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United States General Accounting Office
Washington, DC 20548

March 5, 2004

The Honorable Tom Ridge
Secretary, Department of Homeland Security

Subject: *Aviation Security: Factors Could Limit the Effectiveness of the Transportation Security Administration's Efforts to Secure Aerial Advertising Operations*

Dear Mr. Secretary:

After the terrorist attacks of September 11, 2001, the Federal Aviation Administration (FAA) issued flight restrictions to prevent flights over certain areas, to include stadiums, in response to increased concerns about the threat posed by terrorists using aircraft as a weapon. Larger stadiums, some of which may house more than 100,000 fans for certain events, may provide an attractive target for such a terrorist attack. Beginning in December 2001, FAA's Air Traffic Division Director of Air Traffic Services, and later the Transportation Security Administration (TSA), implemented processes to allow certain pilots and aircraft to operate over these events by waiving flight restrictions. However, in February 2003, Congress passed legislation that for 1 year prevented aerial advertising pilots¹ from flying near stadium airspace during certain sporting events by suspending the waiver process. In January 2004, Congress passed legislation continuing this restriction indefinitely.²

In the event that the restriction on waivers for aerial advertising near stadiums is repealed, the House Appropriations Committee, Subcommittee on Homeland Security, asked that we (1) describe the results of FAA and TSA threat assessments conducted relevant to aerial advertising operations and (2) identify FAA's and TSA's processes for mitigating the identified threat, determine whether established processes were followed, and identify factors that may limit their effectiveness. Due to TSA's concern that the public release of our detailed findings could compromise aviation security, our report detailing the results of our review is restricted. This letter is intended to summarize our overall findings and confirm your agreement to take action to address vulnerabilities and inefficiencies in the background check process for aerial advertisers in the event that the waiver restriction is repealed. Such actions could also improve the quality of background checks for all general aviation pilots seeking waivers of security-related flight restrictions.

¹ Aerial advertising aircraft are small aircraft that tow advertising banners.

² Pub. L. No. 108-199, Section 521, Consolidated Appropriations Act, 2004.

To satisfy our objectives, we assessed FAA and TSA regulations, policies, procedures, and documents related to issuing waivers to flight restrictions and associated threat assessments. We also reviewed a sample of waivers approved by TSA and issued by FAA to allow aerial advertising pilots to fly over stadiums from September 2002 through February 2003, and interviewed responsible FAA and TSA officials. We conducted our work between November 2003 and February 2004 in accordance with generally accepted government auditing standards.

Results in Brief

While TSA does not believe aerial advertising aircraft pose a significant threat, TSA's summary assessment of general aviation³ concluded that a variety of factors made general aviation vulnerable to terrorist attacks. TSA identified that these factors, as well as the ability of terrorist organizations such as al-Qaeda to adopt new and creative methods of attack, highlight the need for security of all operations using general aviation aircraft and airports, including aerial advertisers. To mitigate this threat, TSA plans to coordinate with an industry-led initiative to study security vulnerabilities associated with general aviation aircraft and also plans to issue a set of "best practices," or recommended guidelines to improve security at general aviation airports, as well as a self-assessment guide for general aviation airport managers to use.

After assuming responsibility for processing waivers for aerial advertisers to fly over restricted stadium airspace from FAA, TSA began to strengthen and implement additional processes to enhance security, including strengthening background checks on aerial advertisers. Although we generally found documentation identifying that background checks were conducted, we identified certain factors that could limit the effectiveness of these checks. In addition, inconsistency in the manner in which information was collected to identify pilots and match them to the results of the checks conducted made it difficult to verify that the background checks were conducted as required. Further, FAA and TSA reported that they used additional processes to reduce the threat of aerial advertising operations. However, we found that these processes were not formalized in agency policies or procedures, and thereby, may not have been consistently applied.

To address the factors we identified that could limit TSA's effectiveness to secure aerial advertising operations, we recommended that, in the event that waiver restrictions are repealed, the Administrator of TSA should determine whether more comprehensive background checks are warranted to further reduce the threat of aerial advertising operations; ensure that documents supporting waivers granted for temporary flight restrictions are systematically and fully maintained; and disseminate policies defining the process and procedures for issuing waivers, conducting background checks, and defining the circumstances under which TSA will take additional steps to ensure verification that pilots flying over restricted stadium airspace have been properly cleared. In commenting on this report, FAA and TSA officials generally agreed with the information provided and our recommendations. Officials also provided technical clarifications that we incorporated as appropriate.

³ General aviation consists of all civil aircraft, excluding commercial and military, as well as general aviation airports where these aircraft are based.

Background

Following the September 11th terrorist attacks, FAA issued several temporary flight restrictions to prevent flights over certain areas. After its creation and assumption of aviation security responsibilities, TSA began determining when and where security-related temporary flight restrictions should be issued.⁴ Although TSA determines the aviation security risks, FAA retains responsibility—due to its oversight of U.S. airspace—for signing and issuing airspace restrictions and associated waivers. FAA formally informs the aviation industry of such restrictions through numbered notices to airmen (NOTAM). One restriction prohibited flights over public assemblies and large stadiums to enhance security over events being held at these sites.⁵ Beginning in December 2001, FAA's Air Traffic Office began to allow certain pilots and aircraft to operate over these events by waiving flight restrictions. These waiver processes allowed pilots, such as those flying aerial advertising aircraft, to obtain a waiver from the restriction and fly in restricted airspace. In the spring of 2002, FAA began to conduct background checks on pilots applying for waivers from flight restrictions.

In September 2002, TSA recommended that FAA amend previous NOTAMs to clarify the events over which flights should be restricted. Rather than all public assemblies, flight restrictions were narrowed to include only flights over National Football League, Major League Baseball, National Collegiate Athletic Association Division 1 football, and major motor speedway events at stadiums with 30,000 seats or more. The restrictions extended 3 miles out from the center of the stadium and 3,000 feet above ground level. Based on experiences and knowledge gained in working with FAA to address security issues following the September 11 attacks, TSA developed a process for conducting background checks on pilots requesting waivers to fly over these events and began processing waiver applications.⁶ FAA, as manager of the U.S. airspace, continued to sign and issue the waivers.

TSA's processes for approving waivers were in place until February 2003, when Congress directed that restrictions be placed on the type of pilots and aircraft allowed to obtain a waiver to fly over restricted stadium airspace.⁷ These new restrictions allowed only aircraft having broadcast, safety and security, or other operational purposes to fly in the airspace. For example, law enforcement, medical, and Department of Defense aircraft were exempted from the restrictions as well as aircraft required to fly through the restricted airspace to arrive or depart from a nearby airport. This legislation barred all other operations, including aerial advertisers, from obtaining waivers through February 20, 2004, unless extended by Congress. In January 2004, Congress passed legislation continuing this restriction indefinitely. Figure 1 shows a time line of events leading to the suspension of aerial advertising waivers.

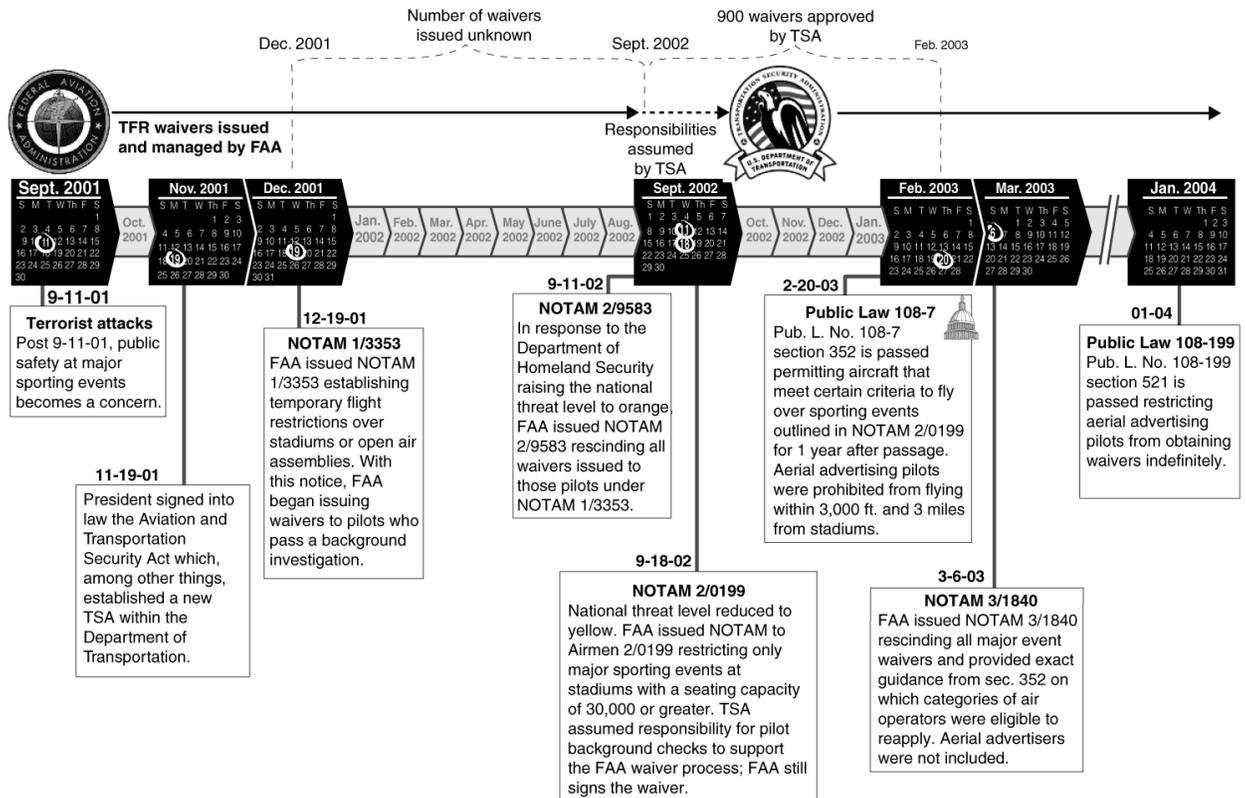
⁴ The Aviation and Transportation Security Act (ATSA), Pub. L. No. 107-71, § 101(g), 115 Stat. 597, 603 (2001), transferred much of the responsibility for civil aviation security from FAA to TSA.

⁵ NOTAM 1/3353, issued December 19, 2001.

⁶ TSA conducts such background checks when considering waiver requests for all security-related temporary flight restrictions, including checks for pilots, crew members, and passengers.

⁷ Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, § 352, 117 Stat. 11, 420-21 (implemented by FAA in NOTAM 3/1840, issued Mar. 6, 2003).

Figure 1: Time line of Events Leading to the Suspension of Aerial Advertising Waivers



Source: GAO analysis of TSA data.

TSA's Threat Assessments Found General Aviation to Be Vulnerable

While the agency does not believe aerial advertising aircraft pose a significant threat and are not likely to be used by terrorists, TSA concluded that a variety of factors made general aviation, including aerial advertising operations, vulnerable to terrorist attack. TSA identified that these factors, as well as the ability of terrorist organizations such as al-Qaeda to adopt new and creative methods of attack, highlight the need for security of all operations using general aviation aircraft and airports, including aerial advertisers.

TSA plans to coordinate with an industry-led initiative to study security vulnerabilities associated with a spectrum of general aviation aircraft (from smallest to largest and heaviest), operating under a variety of scenarios, and with a variety of payloads. Through this coordination, TSA plans to provide guidance to industry participants in an effort to ensure the results provide information that will benefit both the government and industry. TSA also plans to issue a set of "best practices," or recommended guidelines to improve security at general aviation airports, and a self-assessment guide for general aviation airport managers to use by March 2004.

TSA Enhanced Security Processes for Aerial Advertising Operations, but Limitations Exist

When TSA assumed responsibility for managing the waiver process in September 2002, the agency began taking steps to conduct more extensive background checks for aerial advertising pilots than those previously conducted by FAA. According to FAA and TSA, FAA began issuing waivers to aerial advertising pilots in December 2001 but did not begin conducting background checks on pilots until sometime in March or April 2002. When TSA assumed responsibility for managing the waiver process, the agency instituted additional processes for conducting background checks, which included more extensive checks of a pilot's criminal history and associated links to terrorism. TSA said the agency used these processes to determine whether to grant waivers for any security-related temporary flight restriction beyond only waivers for aerial advertising pilots. Despite these efforts, however, we found weaknesses in the process used to conduct background checks that could impact the security of aerial advertising operations.

In addition to strengthening background checks for aerial advertising pilots granted waivers to fly over stadiums, TSA took steps to document that these background checks were completed. For the period between December 2001 and September 2002, when FAA was responsible for managing the waiver process, officials did not track waivers granted or maintain file documentation of background check results. As a result, we could not verify that FAA conducted all background checks as reported. After TSA assumed responsibility for processing waiver applications, the agency established a tracking system to document the results of background checks.

To determine whether TSA followed their process for approving waivers and conducting background checks for aerial advertisers requesting waivers, we reviewed a random sample of 100 waivers (of the 900 total waivers contained in TSA's internal tracking system as having been processed for aerial advertising pilots from September 2002 until February 2003) and determined whether documentation existed that showed that the additional checks instituted by TSA were conducted. We found that although checks were generally documented, inconsistency in the manner in which information was collected to identify pilots and match them to the results of the checks conducted made it difficult to verify that the background checks were conducted as required. For example, pilots applying for waivers were organized alphabetically in the documentation of one check, whereas results of the terrorist threat analysis were organized by a pilot's social security number. In addition, TSA tracked the waivers by pilot certificate number in some cases, further complicating the process of matching the results of one check and terrorist threat analysis to the waivers applied for and granted.

Federal regulations require that agency record-keeping procedures provide documentation to facilitate review by Congress and other authorized agencies of government.⁸ Further, our standards for internal control in the federal government⁹ require that all transactions be clearly documented in a manner that is complete,

⁸ 36 C.F.R. § 1222.38.

⁹ 31 U.S.C. 3512(c).

accurate, and useful to managers and others involved in evaluating operations. In the absence of a more effective system for documenting and maintaining records of the results of background checks and other analyses, TSA cannot, among other things, hold responsible officials accountable for completing required steps in the background check process.

In addition to the background check process used to check pilots, FAA and TSA stated that they used additional processes to reduce the threat of aerial advertising operations. For example, both TSA and FAA told us that they coordinated with local law enforcement officials and FAA air traffic control towers to inspect aerial advertising pilots and their aircraft and to verify that they had a valid waiver. However, we found that these processes were not formalized in agency policies or procedures, and thereby, may not have been consistently followed related to aerial advertising operations.

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In addition to the Department of Homeland Security, we are sending copies of this report to the House Appropriations Committee, Subcommittee on Homeland Security. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please call me at (202) 512-3404 or Chris Keisling, Assistant Director, at (404) 679-1917.

Sincerely yours,



Cathleen A. Berrick
Director, Homeland Security and Justice Issues

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