



MEMORANDUM

TO: Government Affairs Steering Group
Government Affairs Committee

FROM: ACI-NA Government Affairs

DATE: February 28, 2008

SUBJECTS: 1) House Appropriations Subcommittee Hearing on Aviation Security Spending for FY 2009
2) House Transportation & Infrastructure Committee FY 2009 Budget Views and Estimates
3) Senate Judiciary Hearing on the VISA Waiver Program

GA MEMO NO: 2008-13

1) House Appropriations Subcommittee Hearing on Aviation Security Spending for FY 2009

This morning the House Appropriations Subcommittee on Homeland Security held a hearing regarding the Transportation Security Administration's (TSA) FY 2009 budget.

Witness List:

- Kip Hawley-Administrator, Transportation Security Administration
- Cathleen Berrick-Director Homeland Security and Justice Issues, Government Accountability Office (GAO)
- Jim Bennett, President and CEO, Washington Metropolitan Airport Authority (MWAA)
- Peggy Sterling-Vice President Safety and Security, American Airlines

Opening Statements:

Subcommittee Chairman David Price (D-NC) cited the numerous security challenges facing aviation. With 1 billion passengers expected by 2015, Price questioned whether

TSA could provide adequate screening to meet the security needs of the traveling public in an efficient manner. In particular, Price focused on the FY 2009 Budget as proposed by TSA. He said that TSA had cut the deployment of in-line explosive detection systems (EDS) for checked baggage in half to \$1.2 billion. To view the full statement, please click here: <http://appropriations.house.gov/pdf/PriceAviationSecurityt02-28-08.pdf>

The Ranking Republican on the Subcommittee, Rep. Hal Rogers (R-KY) generally praised Hawley's leadership of TSA. However, he was also critical of a number of provisions in the Administration's budget including the \$0.50 security fee increase to pay for more in-line EDS equipment and that the changes to the letter of intent (LOI) process were fundamentally flawed. You may recall that the Administration's budget proposal limits the government's cost allocation of an in-line project to 90%. Additionally, it provides TSA flexibility as to how and potentially when the money will be distributed. It's important to note that this policy is contrary to the multi-year set up of in-line projects established in the 9/11 Bill signed into law in 2007.

Testimony:

Administrator Hawley discussed a number of topics including VIPR teams, employee screening, explosive detection, and how TSA has improved over the last three years, thus resulting in a safer aviation system. Hawley said that TSA has focused on improving efficiency as it relates the workforce and workplace. Hawley said that TSA has invested in its workforce by focusing on career development and safety initiatives. He cited a decline in attrition rates as evidence that his efforts were working. Hawley also stated that TSA is paying closer attention to passenger loads and air carrier schedules in order to increase staff when necessary to best use available resources. Finally, Hawley touched on his belief that technology had greatly improved efficiency. Hawley noted that 23 EDS machines had been added to airports while the deployment of Advanced Technology Checkpoint X-rays also added to checkpoint efficiency. The complete testimony can be viewed by clicking here: http://www.tsa.gov/press/speeches/022808_hawley.shtm

Cathy Berrick of GAO reported that in response to previous concerns about assumptions in the "Staffing Allocation Model", TSA developed a plan to review the assumptions and strengthened its evaluation of changes in procedures that could impact airport operating conditions. However, TSA's data collection and analysis could be strengthened. TSA also needs to focus more attention on new passenger checkpoint screening technologies to better detect explosives and develop an inspection plan to determine how well cargo airlines are complying with new regulations. Additionally, GAO identified several areas in the Secure Flight plan that need addition attention including: (1) developing program cost and schedule estimates consistent with best practices; (2) fully implementing a risk management program; (3) planning for system end-to-end testing; and (4) ensuring that information security requirements are met. GAO also noted that DHS and TSA lack performance measures to evaluate the effectiveness of the current redress process. The complete testimony can be viewed by clicking here <http://www.gao.gov/cgi-bin/getrpt?GAO-08-456T>

Jim Bennett from MWAA testified that airports are actively committed to improve the efficiency and accuracy of our nation's aviation security system. In addition, he stressed that airports play a critical role in aviation security and work closely with TSA on its core mission regarding issues such as passenger and baggage screening. He touched on a number of airport-related issues including the need for in-line EDS funding, the problems with 100% screening, access control points, new technologies, and the Registered Traveler Program (RT). Regarding RT, Bennett stated that, "The Registered Traveler program holds tremendous promise in allowing the TSA to more effectively focus scarce resources on those individuals who pose the greatest threat to the aviation system. Nearly 20 airports serving more than 15 percent of all enplaned passengers in the U.S. currently participate in the program. Unfortunately, TSA has been slow to embrace the promise of improved security the RT program might provide and has been reluctant to offer program participants any demonstrable benefits beyond an opportunity to move to the front of a screening line. The lack of support from TSA is a missed opportunity in our view to dramatically improve the efficiency, accuracy, and effectiveness of checkpoint operations. The growth of the RT program and its popularity with the traveling public make it all the more important that TSA reevaluate its future."

Peggy Sterling from American Airlines agreed with the other panelists regarding the importance of in-line EDS, noting that it has reduced staffing-related delays across the nations. Sterling also agreed with earlier sentiments expressed regarding employee screening by saying that 100% screening of employees was unrealistic and that a comprehensive credentialing system would be a better option to prevent an insider threat.

Questions:

TSA Screeners

Chairman Price stated that he has seen improvements in efficiency and morale. However, Price said that screener wait times have been uneven and that many airports are looking for more screeners. Jim Bennett replied that wait times have been an issue at Dulles. He said that the challenge at Dulles is getting the staffing gate lanes open in time to meet passenger throughput. Meanwhile, Rep. Rogers noted that TSA screeners are in excess of 45,000, the previous cap that was lifted as a part of legislation signed into law last year. Rep. Rogers also reminded Hawley that technology was to be implemented so as to decrease costs and increase efficiency not increase personnel.

Technology

Rep. Rogers said that EDS procurement was down 48% this year and the likelihood of Congress implementing the Administration-proposed \$.050 surcharge to pay for more EDS systems was low. He continued by stating that Hawley should not have gambled on this unlikely scenario if he wanted to ensure more EDS funds would be available. Rogers then followed up with a question regarding the letter of intent (LOI) change that was proposed in the President's budget. Hawley said that he recognizes that the 9/11 bill provides multi year letters of intent for the purchase of in-line technology. However, Hawley said that TSA wanted to give priority to "ready cash." Rogers disagreed, saying that letters of intent are the only way to plan for large infrastructure projects. Rogers

implied that the letters of intent were not supported by the Office of Management and Budget and then reiterated the likelihood of the implementation of a security surcharge by Congress was very low. He concluded by saying that Hawley was “barking up a tree where the squirrels have already gone.”

Employee Screening

Prompted by Rep. Rogers, Administrator Hawley gave a synopsis of the employee screening pilot program that is underway. Hawley said that seven airports have been selected and that the pilot tests will last for 90 days, with TSA reporting the results in the Fall. Three of the pilots will incorporate full 100% employee screening. Four of the pilots will use alternative methods such as random searches, behavioral recognition and other methods. TSA will also employ vehicular screening, visual inspection, and the use of K9's. Representative Nita Lowey, who introduced a 100% employee screening pilot program bill last year (H.R. 1413), thanked Administrator Hawley for the implementation of the pilot program and noted that 100% screening is practiced at Heathrow Airport and Charles de Gaulle International Airport. Hawley responded by saying that the pilot results will go a long way to determining the best course of action moving forward.

2) House Transportation & Infrastructure Committee FY 2009 Budget Views and Estimates

Earlier today, the House Transportation and Infrastructure Committee held a markup which included its Budget Views and Estimates regarding the FY09 Budget. According to the Committee's Budget Views and Estimates for Fiscal Year 2009, which was approved by voice vote, the FY 2009 Congressional Budget Resolution should include funding for programs and services within the Committee's jurisdiction at the authorized funding levels. Below, you will find an outline of their findings:

Aviation Provisions within the Views and Estimates

1. FAA facilities and equipment
 - a. Next Generation Air (NextGen)
 - i. This new program that will help increase capacity and cut down on costly airport delays that have cost the economy in terms of time lost and fuel spent.
 - ii. The goal of the program is to triple the capacity of the National Airspace system by 2025.
 - iii. The President has allocated 2.72 billion dollars, but the preliminary costs of the new program are as high as 3.5 billion a year. The Transportation and Infrastructure Committee has recommended a total of 3.246 billion dollars which is 522 million dollars more than the President's plan. (The 3.246 billion covers all FAA expenditures for the year; including maintenance, replacing old and out dated equipment, and purchasing new radar control (TRACON).)

2. Airport Improvement Program
 - a. To update and maintain a safe and efficient aviation system
 - i. The projected costs for 2007-2011 are estimated at 87.4 billion dollars
 - ii. The President has set aside only 2.75 billion for this year alone which is a cut from last year of 22%.
 - iii. The Transportation and Infrastructure Committee has recommended 3.8 billion to maintain efficient and safe airports across the country
3. FAA Operations and Maintenance
 - a. Operating costs
 - i. The Transportation and Infrastructure Committee recommends funding consistent to last years budget and would like to add an additional 3% to the 8.9 billion dollars requested by the President.
4. Small Community Air Service Development/ Essential Air Service
 - a. Small communities across America rely on the government for airline subsidies to offset high prices, caused by the lack of competition from airline companies.
 - i. In the past this program received 125 million dollars in FY08, this year the President has cut the budget by 60% to 50 million
 - ii. If the President's plan goes through then half the cities that benefited from the program would be cut off.
 - iii. The Transportation and Infrastructure Committee recommends 133 million dollars through H.R. 2881.

Following the markup, Committee Chairman James Oberstar (D-MN) stated, "Increased investment in transportation infrastructure can improve the nation's economy, increase our competitiveness in the world marketplace, and enhance the quality of life in our communities. Unfortunately, the Bush Administration has taken a very short-sighted view of the importance of infrastructure investment. The bipartisan Views and Estimates that the Committee approved today identifies several areas where the Administration's budget policies have not kept pace with the increasing needs for the nation's highways and public transit systems, Amtrak, aviation programs, wastewater treatment systems, and Army Corps of Engineers programs. Our Committee urges the Budget Committee to take a hard look at the current state of the nation's infrastructure programs and services and to address investment needs in the FY 2009 Budget Resolution."

3) Senate Judiciary Hearing on the VISA Waiver Program

Earlier today, Senator Dianne Feinstein (D-CA), Chairwoman of the Judiciary Terrorism, Technology and Homeland Security Subcommittee, led a contentious hearing regarding the implementation of the VISA Waiver Program. The criticism of the program was quite strong and from a bipartisan group of Committee Members. Under the 9/11 bill, the

Federal government is required to certify that a system is in place to track individuals who have visas. In addition, the 9/11 bill requires that the Secretary of the Department of Homeland Security verify the departure of not less than 97 percent of foreign nationals who exit by air. Primarily, the hearing focused on the methodology that DHS has used in implementing the program. The summary below provides a very broad overview, as aviation-related issues were not discussed in much detail at the hearing.

Witness List:

- Paul Rosenzweig, Deputy Assistant Secretary, Office of Policy, U.S. Department of Homeland Security
- Tony Edson, Deputy Assistant Secretary for Visa Services, U.S. Department of State
- Jess Ford, Director International Affairs and Trade, Government Accountability Office
- Susan Ginsburg, Director of Programs on Mobility and Security, Migration Policy Institute
- Jessica Vaughan, Senior Policy Analyst, Center for Immigration Studies

Opening Statement:

Senator Feinstein questioned the utility of the VISA Waiver Program. Feinstein remarked that 40% of the participants in the program have overstayed visas. She said that the program “provides another option for terrorists who want to do us harm.” Feinstein questioned why DHS is focusing on the creation of a border fence, “if it continues to ignore people who overstay their visas.”

Testimony:

Paul Rosenzweig said that DHS has reached out to participating countries as well as potential new parties to the Visa Waiver Program. He said the Program “enhances American security and that the Secretary of Homeland Security would not certify false data.”

Jess Ford criticized DHS in that their proposed methodology relies on departure records as a starting point. Ford said that arrivals should be the starting point. Yet he conceded there is an absence of a record regarding departures. Ford also said DHS needs to know and pay close attention to which countries have a higher propensity for overstayed visas.

Questions:

Senator Jon Kyl (R-AZ) and Senator Feinstein both agreed that DHS needs to enforce the law for those individuals who overstay their visa. Feinstein reminded the panel that Richard Reid “The Shoe Bomber” had an overstayed visa.

Paul Rosenzweig stated that it is difficult to ascertain whether an individual exits the country as there is no requirement to enter by air and leave by air. He said that an air-exit system is “yet to be determined” and that the Department will not admit additional countries to the VISA Waiver Program if the system is not complete by the fall.

The hearing concluded with a chorus of Members expressing their disappointment with the program. Senator Jeff Sessions (R-AL) admonished, “I’d like to see some leadership from the Administration. He continued, “We are just creating a ridiculous result.” Meanwhile Senator Feinstein said the program was “in shambles.”

Please Contact ACI-NA Scott Weaver (sweaver@aci-na.org) or Paul Eubanks (peubanks@aci-na.org) with any additional questions or concerns.