



U.S. DEPARTMENT OF HOMELAND SECURITY **OFFICE OF INSPECTOR GENERAL**

OIG-24-50

September 3, 2024

FINAL REPORT

TSA Made Progress Implementing Requirements of the 9/11 and TSA Modernization Acts but Additional Work Remains





OFFICE OF INSPECTOR GENERAL

U.S. Department of Homeland Security

Washington, DC 20528 | www.oig.dhs.gov

September 3, 2024

MEMORANDUM FOR: The Honorable David P. Pekoske
Administrator
Transportation Security Administration

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *TSA Made Progress Implementing Requirements of the 9/11 and TSA Modernization Acts but Additional Work Remains*

Attached for your action is our final report, *TSA Made Progress Implementing Requirements of the 9/11 and TSA Modernization Acts but Additional Work Remains*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving TSA's implementation of requirements established in the 9/11 and TSA Modernization Acts. Your office concurred with all three recommendations.

Based on information provided in your response to the draft report, we consider recommendations 1, 2, and 3 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please contact me with any questions, or your staff may contact Kristen Bernard, Deputy Inspector General, Office of Audits, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

TSA Made Progress Implementing Requirements of the 9/11 and TSA Modernization Acts but Additional Work Remains

September 3, 2024

Why We Did This Evaluation

TSA is responsible for protecting the Nation's transportation systems. Through the 9/11 and TSA Mod Acts, Congress directed TSA to implement requirements intended to improve transportation security, such as public and surface transportation as well as railroad, bus, trucking, and hazardous materials and pipeline security. We conducted this evaluation to determine TSA's updated progress in implementing the 9/11 Act and TSA Mod Act requirements since we first reported on these efforts in September 2021.

What We Recommend

We made three recommendations to improve TSA's implementation of requirements established in the 9/11 and TSA Mod Acts.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at:

DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

The Transportation Security Administration (TSA) made progress implementing requirements of both the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act) and the *TSA Modernization Act* (TSA Mod Act) since we first reported on these efforts in September 2021, but additional work remains. Specifically, as of May 2024, TSA has fully implemented 214 of the 247 (87 percent) requirements from both Acts. According to TSA, it did not implement some of the remaining 33 requirements due to the lengthy regulatory rulemaking process and a lack of funding. TSA could not complete other requirements because their implementation depends either on the actions of other stakeholders or on circumstances beyond its control. Lastly, we did not categorize some requirements as fully implemented because TSA did not provide evidence to support their completion. Until TSA completes all requirements, it may miss opportunities to address vulnerabilities and strengthen the security of the Nation's transportation systems.

TSA Response

TSA concurred with all three recommendations, which we consider open and resolved.



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Background

In response to the September 11, 2001, terrorist attacks, Congress passed the *Homeland Security Act of 2002*,¹ creating the Department of Homeland Security and tasking this new department with preventing terrorist attacks within the United States and reducing the country's vulnerability to terrorism. The Transportation Security Administration (TSA), a component within DHS, is responsible for protecting the Nation's transportation systems (aviation, maritime, highways and motor carriers, freight rail, pipeline, mass transit and passenger rail, and intermodal) and ensuring freedom of movement for people and commerce. For example, TSA screens on average more than 2 million passengers and their baggage daily at airport security checkpoints across the United States.

In November 2002, Congress created the National Commission on Terrorist Attacks Upon the United States and tasked it with investigating facts and circumstances related to the 2001 attacks. In July 2004, the Commission released its recommendations² to help guard against future attacks on the United States, and in August 2007, Congress passed the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act).³ The 9/11 Act requires TSA to implement requirements associated with public and surface transportation including railroad, bus, trucking, and hazardous materials and pipeline security. For example, the Act directs TSA to develop security exercises tailored to rail, bus, and public transportation operators. It also directs TSA to assist transportation sector operators in conducting vulnerability assessments and developing responsive security plans.

In October 2018, Congress passed the *FAA Reauthorization Act of 2018*,⁴ which included the *TSA Modernization Act* (TSA Mod Act). The TSA Mod Act directs TSA to implement transportation security-related requirements associated with technology, public areas, passengers, cargo, foreign airports, cockpits and cabins, and surface transportation. Additionally, Section 1967(b) of the TSA Mod Act requires the DHS Office of Inspector General to report to Congress every 2 years on:

- requirements of the 9/11 and TSA Mod Acts that TSA has not fully implemented;
- additional actions necessary to implement the requirements; and
- recommendations regarding whether any requirements should be amended or repealed.

In September 2021, we issued our report, *TSA Has Not Implemented All Requirements of the 9/11 Act and the TSA Modernization Act* (OIG-21-68), in which we determined that TSA had implemented 167 of the 251 requirements set forth in both pieces of legislation. We reported

¹ *Homeland Security Act of 2002*, P.L. 107-296.

² *9/11 Commission Report*, July 22, 2004.

³ *Implementing Recommendations of the 9/11 Commission Act of 2007*, P.L. 110-53.

⁴ *FAA Reauthorization Act of 2018*, P.L. 115-254, Division K, Title I (may be cited as the *TSA Modernization Act*).



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that TSA either partially implemented the remaining 84 requirements or did not provide us with sufficient documentation for us to determine if TSA implemented them. We attributed the unimplemented requirements to TSA's lack of:

- a centralized office to establish internal controls, conduct oversight, and provide quality assurance for implementing the requirements;
- formal policies and procedures to ensure consistency and accountability for implementing the requirements on time; and
- a system to maintain relevant supporting documentation for the Acts' requirements to help ensure information accuracy, continuity, and record retrieval capability.

We recommended that TSA designate a lead office responsible for establishing internal controls, conducting routine oversight, and providing quality assurance for the implementation of outstanding requirements in the 9/11 and TSA Mod Acts and any future legislation. In response to our recommendations, TSA issued a management directive formalizing its policy and procedures for overseeing and monitoring implementation of the requirements and designated its Legislative Affairs office to be responsible for overseeing TSA's progress on implementing the requirements.

This evaluation was conducted as a follow-up to our previous audit as mandated by the TSA Mod Act. Our objective was to determine TSA's updated progress in implementing 9/11 Act and TSA Mod Act requirements since we first reported on these efforts in September 2021.

Results of Evaluation

TSA Fully Implemented Most Requirements Set Forth in the 9/11 and TSA Mod Acts

As of May 2024, TSA had fully implemented 214 of the 247⁵ (87 percent) requirements from both Acts (33 from the 9/11 Act and 181 from the TSA Mod Act). Table 1 provides the implementation status.

⁵ Since our last review, we determined four requirements previously reported as unimplemented were not TSA's responsibility; we eliminated those from the total number of requirements. The eliminated requirements are associated with the following sections of the 9/11 Act: §1308 - Maritime and Surface Transportation Security User Fee Study, §1502 - Oversight and Grant Procedures, §1519 - Railroad Tank Car Security Testing, and §1524 - International Railroad Security Program. Thus, the total number of requirements that TSA is responsible for implementing is 247, rather than 251.



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Table 1. TSA’s Implementation Status of Requirements in the 9/11 and TSA Mod Acts as of May 2024

Status	9/11 Act	TSA Mod Act	Total
Fully Implemented	33	181	214
Not Fully Implemented	12	21	33
Total	45	202	247

Source: DHS OIG analysis of documentation provided by TSA

The requirements that TSA has implemented since our 2021 report include specific efforts in support of the following areas:

- Railroad security
- Security technologies
- Public area security
- Over-the-road bus and trucking security
- Passenger and cargo security
- Cockpit and cabin security
- Foreign airport security
- Hazardous material and pipeline security

TSA established a multimodal training program intended to prevent and deter acts of terrorism against transportation systems, enhance the preparedness and resilience of transportation systems, and improve situational awareness (in response to Sections 1407, 1516, and 1533 of the 9/11 Act, which require TSA to develop security exercises tailored to rail, bus, and public transportation operators). TSA also provided air carrier crew members a self-defense training registration link on its website (in response to Section 1960 of the TSA Mod Act, which requires TSA, in consultation with the Federal Aviation Administration (FAA) Administrator, to continue carrying out and encouraging air carrier employees to participate in self-defense training). Finally, TSA provided Congress an assessment of health and safety risks associated with screening technologies (as required by Section 1924 of the TSA Mod Act).

TSA Has Not Fully Implemented the Remaining Requirements of the 9/11 and TSA Mod Acts

Although TSA implemented additional requirements since our last report, 33 requirements remain not fully implemented. Table 2 presents the 33 requirements not fully implemented (12 from the 9/11 Act and 21 from the TSA Mod Act), categorized by section, as some sections contain multiple requirements.



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Table 2. Requirements Not Fully Implemented, as Set Forth in Sections of the 9/11 and TSA Mod Acts

Act	Section	Requirements
9/11 Act	§1405 - Security Assessments and Plans	1
	§1410 - Information Sharing	1
	§1412 - Reporting Requirements	2
	§1413 - Public Transportation Employee Protections	1
	§1512 - Railroad Carrier Assessment and Plans	3
	§1521 - Railroad Employee Protections	1
	§1522 - Security Background Checks of Covered Individuals	1
	§1531 - Over-the-Road Bus Security Assessments and Plans	2
	<i>Subtotal</i>	12
TSA Mod Act	§1914 - Reciprocal Recognition of Security Standards	1
	§1920 - Pilot Program for Automated Exit Lane Technology	1
	§1922 - Real-Time Security Checkpoint Wait Times	1
	§1928 - Third Party Domestic Canines	1
	§1930 - Visible Intermodal Prevention and Response Team Statistics	1
	§1935 - Law Enforcement Officer Reimbursement Program	1
	§1937 - PreCheck Program	1
	§1938 - PreCheck Expedited Screening	1
	§1946 - Screening Partnership Program Updates	1*
	§1953 - Last Point of Departure Airports; Security Directives	1*
	§1955 - Tracking Security Screening Equipment from Last Point of Departure Airports	2
	§1959 - Federal Air Marshal Service Updates	1
	§1961 - Flight Deck Safety and Security	1*
	§1963 - Federal Flight Deck Officer Program Improvements	4
	§1968 - TSA Counterterrorism Asset Deployment	2
§1974 - Passenger Rail Vetting	1*	
<i>Subtotal</i>	21	
Total	33	

Source: DHS OIG analysis of documentation provided by TSA

*Requirements contingent on actions of other stakeholders or circumstances outside of TSA's control

Requirements Not Yet Completed Are Attributed to Multiple Factors

TSA cited multiple factors that hindered completion of the remaining 33 requirements, including the lengthy regulatory rulemaking process, a lack of funding, and other factors beyond TSA's



control. We did not count other requirements as fully implemented because TSA did not provide evidence to support their completion.

Lengthy Regulatory Rulemaking Process

TSA stated that it has not yet fully implemented seven requirements of the 9/11 Act because their implementation depends on a lengthy regulatory rulemaking process. For example, Sections 1405, 1512, and 1531 require TSA to issue regulations directing public transportation, railroad carriers, and over-the-road bus operators, respectively, to conduct vulnerability assessments and implement security plans. On December 16, 2016, TSA published an Advance Notice of Proposed Rulemaking in the Federal Register requesting public comments on several topics relevant to the development of surface transportation vulnerability assessment and security plan regulations mandated by the 9/11 Act. The initial public comment period expired, and TSA reopened the comment period for an additional 60 days until May 15, 2017. In October 2023, TSA identified these requirements as long-term actions and acknowledged there has been no updated activity.

In another example, Section 1522 provides that if the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, the Secretary shall provide an adequate redress process for individuals subject to adverse employment decisions following the security background check. This section does not mandate the Secretary to issue a final rule on security background checks of covered individuals but provides TSA with the authority to do so. Since TSA has chosen to exercise its authority, it is required to provide the redress process for individuals subject to adverse employment decisions following a security background check. The proposed rule associated with this requirement includes the redress process but was not finalized at the time we completed our fieldwork. Therefore, we cannot categorize the requirement as implemented.

As we reported in September 2021, implementation of requirements involving rulemaking can be challenging because of regulatory processes. To publish a regulation, TSA must take several actions, such as developing proposed regulatory language, conducting a cost-benefit analysis, having the proposed rule reviewed by the Office of Management and Budget, allowing the public to comment on the proposed rule, and preparing the final rule for publication in the Federal Register.⁶ Until the regulations are finalized, TSA cannot fully implement these requirements.

⁶ The Federal Register provides the official text of Federal laws, presidential documents, and administrative regulations and notices published by Federal agencies.



Lack of Funding

TSA also stated that it did not implement two requirements because of insufficient funding. Section 1920 of the TSA Mod Act requires TSA to establish a pilot program to evaluate the use of automated exit lane technology, and Section 1922 directs TSA to publish, online and in physical locations, real-time wait times at each airport security checkpoint. TSA conducted a limited pilot program as required. However, according to TSA, it did not have sufficient funding to conduct a more robust pilot. Regarding the publication of wait times, TSA provided a briefing to Congress in 2022 detailing costs for implementing a pilot program incorporating the requirements outlined in the legislation. TSA's briefing estimated that initial and future operational and maintenance activities to monitor wait times for 690 TSA checkpoints, including 3,500 screening lanes, would cost hundreds of millions of dollars. According to TSA, because it does not have sufficient funding, it will not be able to implement the requirements established in Sections 1920 and 1922.

Insufficient Documentation

TSA did not provide sufficient evidence to show that 20 requirements have been fully implemented. For example, Sections 1413 and 1521 of the 9/11 Act require TSA to issue rules for reporting security concerns, deficiencies, or vulnerabilities related to public transportation, including rail. The sections further require TSA to review the information provided in such reports and take appropriate action. In 2011, TSA issued the "Reporting of Security Issues" rule, which describes the process for reporting these issues. However, the rule does not incorporate steps to address problems and deficiencies, and TSA did not provide additional policies or procedures to show how reported issues are addressed. In another example, TSA stated that annual notification to congressional committees regarding statistics related to the deployment of Visible Intermodal Prevention and Response teams⁷ required by TSA Mod Act Section 1930 was included in the periodic staffing reports to Congress, but it did not provide evidence of the communication to the DHS OIG team.

TSA stated that it would not take additional actions on 13 of the 20 requirements we categorized as not fully implemented based on insufficient evidence. In one instance, TSA cited a lack of industry interest necessary to complete the requirement. For other requirements, TSA maintained that the documentation it provided to the OIG supported implementation of the requirement. However, our assessments concluded that documents provided did not support complete implementation.

⁷ TSA deploys Visible Intermodal Prevention and Response teams at random locations and times in cooperation with local authorities to detect, deter, and defeat acts of terrorism and organized crime activities. TSA also deploys these teams to provide additional law enforcement or security presence during specific alert periods or special events.



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See Appendix C for the requirements we categorized as not fully implemented based on insufficient evidence and those for which TSA does not plan to take additional actions.

Contingent on Actions of Other Stakeholders or Circumstances Beyond TSA's Control

TSA stated that it could not implement four requirements associated with Sections 1946, 1953, 1961, and 1974 of the TSA Mod Act because their implementation is contingent on actions of other stakeholders or circumstances beyond TSA's control. For instance:

- Section 1946(c) directs TSA to review Screening Partnership Program⁸ applications submitted before the enactment of the TSA Mod Act within 30 days of enactment. TSA stated there were no program applications at the time the TSA Mod Act was enacted. Therefore, the requirement is not applicable.
- Section 1953(c) directs TSA personnel to rescreen passengers and baggage arriving from airports outside of the United States and identify additional screening measures in the event of specific threats discovered through intelligence sources. However, TSA officials stated that the specific threats have not occurred. Therefore, TSA has not had to adapt its screening procedures.
- Section 1961(b) directs TSA to coordinate with the FAA to disseminate RTCA⁹ Document DO-329, *Aircraft Secondary Barriers and Alternative Flight Deck Security Procedure*, to aviation stakeholders. According to a TSA official, this document was developed under an FAA contract and, because TSA does not have the associated copyright, TSA cannot legally disseminate it. According to TSA, its Legislative Affairs office advised Congress that the copyright holder was unwilling to release the document to TSA without payment.
- Section 1974(d) directs TSA to notify congressional committees of decisions associated with the use of TSA's passenger vetting systems and plans to enhance passenger rail security. According to TSA, to implement the requirement, it needs Amtrak to request access to TSA's passenger vetting systems, and Amtrak has not made such a request.

See Appendix C for a complete list of requirements TSA has not fully implemented and the causes.

Conclusion

It has been almost 25 years since the September 11, 2001, terrorist attacks. Through the 9/11 and TSA Mod Acts, Congress identified requirements that, if implemented, would make the

⁸ TSA's Screening Partnership Program contracts security screening services at commercial airports to qualified private companies. These companies run screening operations under Federal oversight and must comply with all TSA security screening procedures.

⁹ RTCA was formerly the Radio Technical Commission for Aeronautics and an Advisory Committee to the FAA.



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country's aviation and surface transportation systems more secure and better safeguarded against future attacks. Although TSA has made progress implementing requirements set forth in both Acts, more needs to be done. Specifically, TSA may miss opportunities to address vulnerabilities and strengthen the security of the Nation's transportation systems if it does not implement the remaining requirements.

Recommendations

Recommendation 1: We recommend the TSA Administrator, in coordination with the Secretary and the Office of Management and Budget, work with Congress and the Department to resolve funding shortfalls or request Congress amend or repeal the requirements identified in our report for which TSA did not receive sufficient funding.

Recommendation 2: We recommend the TSA Administrator, in coordination with the Secretary and the Office of Management and Budget, work with Congress to amend or repeal the requirements identified in our report that TSA indicated it did not plan to implement.

Recommendation 3: We recommend the TSA Administrator report to Congress on the requirements identified in our report as not fully implemented based on insufficient evidence where TSA disagreed with our assessment.

Management Comments and OIG Analysis

TSA expressed appreciation for the work we performed and stated that it has made progress in implementing requirements of the 9/11 and TSA Mod Acts since our last report. However, TSA disagrees with the number of requirements that remain open in part because of disagreement about what constitutes sufficient evidence to close a requirement. TSA believes it has implemented over 95 percent of the requirements rather than the 87 percent that we reported. Although TSA disagreed with our methodology, as noted in our report, TSA stated that many of the open requirements depend on the actions of other stakeholders or circumstances beyond its control. It also stated that other requirements cannot be closed without additional funding from Congress.

TSA concurred with all three recommendations and previously provided technical comments, which we incorporated as appropriate. Appendix B contains a copy of TSA's response to the draft report in its entirety.

TSA's Response to Recommendation 1: TSA concurred and stated that its Chief Financial Officer will work with stakeholders across DHS and the Office of Management and Budget, as appropriate, to highlight for Congress the funding needed to implement requirements in the 9/11 and TSA Mod Acts that remain open because of insufficient funding. Additionally, if applicable, TSA will work with the appropriate congressional committees to potentially amend or repeal



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these provisions. TSA will pursue various avenues to accomplish this recommendation, including phone calls, briefings, and letters to key congressional committees. The estimated completion date is August 29, 2025.

OIG Analysis: TSA's planned corrective actions meet the intent of our recommendation. This recommendation will remain open and resolved until TSA provides evidence that it worked with DHS, the Office of Management and Budget, and Congress to determine additional funding needed to implement requirements in the 9/11 and TSA Mod Acts that we identified as not fully implemented because of insufficient funding. Additionally, TSA will need to provide us with evidence, as applicable, that it requested Congress amend or repeal requirements where appropriate.

TSA's Response to Recommendation 2: TSA concurred and stated that its Chief Counsel and Legislative Affairs offices will work with DHS stakeholders, Office of Management and Budget personnel, and congressional committees, as appropriate, to address requirements we still consider to be open. The estimated completion date is August 29, 2025.

OIG Analysis: We consider TSA's planned corrective actions to meet the intent of our recommendation. This recommendation will remain open and resolved until TSA provides us with evidence that it worked with DHS, the Office of Management and Budget, and Congress to amend or repeal 9/11 and TSA Mod Acts requirements that we consider not fully implemented and for which TSA indicated it would not take further action to implement.

TSA's Response to Recommendation 3: TSA concurred and stated that its Legislative Affairs office will inform Congress of the component's disagreements with our draft assessment. TSA will pursue various avenues to accomplish this recommendation, such as phone calls, briefings, and letters to key congressional committees. The estimated completion date is August 29, 2025.

OIG Analysis: We consider TSA's planned corrective actions to meet the intent of our recommendation. This recommendation will remain open and resolved until TSA provides us with evidence that it informed Congress that it disagreed with our assessment that it had not fully implemented specific 9/11 and TSA Mod Acts requirements.



Appendix A: Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107-296) by amendment to the *Inspector General Act of 1978*.

The objective of our evaluation was to determine TSA's updated progress in implementing 9/11 Act and TSA Mod Act requirements since we first reported on these efforts in September 2021. Section 1967(b) of the TSA Mod Act requires us to report to Congress every 2 years on the status of TSA's implementation of requirements in Titles XIII, XIV, and XV of the 9/11 Act and all of TSA's requirements in the TSA Mod Act. The report should contain:

- identification of the requirements that have not been fully implemented;
- description of what additional action is necessary; and
- recommendations regarding whether any of the 9/11 Act or TSA Mod Act requirements should be amended or repealed.

To answer our objective, we reviewed the 9/11 Act and TSA Mod Act requirements that were not fully implemented at the time of the prior audit. We met with TSA and reviewed associated supporting documentation it provided to determine whether it fully implemented the requirements. We did not assess the quality, accuracy, or outcomes of TSA's actions for each of the requirements. We also reviewed relevant Federal regulations and TSA criteria, congressional testimony, and prior audit reports published by the DHS OIG and the U.S. Government Accountability Office.

We interviewed and sent questionnaires to TSA officials from various offices to (1) discuss implementation of the remaining 9/11 Act and TSA Mod Act mandates; (2) identify the processes used to track, monitor, and implement the 9/11 Act and TSA Mod Act requirements; and (3) identify completed and ongoing efforts to implement requirements. These offices are:

- Executive Secretariat
- Legislative Affairs
- Operations Support
- Office of Chief Counsel
- Security Operations
- Law Enforcement/Federal Air Marshal Service
- Enterprise Support

To ensure timely reporting, we established an agreed-upon 1-week timeframe for TSA to initially provide supporting documentation. Once reviews were conducted, we requested that TSA provide additional supporting documentation within 2 days.



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We conducted this evaluation between May 2023 and May 2024 under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation*, issued by the Council of the Inspectors General on Integrity and Efficiency. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objectives.

DHS OIG's Access to DHS Information

During this evaluation, TSA provided timely responses to our requests for information and did not delay or deny access to information we requested.



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Appendix B: TSA's Comments on the Draft Report



U.S. Department of Homeland Security
Transportation Security Administration
6595 Springfield Center Drive
Springfield, Virginia 20598

BY ELECTRONIC SUBMISSION

August 16, 2024

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General
Department of Homeland Security

FROM: David P. Pekoske 
Administrator

SUBJECT: Management Response to Draft Report: "TSA Made Progress
Implementing Requirements of the 9/11 and TSA
Modernization Acts but Additional Work Remains"
(Project No. 23-030-AUD-TSA)

Thank you for the opportunity to comment on this draft report. The Transportation Security Administration (TSA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

TSA is pleased to note OIG's positive recognition of TSA's progress implementing both the *TSA Modernization Act* and the *Implementing Recommendations of the 9/11 Commission Act of 2007*. TSA has made substantial progress since the last report in September 2021.¹ Indeed, by our count, TSA has implemented over 95 percent of the requirements.² As the OIG noted in its draft report, many of the requirements they deem as open depend on the actions of other stakeholders or on circumstances beyond TSA's control. Others cannot be closed without additional funding from Congress.

¹ OIG-21-68, "TSA Has Not Implemented All Requirements of the 9/11 Act and the TSA Modernization Act," dated September 22, 2021; <https://www.oig.dhs.gov/sites/default/files/assets/2021-09/OIG-21-68-Sep21.pdf>.

² TSA and OIG do not agree about how many requirements remain open, in part because of disagreement about what constitutes sufficient evidence to close a requirement and different accounting methodology. TSA believes it has implemented over 95 percent of the requirements. In its draft report, OIG said TSA has completed 87 percent of the requirements.



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TSA has taken significant steps to meet the challenges of the ever-evolving security threat landscape. TSA is committed to transportation security and remains steadfast in its mission to protect the Nation's transportation systems and ensure the freedom of movement for people and commerce.

The draft report contained three recommendations with which TSA concurs. Attached is our response to each recommendation. TSA previously submitted technical comments addressing accuracy, contextual, and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



**Attachment: Management Response to Recommendations
Contained in 23-030-AUD-TSA**

OIG recommended the TSA Administrator:

Recommendation 1: In coordination with the Secretary and the Office of Management and Budget [OMB], work with Congress and the Department to resolve funding shortfalls or request Congress amend or repeal the requirements identified in our report for which TSA did not receive sufficient funding.

Response: Concur. TSA's Chief Finance Office will work with stakeholders across the U.S. Department of Homeland Security (DHS) and OMB, as appropriate, to highlight for Congress the funding required to implement the *TSA Modernization Act* and *Implementing Recommendations of the 9/11 Commission Act of 2007* requirements that remain open because of insufficient funding. Additionally, if applicable, TSA will work with the appropriate congressional committees to potentially amend or repeal these provisions. TSA will pursue various avenues to accomplish this recommendation, including phone calls, briefings, and letters to key congressional committees. The estimated completion date (ECD) is August 29, 2025.

Recommendation 2: In coordination with the Secretary and the Office of Management and Budget, work with Congress to amend or repeal the requirements identified in our OIG report that TSA indicated it did not plan to implement.

Response: Concur. TSA's Chief Counsel and Legislative Affairs will work with DHS stakeholders, OMB personnel, and congressional committees, as appropriate, to address requirements OIG still considers to be open. ECD: August 29, 2025.

Recommendation 3: Report to Congress on the requirements identified in the report as not fully implemented based on insufficient evidence or where TSA disagreed with the assessment.

Response: Concur. TSA's Legislative Affairs will inform Congress of the Agency's disagreements with the draft OIG assessment. TSA will pursue various avenues to accomplish this recommendation such as phone calls, briefings, and letters to key congressional committees. ECD: August 29, 2025.



Appendix C:

Remaining 9/11 Act and TSA Mod Act Requirements to Be Implemented by Topic Area

Act	Act Title and Subtitle	Act Section	# of Requirements Not Fully Implemented**	Reason for Not Implemented¹⁰	# of Requirements TSA Will Not Further Implement
9/11 Act	TITLE XIV—PUBLIC TRANSPORTATION SECURITY	SEC. 1405 - Security Assessments and Plans	1	Regulatory process	0
		SEC. 1410 - Information Sharing	1	Evidence	1
		SEC. 1412 - Reporting Requirements	2	Evidence	2
		SEC. 1413 - Public Transportation Employee Protections	1	Evidence	1
	TITLE XV—SURFACE TRANSPORTATION SECURITY, Subtitle B - Railroad Security	SEC. 1512 - Railroad Carrier Assessment and Plans	3	Regulatory process	0
		SEC. 1521 - Railroad Employee Protections	1	Evidence	1
		SEC. 1522 - Security ¹¹ Background Checks of Covered Individuals	1	Regulatory process	0
	TITLE XV—SURFACE TRANSPORTATION SECURITY, Subtitle C - Over-the-Road Bus and Trucking Security	SEC. 1531 - Over-the-Road Bus Security Assessments and Plans	2	Regulatory process	0
	Sub-Total Remaining 9/11 Act Requirements	N/A	12	N/A	5
	TSA Mod Act	TITLE I - TRANSPORTATION	SEC. 1914 - Reciprocal Recognition of Security Standards	1	Evidence

¹⁰ TSA did not provide evidence to support full implementation of all requirements. Additionally, TSA did not implement some requirements because, according to TSA, it did not have sufficient appropriations, while other requirements involved a lengthy regulatory rulemaking process. TSA did not implement some requirements because they were contingent on circumstances beyond TSA’s control (e.g., external stakeholders taking action first or occurrence of specific events).

¹¹ Section 1522 authorizes but does not mandate the TSA Administrator to issue a rule or regulation associated with security background checks of covered individuals. Such a finalized regulation triggers TSA’s mandate to provide an adequate redress process for individuals subject to adverse employment decisions following a security background check, per the regulation. TSA began the rulemaking process, but it has not issued a regulation as of the date of this report.



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Act	Act Title and Subtitle	Act Section	# of Requirements Not Fully Implemented**	Reason for Not Implemented ¹⁰	# of Requirements TSA Will Not Further Implement
	SECURITY, Subtitle B - Security Technologies	SEC. 1920 - Pilot Program for Automated Exit Lane Technology	1	Appropriations	1
		SEC. 1922 - Real-Time Security Checkpoint Wait Times	1	Appropriations	1
	TITLE I - TRANSPORTATION SECURITY, Subtitle C - Public Area Security	SEC. 1928 - Third Party Domestic Canines	1	Evidence	1
		SEC. 1930 - Visible Intermodal Prevention and Response Team Statistics	1	Evidence	1
	TITLE I - TRANSPORTATION SECURITY, Subtitle D - Passenger and Cargo Security	SEC. 1935 - Law Enforcement Officer Reimbursement Program	1	Evidence	1
		SEC. 1937 - PreCheck Program	1	Evidence	1
	TITLE I - TRANSPORTATION SECURITY, Subtitle E - Foreign Airport Security	SEC. 1938 - PreCheck Expedited Screening	1	Evidence	1
		SEC. 1946 - Screening Partnership Program Updates	1	Contingent on circumstances prior to enactment	N/A
	TITLE I - TRANSPORTATION SECURITY, Subtitle F - Cockpit and Cabin Security	SEC. 1953 - Last Point of Departure Airports; Security Directives	1	Contingent on events that have not occurred	N/A
		SEC. 1955 - Tracking Security Screening Equipment from Last Point of Departure Airports	2	Evidence	0
	TITLE I - TRANSPORTATION SECURITY, Subtitle G - Security	SEC. 1959 - Federal Air Marshal Service Updates	1	Evidence	0
		SEC. 1961 - Flight Deck Safety and Security	1	Contingent on copyright	N/A
	TITLE I - TRANSPORTATION SECURITY, Subtitle H - Security	SEC. 1963 - Federal Flight Deck Officer Program Improvements	4	Evidence	3
		SEC. 1968 - TSA Counterterrorism Asset Deployment	2	Evidence	0



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Act	Act Title and Subtitle	Act Section	# of Requirements Not Fully Implemented**	Reason for Not Implemented ¹⁰	# of Requirements TSA Will Not Further Implement
	Subtitle G - Surface Transportation Security	SEC. 1974 - Passenger Rail Vetting	1	Contingent on request from external entity	N/A
	Sub-Total Remaining TSA Mod Act Requirements	N/A	21	N/A	10
	Total Remaining Requirements to Be Implemented by TSA		33	N/A	15

Source: DHS OIG analysis of 9/11 Act and TSA Mod Act requirements



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