EXHIBIT C

GAO

United States Government Accountability Office

Report to the Ranking Democratic Member, Committee on Transportation and Infrastructure, House of Representatives

September 2005

TRANSPORTATION SECURITY ADMINISTRATION

More Clarity on the Authority of Federal Security Directors Is Needed

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What GAO Recommends

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Abbreviations

ATSA	Aviation and Transportation Security Act
BTS	Border and Transportation Security
CBP	Customs and Border Protection
DHS	Department of Homeland Security
DOT	Department of Transportation
FBI	Federal Bureau of Investigation
FSD	Federal Security Director
ICE	Immigration and Customs Enforcement
MANPADS	Man Portable Air Defense System
TSA	Transportation Security Administration
TSES	Transportation Senior Executive Service

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United States Government Accountability Office
Washington, DC 20548

September 23, 2005

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and Infrastructure
House of Representatives

Dear Mr. Oberstar:

Federal Security Directors (FSD) are the ranking Transportation Security Administration (TSA) authorities responsible for leading and coordinating TSA security activities at the nation's more than 440 commercial airports. During 2002, the first year FSDs were assigned to airports, FSDs worked to meet deadlines associated with screening, including deploying over 55,000 passenger and baggage screeners and screening checked baggage using explosive detection systems. As a part of their security responsibilities, FSDs must coordinate closely with airport and air carrier officials, local law enforcement, and emergency response officials to ensure that airports are adequately protected and prepared in the event of a terrorist attack. FSDs' success in sustaining and ensuring the effectiveness of aviation security efforts are dependent on their ability to develop and maintain effective partnerships with these stakeholders.

In March 2004, after FSDs had been deployed at airports for over 2 years, we surveyed all 155 FSDs at that time and learned that most thought they needed certain additional authorities and flexibilities to better address airport staffing and security needs. Since that survey, TSA has taken steps to enhance FSDs' authority and provide flexibilities in certain areas. To provide additional information on the ability of FSDs to address airport security needs, this report addresses the following questions: (1) What are the roles and the responsibilities of FSDs and how clear is their authority relative to that of other airport stakeholders during security incidents? (2) To what extent are FSDs involved in the development of TSA aviation security policy? (3) How have FSDs at selected airports formed and facilitated partnerships with airport stakeholders, and how are these partnerships working? (4) What key changes has TSA made or planned to make to better support or empower the FSD position, and how have selected FSDs viewed these efforts?

To address these questions, we interviewed TSA's Chief Operating Officer and officials from TSA's Aviation Security Program Office, Office of Law Enforcement, Office of Compliance Programs, and Office of Human

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Resources, and we reviewed relevant laws and TSA documentation related to the FSD position. To obtain additional views on the role of the FSD and FSD-stakeholder partnerships, we met with headquarters officials from the Department of Homeland Security's (DHS) Border and Transportation Security Directorate (BTS),[1] and the Federal Bureau of Investigation's (FBI) Counter-Terrorism and Criminal Investigations Divisions. We also met with officials from national organizations representing airports (the American Association of Airport Executives and the Airports Council International), airport law enforcement officials (the Airport Law Enforcement Agencies Network), and air carriers (the Air Transport Association). We conducted site visits to seven airports. We selected these airports because they incorporated all five airport security categories[2]— three airports with an FSD dedicated solely to each airport, and two sets of airports where the FSD was responsible for at least two airports. At each airport, we met with the FSD (five in total) or the top-ranking TSA official, as well as the Assistant FSDs for Law Enforcement and Regulatory Inspection, where these positions existed. During our meetings with FSDs, we obtained their views on changes TSA made to further enhance the FSD position, as well as views on their roles and responsibilities and perspectives on their partnerships with local stakeholders. At airports, we also met with key stakeholders—airport managers, airport law enforcement, station managers representing selected air carriers, and FBI Airport Liaison Agents and officials from DHS's Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) (at the two international airports we visited) to obtain their views on the roles and responsibilities of the FSD and partnerships and communication mechanisms with FSDs.

To corroborate and expand on what we learned from the FSDs we interviewed during our site visits, we randomly selected 25 additional FSDs and telephoned them to obtain their views on a range of topics including recent TSA initiatives and the development of federal aviation security policy. We also included selected questions—regarding the

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[1] BTS, one of five operational directorates within DHS, is tasked with securing the nation's borders and safeguarding its transportation infrastructure. TSA is part of the BTS organization. As part of his July 2005 announcement to reorganize the department, the Secretary of DHS proposed the dissolution of BTS, pending the enactment of legislation to effect this change.

[2] TSA classifies commercial airports in five airport security categories based on factors such as the number of takeoffs and landings, the extent of passenger screening, and other security considerations.

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adequacy of the FSDs' authority and flexibility—that we had posed earlier, in a March 2004 Web-based survey of all 155 FSDs in place at that time conducted in support of other aviation security reviews. Of the 25 FSDs we interviewed by telephone as part of this review, 21 were FSDs at the time of that Web-based survey and, as such, responded to both. The information we obtained during our seven airport visits and telephone interviews with 25 FSDs cannot be generalized to all airports and FSDs across the nation.

We conducted our work from August 2004 through September 2005 in accordance with generally accepted government auditing standards. Appendix I contains more details about our scope and methodology.

Results in Brief

TSA developed guidance that describes the roles and responsibilities of the FSD position, such as ensuring overall aviation security, providing regulatory oversight, implementing policy, and managing stakeholder relationships. However, the document that specifically describes the FSDs' authority—TSA's Delegation of Authority to FSDs—is outdated, does not clearly address the extent of FSD authority relative to other airport stakeholders, and has not been adequately communicated to these stakeholders. The document has not been updated since FSDs were first assigned to airports and gives FSDs authority to supervise and deploy a TSA law enforcement force that was envisioned but never established. Also, the document describes some of the authorities of FSDs but does not clearly address the extent of their authority relative to other airport stakeholders, including law enforcement agencies, during security incidents. Stakeholders at the airports we visited said they were not always clear on the authority FSDs had relative to that of other agencies, particularly FSDs' authority in various security incidents, and that such information had not been communicated to them. For example, at two airports, confusion or conflicting opinions arose over whether the FSD had the authority to take certain actions during particular security incidents. Stakeholders at the national level also questioned the clarity of the FSDs' authority relative to other agencies, particularly during security incidents. For example, FBI headquarters officials stated that past airport training exercises revealed that some FSDs thought they were in charge of certain situations for which the FBI had authority. According to these officials, in an actual security incident, confusion over roles could result in conflict, confusion, and increased response time. In addition, 18 of the 25 FSDs we interviewed by telephone said they believed that TSA needs to do more to clarify their roles and responsibilities for the benefit of FSDs and stakeholders, and many stated that the authority of the FSD, in particular,

needed clarification. In August 2005, TSA officials stated that they had drafted a new Delegation of Authority that clarified FSDs' authority. However, TSA had not completed the revision prior to the issuance of this report.

TSA does not charge FSDs with responsibility for developing federal aviation security policy, but it does provide several opportunities for some FSDs to be involved in developing some such policies. TSA's FSD Advisory Council provides one mechanism for selected FSDs to be involved in TSA's development of aviation security policy. The FSD Advisory Council consists of 22 FSDs who the Administrator selects based on various factors, such as airport security category. FSD members provide the Administrator their opinions and guidance on establishing and modifying TSA policies and procedures when requested and have opportunities for input in other areas. On occasion, some FSDs also have had the opportunity to provide input on draft federal aviation security policy through ad hoc consultation groups organized by TSA's Aviation Security Program Office. Testing new technology and procedures at their airports has been another way for some FSDs to be involved in developing federal aviation security policy.

FSDs responsible for the seven airports we visited reported that they had entered into partnerships with airport stakeholders, and FSDs and stakeholders we contacted at these airports said that their partnerships were generally working well. TSA recognizes that building and maintaining partnerships with airport stakeholders is essential to FSDs' success in addressing security as well as maintaining an appropriate level of customer service. TSA established general guidance for FSDs to follow in building stakeholder partnerships but has left it to the FSDs to determine how best to achieve effective partnerships at their respective airports. FSDs need to partner with law enforcement stakeholders, for example, because they do not have a law enforcement body of their own to respond to security incidents. Partnerships can be of mutual benefit to FSDs and airport stakeholders and can enhance customer service. For example, FSDs rely on air carrier data on the number of passengers transiting through checkpoints to appropriately schedule screeners, and air carriers rely on the FSD to provide an efficient screening process to minimize wait times for passengers. At the airports we visited, FSDs and stakeholders cited several ways FSDs maintained partnerships, including being accessible to their stakeholders to help resolve problems and meeting with stakeholders to discuss how to implement new security policies. In addition, a variety of communication and coordination efforts were in place at the airports we visited, and many of these efforts existed before

TSA assigned FSDs to airports. Formal mechanisms included security and general airport operations meetings, incident debriefings, and training exercises to help ensure a coordinated response in the event of a security incident.

TSA made changes in 2004 to better support or empower the FSD position by providing FSDs with more authority and flexibility, and FSDs we interviewed generally viewed most of these efforts favorably. For example, TSA implemented a local hiring initiative designed to vest FSDs with more authority to address their screener staffing needs by, among other things, giving FSDs the flexibility to select their level of participation in the hiring process. Most of the 25 FSDs we interviewed stated that this new hiring method addressed their needs better than TSA's former highly centralized approach, although 12 of the 25 FSDs said that to a great or very great extent, they still wanted more authority in this area. When we originally posed the same question regarding FSD authority in hiring screeners in our March 2004 survey of all 155 FSDs, 88 percent of those FSDs stated that to a great or very great extent they wanted more authority in selecting screeners. In another effort to move more decision making to the field, TSA physically relocated its five Area Director positions from headquarters to the field and established a group in headquarters to provide operational support and a communication link among headquarters, field-based Area Directors, and FSDs. FSDs we interviewed were split on whether they thought moving the Area Director position to the field was helpful, but most considered the group TSA established in headquarters to be a valuable resource. TSA had three other efforts under way that could significantly affect FSDs—the implementation of a new staffing model for allocating screeners at airports, a reassessment of the number of management positions allocated to each FSD, and a reassessment of which and how many airports are assigned to FSDs. TSA took steps to involve at least some FSDs in these efforts. However, most of the 25 FSDs we interviewed said that TSA had not involved them. TSA headquarters officials said that they acknowledge the importance of FSDs' involvement in agency planning efforts, and when practical and appropriate, have attempted to obtain a broad spectrum of FSD input.

To assist TSA in fully communicating key areas of FSD authority to ensure organizational goals and objectives are achieved, we recommend that the Secretary of Homeland Security direct the Assistant Secretary of Homeland Security for TSA to update the Delegation of Authority to FSDs to clearly reflect their authority relative to other airport stakeholders during security incidents and communicate this information to FSDs and relevant stakeholders.

We provided a draft of this report to DHS for review. DHS, in its written comments, generally concurred with our findings and recommendations and agreed that efforts to implement these recommendations are critical to enable FSDs to effectively oversee security at the nation's commercial airports. DHS described actions TSA has initiated to revise and update the Delegation of Authority to FSDs. Once approved, TSA plans to notify FSDs and airport stakeholders of their responsibilities under the new Delegation of Authority. A copy of DHS's comments is included as appendix III.

Background

A federal position dedicated to overseeing security at commercial airports was first established in 1990 under the Federal Aviation Administration and was later transferred to TSA. The Federal Aviation Administration established the position of Federal Security Manager pursuant to a mandate in the Aviation Security Improvement Act of 1990.[3] Federal Security Managers, responsible for security at the nation's largest airports, developed airport security plans in concert with airport operators and air carriers; provided regulatory oversight to ensure security measures were contained in airport plans and were properly implemented; and coordinated daily federal aviation security activities, including those with local law enforcement. According to TSA officials, regional civil aviation security field offices, headed by Civil Aviation Security Field Officers and staffed with security inspectors, had been in place at commercial airports since the mid-1970s and eventually covered the more than 440 commercial airports required to have security programs. In practice, the field office staff performed compliance and enforcement inspections and assessed penalties, while the Federal Security Managers served in a liaison and coordination role as on-site security experts. To avoid duplication of effort, Civil Aviation Security Field Officers were not assigned responsibilities at airports where Federal Security Managers were designated or stationed.

In November 2001, shortly after the terrorist attacks of September 11, 2001, the President signed the Aviation and Transportation Security Act (ATSA) into law, shifting certain responsibilities for aviation security from air carriers to the federal government and the newly created TSA.[4] Specifically, ATSA created TSA and granted it direct operational

[3] Aviation Security Improvement Act of 1990, Pub. L. No. 101-604, § 104, 104 Stat. 3066, 3070-71.

[4] Aviation and Transportation Security Act (ATSA), Pub. L. No. 107-71, 115 Stat. 597 (2001).

responsibility for, among other things, passenger and checked baggage screening. On February 17, 2002, pursuant to ATSA, TSA assumed responsibility from FAA for security at the nation's commercial airports, including FAA's existing aviation security programs, plans, contracts, regulations, orders, directives, and personnel.[5] On February 22, 2002, FAA and TSA jointly published a final rule transferring the civil aviation security regulations from FAA to TSA and amending those rules to comport with ATSA and enhance security as required by the act. According to TSA officials, DOT and TSA leadership administratively changed the name of the Federal Security Manager to Federal Security Director to avoid confusion with the liaison role of the Federal Security Manager prior to September 11. The FSD role was more comprehensive and had responsibilities that included overseeing passenger and baggage screening. Airport operators retained responsibility for the security of the airport operating environment, that is, perimeter security, access control to secured areas, and other measures detailed in the approved airport security plan, while the FSD provided regulatory oversight over these efforts.

FSDs report to one of five Area Directors, based on their geographic regions, on administrative matters. However, they report to TSA headquarters (the Aviation Security Program Office and Transportation Security Operations Center) on operational issues, such as reporting security incidents. FSDs are part of the Aviation Security Program Office within TSA's Office of Intermodal Programs, as shown in figure 1. The Aviation Security Program Office focuses on specific functions related to TSA's Aviation Security Program, including staffing, training, and equipping the federal security work force. The Transportation Security Operations Center serves as a single point of contact for security-related operations, incidents, or crises in aviation and all surface modes of transportation. FSDs are to report any security incident at their airport immediately to the center, which is to provide guidance, if needed, as well as look for patterns among all incidents that occur throughout the country. The center provides FSDs daily intelligence briefings based on incident information from FSDs and information from TSA's Transportation Security Intelligence Service. The Transportation Security Intelligence

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[5] ATSA created TSA as an agency within the Department of Transportation. The Homeland Security Act of 2002, Pub. L. No.107-296, 116 Stat 2135, enacted in November 2002, transferred TSA to the newly created Department of Homeland Security, where TSA presently resides as a distinct entity within the Border and Transportation Security Directorate.

Service provides FSDs, Deputy FSDs, and Assistant FSDs with a classified Daily Intelligence Summary containing the most current threat information from the intelligence community, law enforcement agencies, and stakeholders and provides the FSD staff with an unclassified TSA Field Intelligence Summary to be used in briefing screeners and screening management about current threats and other issues related to aviation security.

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