



Reimbursement Review and Validation Plan for In-line Baggage Screening Systems

June 15, 2016

Fiscal Year 2016 Report to Congress



Homeland
Security

Transportation Security Administration

Message from the Administrator

June 15, 2016

I am pleased to present the following report, “Reimbursement Review and Validation Plan for In-line Baggage Screening Systems,” for Fiscal Year (FY) 2016, which has been prepared by the Transportation Security Administration (TSA).



This document was compiled pursuant to the Joint Explanatory Statement, House Report 114-215, and Senate Report 114-68, which accompany the *FY 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113). The report details the process that TSA will use to solicit, review, and validate reimbursement claims from airports that have incurred eligible costs associated with development of partial or completed in-line baggage screening systems prior to August 3, 2007, and ultimately request funding for those airports. Additionally, the report includes a list of airports that have requested reimbursement for checked baggage inspection systems previously completed without a formal TSA funding agreement. The current Electronic Baggage Screening Program Funding Prioritization for checked baggage screening projects also has been included for reference.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Hoeven
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jeanne Shaheen
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (571) 227-2801 or to the Department's Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter V. Neffenger". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Peter V. Neffenger
Administrator



Reimbursement Review and Validation Plan for In-line Baggage Screening Systems

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I. Legislative Language

This document is submitted pursuant to the Joint Explanatory Statement, House Report 114-215, and Senate Report 114-68, which accompany the *Fiscal Year (FY) 2016 Department of Homeland Security (DHS) Appropriations Act* (P.L. 114-113).

The Joint Explanatory Statement includes the following requirement:

Reimbursement Claims for In-line Baggage Screening Systems

As described in the House and Senate reports, TSA is directed to develop a process to review and validate reimbursement claims from airports for in-line baggage screening systems installed prior to 2008, and to submit a plan, not later than 60 days after the date of enactment of this Act, for reimbursement of validated claims.

House Report 114-215 includes the following requirement:

The Committee understands that, consistent with the 9/11 Act, TSA must prioritize EDS funding based on risk reduction. TSA is also required under section 1604(b)(2) of the 9/11 Act to give funding consideration to airports that incurred eligible costs for in-line baggage screening systems but were not recipients for funding agreements. However, there remain claims from at least 16 airports for reimbursement of costs incurred for in-line baggage systems installed prior to 2008. In House Report 113-481, TSA was directed to establish a process to resolve these outstanding claims. However, TSA has not established a process or plan that has resulted in the reimbursement of eligible costs to those affected airports.

The Committee directs TSA to develop such a plan and to propose sufficient funding to begin implementing this plan as part of the fiscal year 2017 budget request. In addition, TSA is urged to explore how reimbursements could be initiated during fiscal year 2016 through the Aviation Security Capital Fund or using other TSA resources through a mid-year reprogramming. TSA is directed to provide a reimbursement plan to Congress not later than 60 days after the date of enactment of this Act.

Senate Report 114-68 includes the following requirement:

TSA is required under section 1604(b)(2) of the 9/11 Act to give funding consideration to airports that incurred eligible costs for in-line baggage

systems but were not recipients of funding agreements. However, TSA has not established a process or program that has resulted in the reimbursement of eligible costs to affected airports. Further, TSA has not validated the costs submitted by airports asserting eligible costs. Therefore, the Committee directs TSA to develop a process to validate whether airports incurred costs with a reasonable anticipation of reimbursement and thereafter establish a plan to reimburse those airports if such costs are validated by TSA's review. The Committee expects TSA to include sufficient funding to carry out this plan in future budget requests. TSA is to brief the Committee no later than 60 days after the date of enactment of this Act on its efforts to carry out these activities.

II. Background

Section 110 of the *Aviation and Transportation Security Act* (P.L. 107-71) mandates that the Transportation Security Administration (TSA) screen 100 percent of all checked baggage by electronic or other approved means. The TSA Electronic Baggage Screening Program was established in response to this mandate and provides security technologies to help prevent catastrophic loss from terrorist or criminal activity by screening passengers' checked baggage for concealed explosives. The Electronic Baggage Screening Program achieves this mission by managing the full lifecycle of acquisition activities, including identifying the necessary requirements for a screening system, and testing, procuring, deploying, and sustaining the equipment. This need is central to the TSA mission.

On August 3, 2007, Congress enacted the *Implementing Recommendations of the 9/11 Commission Act* (P.L. 110-53). The Act instructed TSA to create a "prioritization schedule for airport security improvement projects described in section 44923." Under the Act, prioritization determinations are to be "based on risk and other relevant factors," and the Agency's prioritization schedule "shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems," if the cost was incurred "in reasonable anticipation of receiving a grant under section 44923." Consequently, TSA developed funding prioritization criteria that focus on reducing risk and promoting efficiency. Historically, higher priority agency/program needs with greater risk reduction have exhausted planned fiscal year funding prior to being able to address reimbursement requests.

In the House and Senate reports referenced in Section I, TSA was directed to develop a process or plan to validate reimbursement requests from airports that incurred potential eligible costs for in-line baggage screening systems but without a funding agreement with the government. TSA was directed to provide a reimbursement plan to Congress no later than 60 days after the date of enactment of the *FY 2016 DHS Appropriations Act* (P.L. 114-113).

III. Reimbursement Requests Received to Date

To date, TSA has received written reimbursement requests involving projects at 17 airports, totaling more than \$363 million for costs purportedly associated with the construction and deployment of in-line baggage screening systems. These reimbursement requests for costs were incurred in the absence of a formal letter of intent or other transactional agreement with the government and prior to August 3, 2007. The amounts requested by the airports have not been validated by TSA for allowable and allocable costs. Table 1 shows the current Airport Reimbursement List and the amounts requested.

Table 1: Airport Reimbursement Requests for Costs Associated with In-line Baggage Systems	
Airport	Amount of Request
Anchorage (ANC)	\$20,865,285
Atlantic City (ACY)	\$2,570,226
Chicago Midway (MDW)	\$31,983,257
Detroit Wayne County (DTW)	\$8,325,000
Fairbanks (FAI)	\$3,986,060
Honolulu (HNL)	\$60,000,000
Indianapolis (IND)	\$9,865,529
Jacksonville (JAX)	\$16,200,000
Kahului (OGG)	\$2,470,289
Nantucket (ACK)	\$1,253,425
Orlando International (MCO) ³	\$12,762,000
Orlando International (MCO) ³	\$24,757,000
Pittsburgh (PIT)	\$6,000,000
Richmond (RIC)	\$3,600,000
SW Florida (RSW)	\$41,000,000
Tampa (TPA)	\$93,068,500
Theodore Francis Green (PVD)	\$24,731,109
Yampa Valley Regional (HDN)	\$242,875
Total	\$363,680,555

Notes

1. Airports are listed alphabetically and are not in a ranked or prioritized order. This list reflects written requests on behalf of airports for reimbursement from TSA since the inception of the Electronic Baggage Screening Program.
2. The table above reflects amounts for specific projects at the referenced airports. Many of these airports have received TSA funding for other in-line projects.
3. MCO is listed twice because it has submitted reimbursement requests for two separate projects.
4. JFK was removed from the Airport Reimbursement List due to a settlement being reached between TSA and American Airlines.
5. MIA was removed from the Airport Reimbursement List because another transactional agreement existed for the project and TSA does not consider it an airport seeking reimbursement in the absence of a formal funding agreement.

IV. Electronic Baggage Screening Program Funding Prioritization

As noted in Section II and pursuant to the *Implementing Recommendations of the 9/11 Commission Act* (P.L. 110-53), enacted by Congress in 2007, TSA developed funding prioritization criteria focused on reducing risk and promoting efficiency. Consistent with the 9/11 Act requirement, TSA prioritizes limited available funding for Electronic Baggage Screening Program projects according to the strength of their contribution toward fulfilling the Agency's mission to protect the Nation's transportation systems. Funding is allocated within this schedule based on the project's security and operational benefit, the reduction of risk, and the availability of funds. TSA has created a funding prioritization schedule for mission critical projects with the primary driver being to ensure that core functions and prior commitments are sufficiently funded in the following manner:

- 1. Program Operations and Management:** Managing the program (includes staffing, training, equipment testing, and other program support costs).
- 2. Equipment to Ensure 100-Percent Screening Compliance:** Procurement and deployment of transportation security equipment (including Explosives Detection System and Explosives Trace Detection units) to maintain 100-percent screening compliance.
- 3. Critical Operational Projects:** Unforeseen and urgent projects to quickly remedy unacceptable safety issues (including systems experiencing unacceptable maintenance performance) or security vulnerabilities that could inhibit 100-percent screening compliance.
- 4. Fulfillment of Existing Obligations:** Fulfillment of existing commitments to airport operators for projects with executed letters of intent or other transactional agreements. This includes the purchase and installation of equipment required for those projects.
- 5. Threat Detection Capability Development:** Development of threat detection capabilities and risk-based security-focused capabilities in support of new threat detection standards. Such capabilities can be achieved through software and/or minor hardware field upgrades for currently deployed transportation security equipment. This does not include the deployment of these capabilities.

- 6. Recapitalization or Upgrade of Equipment Due for Useful Life Replacement:** The replacement or upgrade of aging machines that have reached end of useful life. This includes the deployment of new threat detection capabilities, risk-based security capabilities, and necessary network upgrades.

After these considerations, TSA considers investments in projects that will improve, or have already improved, the screening capabilities and screening efficiency at airports. Funding for such investments is prioritized in the following manner:

- 7. System-Level Capability and Operational Efficiencies:** Development and deployment of Explosives Detection System-level advancements and process improvement efforts, such as increased Explosives Detection System lifespan, operational efficiencies, increased throughput rates, and decreased alarm rates. This only includes equipment-related efficiencies.
- 8. Airport-Level Capability and Operational Efficiencies:** Installation of new in-line systems or Checked Baggage Inspection System improvements to meet planning guidelines and design standards requirements. Checked Baggage Inspection System improvements refer to the identification and implementation of screening efficiencies from both a system and a resource perspective, which can include the removal and reinstallation of Baggage Handling System components, the consolidation of Baggage Handling System and Checked Baggage Resolution Area matrices, and increases to Checked Baggage Inspection System sizes.
- 9. Reimbursement of Systems Completed without a TSA Funding Agreement:** Reimbursement to airport operators who had a reasonable expectation of reimbursement for costs incurred while developing and/or deploying in-line systems in the absence of a letter of intent or other transactional agreements with TSA.

V. Reimbursement Review and Validation Plan

TSA has developed the following seven-step plan to solicit, review, and validate airport requests for reimbursement.

- 1. Solicit Airports for Reimbursement Justification Requests:** No later than 60 days after transmittal of this report, TSA will solicit airports to submit a formal Reimbursement Justification Request for in-line baggage screening projects initiated after November 19, 2001, and prior to August 3, 2007. Multiple communication channels will be used to notify the airports, including direct communications with the 17 airports listed in Section III, direct communications with industry associations, and a FedBizOpps.gov announcement. Airports desiring reimbursement will be required to complete and submit a standard form justifying their request for federal reimbursement funds. The form will be provided in the announcement, and it will include a brief description of the scope of the project, initiation and completion dates of the project, documentation of reasonable expectation of reimbursement at the time, and the dollar value to be reimbursed. Detailed invoicing will not be required during this step. Airports will have 90 days after the announcement to submit a formal Reimbursement Justification Request.

- 2. Review Requests to Determine if Projects Meet Initial Eligibility Criteria:** TSA will review each Reimbursement Justification Request form to determine if the project timeline and documentation of reasonable expectation of reimbursement meet established eligibility criteria to proceed to detailed data collection. TSA will complete the evaluation of all requests within 60 days of the deadline for submitting Reimbursement Justification Requests. Per the *Implementing Recommendations of the 9/11 Commission Act* (P.L. 110-53), an airport must meet the following criteria to be deemed eligible for reimbursement. The airport must have:
 - a) Incurred costs associated with the development of a partial or completed in-line baggage system.
 - b) Incurred eligible costs before the date of enactment of the act (August 3, 2007).
 - c) Had a reasonable anticipation of receiving a grant under section 44923 of Title 49, United States Code.

- 3. Notify Airports of Project Reimbursement Qualification Results and Request Additional Cost Details, if applicable:** TSA will notify each airport that submitted a Reimbursement Justification Request whether the project is suitable for additional evaluation. Notifications for airports that meet the initial evaluation qualifications also will request detailed project cost information, including

construction invoices and proof of payment for further evaluation. TSA will provide the notifications immediately following the conclusion of Step 2.

- 4. Update Airport Reimbursement List:** TSA will determine the maximum cost exposure related to funding airport reimbursement requests and update the Airport Reimbursement List and projected costs.
- 5. Validate Detailed Project Cost Information:** TSA will conduct a review of submitted costs for the approved airport projects to determine if submitted costs qualify as allowable and allocable expenses based on the current Electronic Baggage Screening Program Checked Baggage Inspection System Funding Policy memo. Due to the varying volume, and depending on the quality and complexity of the submitted documentation, TSA estimates a timeframe of up to 9 months to validate the project cost information for each project.
- 6. Notify Airports of Project Cost Evaluation Results:** TSA will provide the results of the cost evaluation to each airport, including the amount of project costs eligible for reimbursement. If additional reimbursement funding is expected outside of what current policy dictates, the airport will need to provide additional details regarding the reasonable justification of such funding within 30 days of the date on the TSA notification.
- 7. Finalize Airport Reimbursement List:** TSA will finalize the Airport Reimbursement List with the projects deemed suitable for reimbursement, and their respective dollar values eligible for funding.

VI. Conclusion

Pursuant to congressional direction to develop a process to review and validate reimbursement claims from airports for in-line baggage screening systems where those airports did not have a written agreement with TSA, the seven-step process described in this report would take TSA to a point just before actual payment to the airport.

Payments to the airports qualifying under priority #9 will be made based upon available resources and the rankings contained in the *Implementing Recommendations of the 9/11 Commission Act* (P.L. 110-53) risk-based schedule (see Section IV).