



AFGE

Congressional Testimony

STATEMENT BY

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BEFORE

**SUBCOMMITTEE ON TRANSPORTATION SECURITY
HOUSE HOMELAND SECURITY COMMITTEE**

ON

EXAMINING TSA'S MANAGEMENT OF THE SCREENING PARTNERSHIP PROGRAM

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Mr. Chairman, Ranking Member Richmond, and Members of the Subcommittee: My name is J. David Cox, Sr., and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the more than 670,000 federal and District of Columbia workers our union represents, including 45,000 Transportation Security Officers (TSOs) working to provide safe and secure travel for over two million passengers each day, I thank you for the opportunity to testify today on the hearing entitled "Examining TSA's Management of the Screening Partnership Program (SPP)."

Oversight of TSA's management of the SPP must extend beyond the ease with which contractors are approved for SPP contracts. It must also include a close examination of the effect of the program on aviation security and the TSO workforce. TSA SPP FAQs clearly state that "Federal and privatized screening have comparable performance, and there is no measurement indicating there is a difference in customer service." SPP decisions are not based on TSO performance at a given airport. Private screeners follow the same standard operating procedures and use the same equipment as federal TSOs. The only difference is that after privatization, the TSOs risk replacement by workers lacking their training and on-the-job experience while all federal TSA management remains on the job. SPP does not exist to further aviation security or save taxpayer money. TSOs, the frontline of aviation security, bear the brunt of an outsourcing program that benefits no party involved except security contractors.

Background

In the aftermath of the terrible events of September 11th, 2001, Congress quickly enacted the Aviation and Transportation Security Act (ATSA) to correct the gaping holes in our nation's security net made apparent by the ability of the 9-11 hijackers to hijack planes in a coordinated attack that killed over 2,900 people, and injured more than 6,700. Although Al Qaeda's violent, irrational hatred for the U.S. was the root cause of the 9-11 tragedy, Congress pinpointed the lack of a well-trained, experienced screening workforce receiving adequate pay and benefits as one of the underlying issues that left our country vulnerable to the worst act of aviation terrorism in history. To resolve that issue, Congress federalized screening duties in ATSA, with the belief that improved training, pay, benefits and working conditions would lead to a stable workforce focused on security. TSA, according to a March 30, 2005, Congressional Research Service report, was given "direct responsibility for passenger screening." The TSO workforce AFGE represents proves every day that Congress made the right decision in federalizing screening duties.

The SPP runs counter to the national consensus that the screening of passengers and baggage at our nation's airports should be performed by federal employees to tighten the aviation security safety net. There is no documentation of the superiority of private screeners to TSOs. There are no cost savings. Airports seeking to escape TSA management through SPP risk losing an experienced and trained screening workforce, yet they will retain every single layer of expensive TSA management. TSA's cost comparison analysis is opaque at best. Indeed, the current SPP upends the lives and careers of an airport's TSO workforce, leave the traveling public no safer, and provides no taxpayer savings.

It is important to note that changes to the SPP included in the FAA Modernization and Reform Act of 2012 were never subject to the Congressional debate and scrutiny applied to the decision to federalize aviation security. The provisions of the FAA Modernization and Reform Act are so broad and so biased in favor of privatization that it could unravel the aviation security safety net our country has worked so hard to achieve if not modified by Congress.

There is No Demand for SPP

First, only 18 of the nation's 457 commercial airports have private sector security screeners. *That's less than four percent.* Except for San Francisco and four other airports that were part of the initial SPP pilot program (Kansas City International Airport, Greater Rochester International Airport, Jackson Hole Airport, and Tupelo Regional Airport), the only airports to seek privatization have been small airports in Iowa, New Mexico, Montana, Florida, and New Hampshire. A representative hearing on SPP would include the directors of our airports in New York, Chicago, Los Angeles, Miami, Denver, Atlanta, Washington, D.C., and every other major gateway that have chosen to work with TSA and its national network of highly qualified TSOs. None of these airports has shown the slightest interest in privatization, yet none is ever heard from in these hearings.

Second, despite legislation passed in 2012 making it easier for airports to apply to privatize their TSA workforce, only a handful of airports have applied to do so. Aside from Montana, over the last two years, only three airports – the small Orlando-Sanford and Sarasota Bradenton airports in Florida and the airport in Portsmouth, NH, have asked TSA for permission to make the switch to private screeners. The lack of interest was noted by the GAO in December 2012. "Airport operators from 3 airports that have not applied to the SPP expressed no interest in the SPP, and stated that they are generally satisfied with the level of screening service provided by TSA," GAO said.

Third, when larger airports consider SPP and then learn the facts, they stick with the TSOs. In 2013, the elected managers of Sacramento International Airport agreed to consider a proposal by their airport director to join SPP. But when they studied the facts of the situation, and how it would affect their local screeners, the Sacramento Board of Supervisors reversed its earlier decision and voted by a wide margin against TSA privatization. One of the factors they considered in Sacramento was precedent: no airport that large has made the switch from public to private. Four small airports have made the switch; but of these, only two, Roswell, NM, and Sioux Falls, IA, actually "opted out" of TSA and joined SPP on their own. Roswell did so because it wanted to hire locals at its remote location in eastern New Mexico. Sioux Falls, according to a 2010 staff report prepared for the Colorado Springs, CO, airport, had a director with an "an anti-federal government ideology" who was "looking for ways to keep federal screeners out of his airport." The other two airports that moved from TSA to a private screener, Marathon, FL, and Sonoma, CA, did so at the suggestion of TSA during the Bush administration. It's very clear from this history that there is simply no demand from the airport community at large to privatize the operations of the TSA, period.

So where does the interest come from? It's striking how little the privatizers actually talk about security in their public discussion of the issues. Companies like Firstline constantly talk about how SPP provides them with "flexibility" to move employees around, but never discuss the task of securing the American flying public. That's because they are interested in profit, not security. And how do they make that profit? They make it by paying lower wages and providing fewer and less comprehensive benefits, such as health insurance and pensions. That does nothing but line the pockets of contractors and deprives airport security screeners of the living standards and financial security they deserve.

Despite the fact that security is not improved by going private, the federal government and U.S. taxpayers are forced to bear the costs of any airport that shifts from federal to private. Airports with a troubled relationship with TSA find little resolution to their problem by applying to SPP: the same TSA management, policies, and procedures remain after privatization. The only new factor is a very inexperienced workforce of private screeners.

SPP Leaves the TSO Workforce in a “No Win” Situation With Few Good Alternatives

TSA accepted the joint bid of CSSI/Firstline Security to provide private screening at Bozeman, Bert Mooney, Glacier Park International, and Yellowstone airports in Montana. Despite the security issues that arise from the state’s status as a border state, most of the commercial air traffic in Montana is subject to private screening under the SPP. The transition to SPP at the four Montana airports has provided AFGE a clear view of the impact of privatization on incumbent TSOs at privatized airports, as well as the workers contractors hire “off the street” to work at those airports. It is important to note that SPP contractors can only make a profit by manipulating the payroll. Federal law requires SPP contractors to provide “compensation and other benefits” to their employees “that are not less than the level of compensation and other benefits provided” to TSOs. AFGE has documented that this is simply not the case in Montana and we have reason to believe it is not the case at other SPP airports around the country.

Our union has opposed the SPP since its inception. It is inconsistent with ATSA’s goal of federalizing the process of screening passengers and baggage. TSA has approved bids from contractors that provide substantially lower pay and benefits those received by TSOs. It also allows SPP contractors to deviate from the Staffing Allocation Model (SAM) that applies to federal airports. It is AFGE’s position that security contractors would be unable to show the “cost-efficiencies” required under the law, if not for TSA’s permissive allowance for lower pay, benefits that shift the cost to worker or are virtually non-existent, and a lack of compliance with the SAM. The table will be set for aviation security to devolve to pre-September 11 levels because the low pay and benefits will drive private screeners to leave the security contractor for better paying jobs with better benefits.

Union members in Montana have informed us that CSSI/Firstline is offering new hires starting salaries that are thousands of dollars lower than TSA’s starting rates, and that with regard to “paid time off,” the contractor’s allowances are drastically inferior to what is provided to TSOs and other federal employees. Federal employees with up to three years of service earn 13 days of annual leave a year and 9 days of sick leave. The contractor offers just 12 days total of combined “paid time off (PTO)” for employees for the first five years of service. Federal employees with more than three years but less than 15 years of service earn 20 days of annual leave per year, and nine days of sick leave. The contractor provides 18 days of combined PTO for employees with between six and ten years of service. Federal employees and TSOs with 15 or more years of service earn 26 days of annual leave and 9 days of sick leave; in contrast, the contractor offers a total of 19 days of combined PTO for employees with 11 or more years of service.

Importantly, federal TSOs and other federal employees are given credit for years of honorable military service in calculating their eligibility for annual leave accrual. Thus, a TSO who has served his country in the armed services for any amount of time (including both active duty and active duty for training) will earn annual leave according to tenure with includes his time served in the military. Agencies also have the flexibility to provide service credit for prior non-federal/non-military service when determining a new employee’s annual leave accrual rates. This is an important management flexibility that assists in recruitment, given the fact that federal salaries lag those in the private sector.

Federal TSOs are also eligible for leave sharing, leave transfer, and carrying over up to 30 days of paid time off. They receive paid “administrative” time off to serve on a jury or to be a witness in a legal proceeding. Federal employees are also entitled to take up to three days of funeral leave to arrange or attend the funeral of a close relative who dies as a result of military service in a combat zone.

The health insurance benefit being offered by the contractor is almost laughable as health insurance, but there is nothing funny about how inferior it is to FEHBP's plans. Its value to the employee is far below that of any of the eleven nationwide plans currently available to TSOs in Montana, even the one "high deductible" plan from GEHA. The contractor's plan is a high-deductible Health Reimbursement Account plan, a type that is inferior even to the Health Savings Account Plans available in the Federal Employees Health Benefits Program (FEHBP). And to make matters worse, the contractor's plan's "network" of providers are all in the state of Tennessee, approximately 1800 miles from Montana. Thus, participants would effectively be denied access to the plan's network, and thereby be forced to pay the higher, out-of-network costs unless they happened to be vacationing in Tennessee when a need for health care arose.

The differences in the value of the health insurance benefit the contractor is offering and what is currently available to TSOs who work for TSA are enormous. We can begin our comparison by noting that the contractor offers only one choice; FEHBP offers 11 choices in nationwide plans and an additional two specific to Montana. The contractor offers only a high-deductible plan with premiums of \$54.39 a pay period for individual coverage and \$190.63 for family coverage. The nationwide high-deductible FEHBP plan from GEHA costs TSOs \$50.87 a pay period for individual coverage and \$116.18 for family coverage – a 40% difference. But the differences in premiums are only the beginning. Because preventive services are only covered "in network" in Tennessee in the contractor's plan at 100% without the deductible, participants would have to pay 50% after the deductible for all preventive services – including children's and women's well care, annual mammograms, cervical cancer screenings, prostate cancer screenings, and immunizations. In contrast, the GEHA plan in FEHBP available to TSOs in Montana pays 100% in network (with network providers in Montana available) and 75% after the deductible out of network. Out of pocket maximum for the contractor are \$5,500 and \$11,000 for individual and family coverage in network in Tennessee – but in Montana, out of network, the out of pocket maximum each year is \$11,000 for individuals and a whopping \$22,000 for families. In contrast, the out of pocket maximum for the GEHA high deductible plan is \$5,000 for individuals and \$10,000 for families.

Although there are many more differences, another important one is that the GEHA high deductible plan under FEHBP allows for a Health Savings Account (HSA) or a Health Reimbursement Account (HRA) and the contractor's plan allows only a HRA. HRAs offer a vastly inferior economic benefit to the employee, because unlike HSAs, assets in an HRA do not earn interest and are forfeited by the employee if he switches health plans or leaves the job for reasons other than retirement. They belong to the employer, not the employee. An employer uses an HRA to pay for actual health care costs incurred by their employees. With an HSA, employer contributions are made whether or not the costs are incurred, and an employee gets to keep all unused HSA contributions made by both themselves and their employer when they leave the job. Indeed, because HRAs benefit only the employer, the "Arrangement" undermines the incentive systems on which high deductible plans are based. The employee has far less incentive to minimize expenditures, since the money belongs not to him, but rather to his boss.

This is not nearly an exhaustive description of the ways that the contractor's healthcare plan is of inferior value to the employee as compared to the high-deductible plan available to TSOs in Montana under FEHBP. But it suffices to show how the contractor's plan does not comport with the statutory requirement for a "qualified private screening company" under §44920 of ATSA that benefits offered are "not less than the level of compensation and other benefits" provided to TSOs. Of course, the benefits in FEHBP's high deductible plan are less generous than those in the other ten plans made

available to TSOs. If one interprets the statutory language to mean the range of value of the benefits, than the contractor’s plan is of less value than the least valuable FEHBP plan.

TSOs in Montana now have the choice of the GEHA plan, as well as the following additional nationwide plans:

1. Blue Cross Blue Shield Standard Option
2. Blue Cross Blue Shield Basic Option
3. NALC
4. GEHA Benefit Plan
5. Mailhandlers Benefit Value Plan
6. SAMBA
7. Mailhandlers Standard
8. APWU Health Plan
9. Mailhandlers Benefit Plan Consumer Option
10. NALC Value Option Plan

And two additional Montana plans:

1. Aetna Healthfund HDHP for South/Southeast/Western Montana
2. Aetna HealthFund CDHP and Value Plan, South/Southeast/Western Mt. areas

While it is difficult to quantify the economic value of choice among 13 plans versus no choice, no one could describe an employer offering only one choice as providing a benefit that is “not less than the level” of benefit offered by the federal government.

Thus far, we conducted an apples-to-apples comparison of the contractor’s health insurance plan and the government’s worst plan, even though the contractor’s plan is clearly a rotten apple. But how about comparing it to the best plan FEHBP has to offer TSAs – and by “best” I mean most popular: Blue Cross Blue Shield’s Standard option, the choice of over 60% of federal employees.

Comparison of Contractor Health Plan vs. FEHBP Plans available to TSOs at TSA

Type of Coverage	Contractor Plan**	Contractor Plan**	GEHA High Deductible*	GEHA High Deductible*	BCBS Standard*	BCBS Standard*
	Biweekly Employee Premium	Biweekly Employer Premium	Biweekly Employee Premium	Biweekly Employer Premium	Biweekly Employee Premium	Biweekly Employer Premium
Self Only	\$ 54.39	n/a	\$ 50.87	\$152.60	\$ 87.82	\$196.68
Self and Family	\$190.63	n/a	\$116.18	\$384.54	\$204.98	\$437.62

** CSSI Firstline Documents provided to AFGE

*<http://www.opm.gov/healthcare-insurance/healthcare/plan-information/premiums/2014/nonpostal-hmo.pdf>

As is clear from the above, the economic value of the health insurance benefit, as measured by the employer cost for provision of the benefit, shows clearly that the contractor’s plan is inferior. We know that the actuarial value of the benefits of both the contractor’s plan and the GEHA high deductible plan are lower than the Blue Cross Blue Shield Standard Option Plan. But we have shown that the GEHA plan offers superior benefits, and although we do not know the contractor’s cost for the HRA/High

Deductible plan, we know that it is far lower than TSA's costs for either the GEHA or the BCBS plan, and thus does not meet the standard in the statute.

The contractor appears not to provide any retirement benefit at all. There is no mention of a pension plan: no 401 (K) savings plan, no profit-sharing plan, no simplified employee pension plan (SEP) or IRA, no money purchase pension plan, no cash balance plan, no stock bonus plan, and no employee stock ownership plan. In short, this employer does not even make the smallest gesture toward the benefit equivalence that the statute demands in the area of retirement income security.

Incumbent Montana TSOs report TSA management has been slow to respond to their many questions about the transition to SPP and often receive contradictory information. In comparison, TSA has held TSOs to tight deadlines for life-altering decisions. Although the collective bargaining agreement negotiated between AFGE and TSA includes a provision that creates a permanent Voluntary Transfer Option, TSOs were only given ten calendar days to review a vacancy list (that did not include all TSO job vacancies listed on USAJobs), pick five airports and complete an online application. TSA failed to hold itself to the same timely responses required of TSOs: TSOs report that their airport's Human Resources (HR) offices provided delayed and contradictory responses to questions. TSOs were told by HR offices that they would not qualify for unemployment compensation because they were entitled to "Priority Placement" with CSSI/Firstline. The so-called "right" of "Priority Placement" or "Right of First Refusal" is qualified and unenforceable, and decisions regarding unemployment compensation eligibility are made by the state of Montana, not TSA employees. Long-term TSOs report that they were repeatedly told they would not be eligible for severance pay if they separated from TSA, would be penalized for early retirement, and would not receive unemployment compensation.

Congress Should Not Limit Its SPP Oversight to the Treatment of Contractors

In their January 14, 2014 testimony before the Government Operations Subcommittee of the Oversight and Government Reform Committee, GAO confirmed that TSA has failed to track the performance of contract screeners in the same manner that TSO performance is endlessly scrutinized. The SPP screener attrition rates, covert testing failures, TIP, and other performance measures are unknown to the public. Just as the news media recently reported that an intoxicated man impersonated a screener at the privatized San Francisco International Airport and groped several female passengers, the public was only made aware of covert test cheating and other security breaches at SPP airports when reported by journalists. AFGE believes that much of the negative public perception of TSOs by some members of the public is fueled by the agency's rush to report unproven allegations against TSOs while security contractors and their employees have never faced the same level of relentless scrutiny. The Contract Screener Reform and Accountability Act (H.R. 4115) provides the reform and transparency program badly needs. The bill's sponsors, Homeland Security Ranking Member Bennie Thompson, Committee Member Shelia Jackson Lee, and Appropriations Committee Ranking Member Nita Lowey, have a history of being champions of the TSO workforce, being fiercely committed to our nation's aviation security, and have long sought transparency and accountability in the SPP. H.R. 4115 is a significant step in ensuring all of aviation security, not just that which is performed by federal employees, receives the oversight necessary to protect the flying public.

H.R. 4115 would make these significant improvements to the SPP program:

- Bans the subsidiaries of foreign-owned corporations from obtaining SPP contracts.
- Requires covert testing of contract screeners and penalizes cheating on those tests;

- Protects TSO jobs and benefits if a security contractor is awarded a contract at their airport;
- Protects those who disclose wrongdoing by private screening companies,;
- Requires reporting of security breaches by private screening companies; and
- Ensures transparency by requiring a cost analysis of private screening companies to be conducted by the Comptroller General.

The relevance of the Contract Screener Reform and Accountability Act to the SPP, the TSO workforce, and aviation security cannot be understated. H.R. 4115 should be passed by the House.

Conclusion

A video of the checkpoint at Washington-Dulles International Airport taken the morning of September 11th, 2001 shows several hijackers being allowed to pass by several private screeners even though they set off metal detector alarms. We now know those men were allowed to board American Airlines Flight 77 with “utility knives” that they would use to kill innocent passengers and crew onboard the plane, and begin the hijacking of that flight. No individual private screener is responsible for the tragedy that occurred. However the country cannot turn a blind eye to the circumstances that led to the ultimate aviation security breach, including the issues raised by placing this important work in the hands of private security contractors. Screening of passengers and baggage remains inherently governmental work that should remain with the federal TSO workforce.

J. David Cox, Sr.
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Jeffrey David Cox Sr. was elected National President at AFGE's 39th National Convention in Las Vegas in 2012. As National President, Cox has invested heavily in growing union membership both within AFGE and among the labor movement as a whole. Since Cox first was elected to national office in 2006, AFGE has boosted its membership by more than 71,000 employees. In fact, AFGE membership has grown every year for the past decade – even in the face of hiring freezes, budget cuts and continual attacks on the pay and benefits of government workers.

With a determination rivaled in intensity only by his trademark southern accent, Cox is one of the most active labor leaders in the nation, rallying unionists from coast to coast on the importance of working as one movement and organizing new members at every opportunity.

Cox galvanized AFGE members in opposition to sequestration and the 2013 government shutdown, which resulted in federal employees being locked out of their jobs for up to 16 days. To seize on public support shown government workers in the wake of the shutdown, AFGE launched a year-long nationwide campaign, "I Am AFGE," in March 2014 to increase the public's awareness and appreciation of government employees.

In September 2013, Cox convened hundreds of AFGE members at a National Leadership Conference in Orlando to chart the union's direction for the next decade. The resulting plan, "Big Enough to Win," is organized around four key strategies: Organizing and Growth, Legislative Mobilization, Political Strength, and Creating Strong Effective Locals.

As a nationally recognized labor leader, Cox was appointed by President Obama to serve on the Federal Salary Council and the Federal Prevailing Wage Council. He is a member of the AFL-CIO Executive Council and Vice President of the North Carolina State AFL-CIO, serving in the latter position since 1993. Cox was unanimously elected chairman of the Executive Committee of the Department for Professional Employees (DPE), AFL-CIO. He also chairs the AFL-CIO's Union Veterans Council, which seeks to help veterans with employment opportunities through the VA and in the building trades.

Cox began his private-sector career in healthcare in 1970 as a food service worker, progressing to nursing assistant and licensed practical nurse in 1972. In 1983, Cox became a registered nurse and started a public-sector career with the VA that lasted until September 2006 when he became AFGE secretary-treasurer. In 2012, Cox won the Yitzhak Rabin Public Service Award from the American Friends of the Yitzhak Rabin Center. In 2013, Cox was honored with the AFL-CIO's *At the River I Stand* award, which is given annually to a national leader who has demonstrated an unyielding commitment to civil rights and workers' rights. A native of North Carolina, Cox is a graduate of North Carolina's Rowan-Cabarrus Community College and a former member of its board of trustees. He also attended Gardner Webb University in Boiling Springs, N.C.