in a \$162,057 overstatement of the cost to use private screeners.
- A document used to compare the estimated cost of private screening to the estimated cost of Federal screening showed TSA understated an estimate of the cost savings of private screening by \$423,572. If the estimate had been correctly stated, the report would have shown a 7 percent increase in maximum potential cost savings from using private screening compared to Federal screening.

¹ After our audit work was completed, Sacramento International Airport withdrew its SPP application.

² Documentation reviewed included cost estimate briefings, integrated project team briefings, SPP application chair briefings, application determination briefings, and decision memorandums.

According to TSA, the errors may have been a result of using information from an earlier application file and not changing all of the required figures to reflect analysis of the new applications. TSA did not have quality control procedures that required a second review of the data in application files to ensure that all required documentation was finalized and accurate. Although in these two cases TSA correctly approved the applications, there is still a risk that inaccurate estimates could lead to incorrect decisions.

In a recent update provided by TSA, there are now 14 airports participating in SPP. Subsequent to the release of our audit report, Lewistown Municipal and Frank Wiley Field Airports opted out of the program. According to TSA, the following 6 airports have been accepted into the program, but TSA has not yet awarded contracts for these airports.

- Orlando Sanford International Airport (Florida)
- Glacier Park International Airport (Montana)
- Bert Mooney Airport (Montana)
- Bozeman Yellowstone International Airport (Montana)
- West Yellowstone (Montana)
- Sarasota Bradenton (Florida)

SPP Procurement Process

From January 2011 to August 2012, when documenting its award decisions on four SPP contracts, TSA did not comply fully with *Federal Acquisition Regulation (FAR)* Section 15.308. Specifically, in this time period, TSA's documentation on proposal evaluations and decisions related to these contract awards was missing details and included inaccuracies. TSA did not formalize and implement procedures to ensure that SPP procurements were fully documented, and it did not have quality control procedures to verify the accuracy of data used for contract decisions. As a result, TSA risks not selecting the best contractor offer and not ensuring that it provides the best screening services.

In four of the five procurement files for contracts awarded between January 2011 and August 2012, the rationale for TSA's final decisions on contractor selection was not fully described in supporting documentation. The DHS source selection guide requires the Source Selection Authority (SAA) to document its rationale separately. The guide further specifies that files should include a decision statement, a brief description of the product or service being procured, a brief description of the basis for the award, a list of competitive offerors, the rationale for business judgments and tradeoffs, and the reason that the selected offeror's proposal is the best overall value to the Federal Government.³

Rather than including all of this information, all four files contained a similar short paragraph noting the SSA's decision. For example, in the file for the contract awarded to the Kansas City International Airport, the final decision noted that the SSA had completed an independent review and assessment of the technical and price reports, but did not include other details on the rationale for its decision. According to TSA, the files were missing documentation on the

³ *A Practical Guide to Source Selection, Version 1.1*, September 2008.

rationale because staff members believed the final decision documentation met FAR requirements.

In September 2011, a Federal court ruled that TSA could not award a private screening contract to the contractor originally selected for the Kansas City International Airport, and it directed the Component to cancel or amend the solicitation. The Federal court concluded that the TSA SSA's decision did not include documentation on its independent analysis. According to FAR Section 15.308, the SSA may use reports and analyses prepared by others, but its decision shall represent its independent judgment.

Following the 2011 ruling, TSA developed lessons learned to ensure full documentation of its proposal analysis and the rationale for its decisions, as well as the SSA's independence. Although at the time of our audit the lessons learned had not been formalized as policy, TSA began requiring additional documentation to support final source selection decisions. We reviewed documentation for a decision on a contract to provide screening for three airports and confirmed that it included details on the rationale for procurement decisions and on independent analysis.

In reviewing the five contracts awarded between January 2011 and August 2012 for eight airports, we noted data discrepancies in TSA's proposal evaluation documentation.⁴ In addition, we reviewed two of eight cost estimates that TSA prepared for the five procurements and identified discrepancies in both cost estimates. Specifically, there were differences in labor hours and overtime rates. Inaccurate cost estimates could affect TSA's evaluation of offerors.

Cost Considerations

Under the 2012 Act, TSA is required to consider cost efficiency in deciding on airports' admission into SPP. However, we were unable to conclude whether TSA was properly considering cost because TSA reported that none of the four SPP applications approved and in progress since the Act's passage had progressed to the contract evaluation phase in which cost would be evaluated.

A January 13, 2013, memorandum approved by the TSA Administrator directed that cost efficiency be evaluated when deciding on an airport's continued participation in SPP. TSA developed and continued to refine a methodology for estimating the cost of converting SPP airports back to screening by TSA personnel, but at that time it had not yet performed the cost determination for any airport in SPP.

The cost estimates consider factors such as labor costs, attrition, real estate costs, and overhead, which are partially based on the costs of using Federal personnel at two comparable airports. As TSA refines the cost estimates, the Component continues to adjust factors that result in several different cost estimates, some of which indicate TSA employee screening would cost more and others in which the contracted screening would cost more. Because different factors may be added and removed from the cost estimates, they do not provide a consistent basis for making decisions on SPP participation.

⁴ One contract covered three airports; another contract covered two airports.

OIG Recommendations and TSA Response

We recommended that TSA expedite developing and implementing procedures to ensure that decisions on SPP applications and procurements were fully documented according to applicable Department and Federal guidance. We also recommended that TSA establish and implement quality assurance procedures to ensure that the most relevant and accurate information is used when determining eligibility and approving airports' participation in SPP.

TSA concurred with both of our recommendations. In its response, TSA noted that our recommendations reflected program enhancements since passage of the 2012 Act, and that it had already made significant progress toward implementing our recommendations.

In December 2012, the TSA Office of Acquisition issued a policy letter, effective January 1, 2013, on SSA appointment and business processes, including a requirement for an independent SSA tradeoff analysis decision. In January 2013, TSA issued a policy reminder on source selection procedures, reiterating that the SSA must independently document its decision. According to the policy reminder, the Contracting Officer also needs to review in detail all source selection documents. On March 4, 2013, TSA revised and approved its SPP application process. Because of these actions, we considered this recommendation resolved and closed.

Early in fiscal year 2013, TSA began to improve quality assurance in application documents and completed part of the work in March 2013, when it finalized the revised application process. In the fall of 2012, the Component had begun including dates on Government cost estimates to track changes more accurately; it expected to finalize a cost estimating process in 2013. The SPP Program Management Office was finalizing a review process, which it planned to complete in 2013, to ensure that all application documents are final and accurate before being used to reach a final determination. For all future procurements, the office would formally confirm or revise the TSA "cost efficiency number" 1 week prior to releasing the Request for Proposals. TSA expected to document and finalize this standard in 2013. We considered TSA's planned corrective actions responsive to the recommendation, which would remain open and resolved until we received documented support that these processes and the standard were finalized. As of January 2014, this recommendation remains open.

We also included responses to the Senators' specific questions in an appendix to this report.

Specifically, the Senators asked whether, in administering SPP, TSA acted outside its own regulations and procedures; taken any actions that exceeded its statutory authority; or otherwise acted improperly, unethically, or unlawfully. In reviewing SPP application and procurement documents and processes and interviewing appropriate personnel, we found no evidence that TSA acted outside its regulations and procedures; exceeded its statutory authority; or acted improperly, unethically, or unlawfully.

The Senators asked whether TSA was not embracing SPP by pressuring airport officials not to participate. We responded that TSA had met the intent of ATSA. The Component implemented SPP and made it available to interested airports, and it had not pressured airport officials to not participate. We conducted telephone interviews with officials from 24 non-SPP airports, none of whom said they were pressured by TSA about the program. Specifically, officials at 20 airports said that they were satisfied with TSA screening at their airports, two had no comment or were

undecided, one airport was not interested in the SPP, and one airport planned to apply to the program. We reviewed documentation for the six airports whose applications to participate in SPP were rejected, including the four that subsequently resubmitted applications. The four airports that reapplied were subsequently accepted. Officials from the two airports that did not reapply said that TSA had not placed undue pressure on them about this decision.

The Senators asked whether TSA had taken full advantage of SPP to advance innovations and best practices in security and management, as well as cultivate positive relationships between screeners and passengers at airports. We replied that TSA had provided information on its web-based tool called the IdeaFactory, which collects information and suggestions from the workforce. SPP contractors can submit suggestions at the TSA website, but the website's terms leave it relatively unclear whether contractors' suggestions made through the website are desired. To develop a more detailed understanding of the process would have required lengthy discussions with SPP participant airports and TSA officials; and to draw a more complete conclusion would have required a review of innovations previously submitted and rejected. Time constraints did not allow the audit team to hold such discussions or review previously submitted innovations.

The Senators asked us to determine whether TSA resisted implementing GAO recommendations to accurately assess the costs of screening at SPP and non-SPP airports. We reviewed TSA's preliminary work and plans for doing so, but could not answer this question until TSA finalized the process. At the time of our audit, the Component was still updating its SPP cost estimate used to compare actual costs for SPP contracts with the costs of federalized screening.

The Senators asked us to determine TSA's rationale for starting the Kansas City International Airport procurement process over. We determined that TSA decided to re-procure the solicitation due to 1) errors in the original Request for Proposals (solicitation), which led to a Federal court ruling and 2) the length of time since TSA had issued the original solicitation. According to the ruling, TSA could either amend the solicitation to correct the price evaluation scheme, notify the sole offerors about the amendment to the solicitation, and engage them in discussions; or re-procure the solicitation.

The Senators inquired about any conflict of interest at Kansas City International Airport with a former TSA employee. TSA procurement files in the Office of Acquisitions at TSA Headquarters did not provide any evidence that the former TSA employee had any influence over the procurement.

GAO Report on SPP

In its December 2012 report, *Screening Partnership Program: TSA Should Issue More Guidance to Airports and Monitor Private versus Federal Screener Performance*, GAO noted that TSA had developed some resources to assist SPP applicants; however, it had not provided guidance to assist airports applying to the program. Consistent with the 2012 Act, TSA's revised SPP application requested that applicants provide information to assist it in determining if their participation in SPP would compromise security or detrimentally affect the cost-efficiency or screening effectiveness of passengers and property at their airport. TSA also developed responses to frequently asked questions and expressed a willingness to help airports needing assistance. However, TSA had not issued guidance for airports on completing applications and

information on how the Component would assess them. Three of five airport operators who applied using the application current at that time said they needed additional guidance to better understand how to respond to the new application questions. With improved guidance, airports could evaluate their candidacy for SPP better.

At the time of the GAO audit, TSA had improved its screener performance measures, but GAO concluded that it could benefit from monitoring private versus Federal screener performance. In April 2012, TSA added measures to better address the strategic goals and mission of screening in its assessments of screener performance at private and Federal airports. However, TSA did not separately monitor private screener and Federal screener performance. It made efforts to monitor screener performance at individual SPP airports, but these efforts did not provide information on SPP performance as a whole or across years, which made it difficult to identify program trends. GAO noted that consistent monitoring of SPP versus non-SPP performance would help ensure that the screening and protection at SPP airports matched or exceeded that at non-SPP airports, and would ensure that SPP airports were operating as intended.

GAO recommended TSA develop guidance for SPP applicants that included 1) TSA's criteria and process for assessing whether SPP participation would compromise security or detrimentally affect screening cost-efficiency or effectiveness; 2) how TSA would obtain and analyze cost information on screening cost-efficiency and effectiveness and the implications of airports not responding to related application questions; and 3) specific examples of additional information airports should consider providing to help TSA assess their suitability for SPP. GAO also recommended that TSA develop a mechanism to regularly monitor private versus Federal screener performance. TSA concurred with both recommendations.

Conclusion

Through our audit, we determined that TSA needed to improve some aspects of its administration of SPP to help avoid the risk of not selecting the best contractor to provide screening services. Because administration includes in-depth examination of airport applications and private contractor offers, which requires detailed calculations and analysis, TSA should ensure that decisionmakers have accurate information. TSA has taken steps to fully document its decisions on SPP applications and procurements and to improve its quality assurance procedures, including cost estimating and application document reviews.

Mr. Chairman, this concludes my prepared statement. I welcome any questions you or other Members of the Subcommittee may have.

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Mark Bell currently serves as the Acting Assistant Inspector General for Audits for the Department of Homeland Security, Office of Inspector General. He has been with DHS-OIG since 2007 and also served as the Deputy Assistant Inspector General for Audits and Chief, Audit Operations. Prior to his arrival at DHS, Mark worked at the Department of Interior Office of Inspector General, where he served as Chief of Staff for Audits for 3 years and as a program analyst in the Central Region Office in Denver from 2002 through 2005. From 1992 to 2001, Mark was self employed in the financial services industry and worked as a consultant to Bearing Point. Mark also served over 11 years in the U.S. Army as a tactical communications officer. During his time in the army, Mark spent 8 years overseas and served as a tactical operations officer during Desert Shield/Desert Storm with 93rd Signal Brigade. Mark graduated from the University of New Hampshire with a Bachelor of Science degree in Business Administration. He also holds a Masters in Management from Webster University.