

United States House of Representatives
Committee on Transportation and Infrastructure
OVERSIGHT AND INVESTIGATIONS STAFF REPORT



TSA Labor Agreement: Distraction from Core Mission

Prepared for Chairman John L. Mica
U.S. House of Representatives
Committee on Transportation and Infrastructure
112th Congress

November 9, 2012

Table of Contents

I. Executive Summary.....3

II. History & Background.....4

III. TSA/AFGE Labor Agreement Framework4

IV. Findings on the TSA/AFGE Collective Bargaining Agreement5

V. TSA Background Statistics.....7

VI. Appendix—Timeline.....7

VII. Contacting the Committee.....9

Executive Summary

In February of 2011, Transportation Security Administration (TSA) Administrator John Pistole announced that TSA employees, should they elect a union to represent them, would be eligible to engage in collective bargaining.¹ As a result of that decision, in August 2012 the TSA announced that it had negotiated an agreement with the American Federation of Government Employees (AFGE)—the union representing TSA screeners.² The new collective bargaining agreement provides few real benefits to TSA employees and only further diverts focus from TSA’s core functions of analyzing intelligence and ensuring the security of air travelers. TSA’s contract with AFGE representing 45,000 screeners is the largest federal bargaining unit agreement since World War II.³

TSA’s contract with 45,000 baggage screeners represented by AFGE is the largest federal bargaining unit agreement since World War II.

The mission of the TSA is to protect the Nation’s transportation systems to ensure freedom of movement for people and commerce. Rather than focus on this core mission, TSA has spent months negotiating a collective bargaining agreement that does very little to improve the organization of the TSA, but

does succeed in increasing costs to tax payers. This new agreement focuses on inconsequential minutiae while providing limited benefits to the screeners. In the end, the TSA will only find itself furthered bogged down by its enormous and now convoluted human resource operation.

Unfortunately, TSA screeners will see few true benefits from this new collective bargaining agreement and once again the focus of the Agency will be not on ensuring transportation security, but on whether a screener is allowed to expose a tattoo and what kind of patch or shirt can be used to cover tattoos. The agreement that TSA Administrator John S. Pistole said “represents a significant milestone in our relationship with our employees,” includes directions on how long tie bars can be and their color, as well as when a baseball cap can be worn, the brim direction and the patch allowed.⁴

¹ U.S. Department of Homeland Security, Transportation Security Administration. “Decision Memorandum,” February 4, 2011.

² U.S. Department of Homeland Security, Transportation Security Administration. Press Release, “TSA and AFGE Reach Agreement on Labor Contract,” August 2, 2012.

³ Library of Congress, Congressional Research Service. Review of documents and interviews with National Mediation Board, Fair Labor Relations Authority and National Labor Relations Board. September 6, 2012.

⁴ DHS TSA Press Release.

TSA needs to devote its resources to reviewing the latest intelligence, analyzing threat risks, developing the best security standards, and auditing screener performance – not managing a bloated personnel system and worrying about whether screeners can wear their uniforms into bars and while standing at a craps table.

The Administration’s decision to grant collective bargaining rights to one of the largest blocks of federal employees is expected to add millions annually to the cost of TSA operations, and continue to distract the Agency away from its important security mission. A labor agreement focused on cosmetics does not ensure screener job satisfaction or increase the efficiency and effectiveness of airport screening operations; rather it only serves as another diversion from ensuring the security of the traveling public.

History & Background

In the aftermath of the terrorist attacks of September 11, 2001, the 107th Congress moved expeditiously to pass the Aviation and Transportation Security Act (ATSA, P.L. 107-71) creating the Transportation Security Agency and initially requiring a federalized workforce of security screeners to inspect airline passengers and their baggage.⁵ ATSA gave TSA authority to assess vulnerabilities in aviation security and take steps to mitigate the risks. .

The ATSA allowed for the representation of TSA security screeners by unions and provided that collective bargaining was left to the discretion of the Administrator of the TSA “notwithstanding any other provision of law.” (See Section 111(d) of ATSA, 49 U.S.C. § 44935 note.)

In January 2003, the Under Secretary of Transportation for Security Admiral James M. Loy issued an order precluding collective bargaining for TSA Security Screeners. This policy remained in effect until August 2012. “Mandatory collective bargaining is not compatible with the flexibility required to wage the war against terrorism.” Loy stated.⁶

In February of 2011, TSA Administrator Pistole announced that Transportation Security Officers were eligible to engage in collective bargaining on non-security employment issues. In August 2012, TSA announced a collective bargaining agreement with AFGE. The agreement, which would affect approximately 45,000 TSA employees, is awaiting final ratification by the covered employees in order to be binding.

“Mandatory collective bargaining is not compatible with the flexibility required to wage the war against terrorism,” DOT Under Secretary for Security Admiral James M. Loy

⁵ ATSA also created the Screening Partnership Program where security services are provided by qualified private security screeners with strong TSA supervision and oversight.

⁶ U.S. Department of Transportation, Transportation Security Administration. “Determination Regarding Collective Bargaining – TSA Security Screeners.” January 8, 2003.

TSA/AFGE Labor Agreement Framework

In a framework unique to the TSA, bargaining is allowed at the national-level and only on 11 areas of non-security employment issues that were identified in Administrator Pistole's February 2011 announcement.

- ✓ Performance Management process
- ✓ Awards and Recognition process
- ✓ Attendance Management process
- ✓ Shift and Annual Leave Bid process
- ✓ Shift Trade policy
- ✓ Transfer policy
- ✓ Process for work status change from full time to part time and vice versa
- ✓ Uniforms and uniform allowances
- ✓ Selection process for special assignments
- ✓ Parking subsidies
- ✓ Facilities and services within the control of TSA management⁷

Findings on the TSA/AFGE Collective Bargaining Agreement

After approximately seven months of intense negotiation, TSA reached an agreement with AFGE that provides few true benefits to screeners and diverts TSA's focus from its core functions of analyzing intelligence and ensuring the security of air travelers. The Agreement continues the Agency's unfettered growth into an enormous and inflexible bureaucracy with an ever-expanding number of managers. TSA's focus on consolidating power and human resource management is an unnecessary distraction from its core mission of transportation security.

The union agreement appropriately does not affect security operations, but it does get into trivial detail about uniforms and screener appearance. The following is a list of some of the provisions included in the TSA's "historic" labor agreement:

- ✓ Employees cannot wear uniforms while gambling or consuming alcoholic beverages.
- ✓ Uniforms can be worn to buy a cup of coffee or go grocery shopping while commuting.

The Agreement continues the Agency's unfettered growth into an enormous and inflexible bureaucracy with an ever-expanding number of managers. TSA's focus on consolidating power and human resource management is an unnecessary distraction from its core mission of transportation security.

⁷ DHS TSA Decision Memorandum.

- ✓ Employees can wear baseball caps with the brim facing forward, and the cap must be navy blue in color with the DHS or TSA patch affixed to the front of the cap.
- ✓ Tattoos are not allowed and must be covered by a plain, single-colored royal blue acceptable band or sports sleeve that does not detract from the uniform.
- ✓ Employees can wear tie tacks, but they cannot exceed ½ inch diameter and must be plain gold or silver in color.
- ✓ Employees tie bars must not exceed 3/8 inch in width and be plain gold or silver tone metal.
- ✓ Employees uniform allowance increases to \$446 annually.
- ✓ The only jacket that can be worn at a security checkpoint is the “Ike” jacket (named after former President Dwight David Eisenhower). TSA will offer each employee a onetime subsidy for the purchase of an Ike jacket.
- ✓ Management will permit employees who serve as Union officials to wear an AFGE pin to be designed and paid for by the Union and subject to advanced TSA review and approval.⁸

The increased uniform allowance included in the labor agreement for TSA screeners of \$446 annually now dramatically exceeds the one-time uniform allowance for a combat Marine Lieutenant of \$400. The cost to taxpayers of the increase in the TSA screeners’ uniform allowance is an estimated \$9.63 million annually. Additionally, the collective bargaining agreement confirms that the TSA will be allowing, and paying, employees to serve official time on a full-time basis for the Union. The cost of these types of work arrangements is not known.

Uniform Allowances



U.S. Marine Officer
\$400 (one-time)⁹



TSA Baggage Screener
\$446 (annual)

⁸ Compilation of AFGE TSA Agreed Upon Terms, pages 55-61.

⁹ U.S. Marine Corps Uniform Regulation & Allowances.

The agreement details a number of other issues relating to working conditions.

- ✓ Employees will have access to drinking water at no cost to employees, within 200 feet of checkpoints.
- ✓ TSA will provide anti-fatigue mats at employee workstations.
- ✓ TSA will ensure that temperatures and humidity levels do not impede the employees' performance of their duties
- ✓ TSA will undertake reasonable efforts to minimize glare in employee work areas.
- ✓ TSA will provide nitrile gloves to employees and have alternative non-allergenic gloves available to employees on request.
- ✓ TSA will equip break rooms with vending machines, refrigeration, and microwave ovens. Any plan to renovate a break room must be reviewed by a union representative.
- ✓ Management will notify the designated local union representative in advance of a plan for any break room infrastructure project over \$1,000.00 and the designated local union representative will have an opportunity to review that plan.
- ✓ TSA will provide each employee who TSA allows to serve on official time on a full-time basis for the Union with work space. The space will contain, at a minimum, a desk, chair, and file cabinet or other storage space.¹⁰

TSA Background Statistics (as of April 2012)

- TSA currently has 51,277 baggage screeners with an average annual salary of \$38,357. The total estimated taxpayer expense for screeners is more than \$1.96 billion annually.
- TSA currently has an administrative field staff of 9,740 employees with an average annual salary of \$80,107. The total estimated taxpayer expense for administrative field staff is more than \$1.194 billion annually.
- Almost 12 percent of TSA field employees are supervisors.
- TSA Headquarters has a staff of 3,986 employees with an average annual salary of \$103,852.
- More than 26 percent of the employees at TSA headquarters are supervisors.
- Over its first ten years of existence, the TSA has cost taxpayers \$57 billion.

¹⁰ Compilation of AFGE TSA Agreed Upon Terms, pages 67-68.

Appendix—Timeline

November 2001—Aviation and Transportation Security Act enacted, creating the Transportation Security Administration.

January 2002—John W. Magaw (former Director of Secret Service) confirmed as Undersecretary of Transportation Security within the Department of Transportation.

November 2002—Admiral James M. Loy confirmed as Undersecretary of Transportation Security within the Department of Transportation.

January 2003—Under Secretary of Transportation for Security Admiral James M. Loy issues order precluding collective bargaining for TSA Security Screeners. “Mandatory collective bargaining is not compatible with the flexibility required to wage the war against terrorism.” Loy stated.

March 2003—TSA was moved to the Department of Homeland Security

July 2003—Rear Admiral David Stone confirmed as Administrator of TSA in the Department of Homeland Security

November 2004—TSA began allowing all commercial airports to apply to use qualified private screeners instead of federal Transportation Security Officers (TSOs).

July 2005—Edmund S. "Kip" Hawley confirmed as Administrator of TSA in the Department of Homeland Security

June 2010—John S. Pistole confirmed as Administrator of TSA in the Department of Homeland Security

December 2010—By the end of 2010 16 airports had opted out of Federal security screening, including San Francisco International Airport in California, Kansas City International Airport in Missouri, Greater Rochester International Airport in New York, Sioux Falls Regional Airport in Iowa, Jackson Hole Airport in Wyoming, the Key West International Airport in Florida and the Roswell Industrial Air Center in New Mexico.

January 2011—Administrator Pistole announced that TSA was halting expansion of Screening Partnership Program (SPP). This screening program, established by Congress in ATSA, allows airports to opt to use qualified private security screeners under TSA supervision and oversight.

February 2011—TSA Administrator Pistole announced that Transportation Security Officers can engage in collective bargaining on non-security employment issues.

June 2011—The American Federation of Government Employees (AFGE) won a run-off election to represent screeners.

August 2012—TSA announced that it reached a collective bargaining agreement with AFGE. The agreement, which would affect approximately 45,000 TSA employees, will require ratification by the covered employees in order to be binding.

About the Committee

The Transportation and Infrastructure Committee currently has jurisdiction over all modes of transportation: aviation, maritime and waterborne transportation, roads, bridges, mass transit, and railroads. The Committee also has jurisdiction over other aspects of our national infrastructure, such as clean water and wastewater management, the transport of resources by pipeline, flood damage reduction, economic development programs for rural and urban areas, disaster preparedness and response, the Civil Works program of the Army Corps of Engineers, and the various missions of the U.S. Coast Guard. The Committee also has oversight jurisdiction of the Transportation Security Administration (TSA), which resided within the Department of Transportation (DOT) directly following 9/11 and was later transferred to the Department of Homeland Security (DHS) upon DHS's creation. Furthermore, Homeland Security Presidential Directive 7 mandates that DOT and DHS collaborate on all matters relating to transportation security and transportation infrastructure protection. As such, matters of transportation security are of long-held and natural importance to this Committee.

Contacting the Committee

For information regarding this report:

Daniel R. Moll

Gil Macklin

Sean McMaster

Oversight & Investigations

202-224-2674

For press inquiries:

Justin Harclerode

Communications Director

202-226-8767



Committee on Transportation and Infrastructure

John L. Mica, Chairman

2165 Rayburn House Office Building

Washington, D.C. 20515