

this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(g) **STANDARDS FOR PRIVATE SCREENING COMPANIES.**—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport participating in the pilot program under this section only if the Under Secretary determines and certifies to Congress that the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

(h) **TERMINATION OF CONTRACTS.**—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under the pilot program if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(i) **ELECTION.**—If a contract is in effect with respect to screening at an airport under the pilot program on the last day of the 3-year period beginning on the date of enactment of this section, the operator of the airport may elect to continue to have such screening carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary under section 44920 or by Federal Government personnel in accordance with this chapter.

(Added Pub. L. 107-71, title I, §108(a), Nov. 19, 2001, 115 Stat. 611.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (b) and (i), is the date of enactment of Pub. L. 107-71, which was approved Nov. 19, 2001.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 44920. Security screening opt-out program

(a) **IN GENERAL.**—On or after the last day of the 2-year period beginning on the date on which the Under Secretary transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening

personnel of a qualified private screening company under a contract entered into with the Under Secretary.

(b) **APPROVAL OF APPLICATIONS.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of receipt of an application submitted by an airport operator under subsection (a), the Under Secretary shall approve or deny the application.

(2) **STANDARDS.**—The Under Secretary shall approve an application submitted by an airport operator under subsection (a) if the Under Secretary determines that the approval would not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport.

(3) **REPORTS ON DENIALS OF APPLICATIONS.**—

(A) **IN GENERAL.**—If the Under Secretary denies an application submitted by an airport operator under subsection (a), the Under Secretary shall provide to the airport operator, not later than 60 days following the date of the denial, a written report that sets forth—

(i) the findings that served as the basis for the denial;

(ii) the results of any cost or security analysis conducted in considering the application; and

(iii) recommendations on how the airport operator can address the reasons for the denial.

(B) **SUBMISSION TO CONGRESS.**—The Under Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a copy of any report provided to an airport operator under subparagraph (A).

(c) **QUALIFIED PRIVATE SCREENING COMPANY.**—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(d) **STANDARDS FOR PRIVATE SCREENING COMPANIES.**—

(1) **IN GENERAL.**—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section only if the Under Secretary determines and certifies to Congress that—

(A) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter; and

(B) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private

screening companies owned and controlled by such citizens.

(2) **WAIVERS.**—The Under Secretary may waive the requirement of paragraph (1)(B) for any company that is a United States subsidiary with a parent company that has implemented a foreign ownership, control, or influence mitigation plan that has been approved by the Defense Security Service of the Department of Defense prior to the submission of the application. The Under Secretary has complete discretion to reject any application from a private screening company to provide screening services at an airport that requires a waiver under this paragraph.

(e) **SUPERVISION OF SCREENED PERSONNEL.**—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

(f) **TERMINATION OF CONTRACTS.**—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under this section if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(g) **OPERATOR OF AIRPORT.**—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

(2) any act of negligence, gross negligence, or intentional wrongdoing by—

(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

(B) employees of the Federal Government providing passenger and property security screening services at the airport.

(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.

(h) **RECOMMENDATIONS OF AIRPORT OPERATOR.**—As part of any submission of an application for a private screening company to provide screening services at an airport, the airport operator shall provide to the Under Secretary a recom-

mendation as to which company would best serve the security screening and passenger needs of the airport, along with a statement explaining the basis of the operator's recommendation.

(Added Pub. L. 107-71, title I, §108(a), Nov. 19, 2001, 115 Stat. 612; amended Pub. L. 109-90, title V, §547, Oct. 18, 2005, 119 Stat. 2089; Pub. L. 112-95, title VIII, §830(a)-(c), Feb. 14, 2012, 126 Stat. 135.)

#### REFERENCES IN TEXT

Section 110(c) of the Aviation and Transportation Security Act, referred to in subsec. (a), is section 110(c) of Pub. L. 107-71, which is set out as a note under section 44901 of this title.

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, referred to in subsec. (g)(3), is subtitle G (§§861-865) of title VIII of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2238, also known as the SAFETY Act, which is classified generally to part G (§441 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

#### AMENDMENTS

2012—Subsec. (b). Pub. L. 112-95, §830(a), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Under Secretary may approve any application submitted under subsection (a).”

Subsec. (d). Pub. L. 112-95, §830(b), designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added par. (2).

Subsec. (h). Pub. L. 112-95, §830(c), added subsec. (h).

2005—Subsec. (g). Pub. L. 109-90 added subsec. (g).

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 44921. Federal flight deck officer program

(a) **ESTABLISHMENT.**—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as “Federal flight deck officers”.

(b) **PROCEDURAL REQUIREMENTS.**—

(1) **IN GENERAL.**—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

(2) **COMMENCEMENT OF PROGRAM.**—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.