



Homeland
Security

February 27, 2025

MEMORANDUM FOR: Adam P. Stahl
Senior Official Performing the Duties of the Administrator
Transportation Security Administration

FROM: Kristi Noem 
Secretary of Homeland Security

SUBJECT: **Supporting the TSA Workforce by Removing a Union That
Harms Transportation Security Officers**

In the wake of the heinous terrorist attacks of September 11 and the subsequent creation of the Transportation Security Administration (TSA), Congress (via the *Aviation and Transportation Security Act of 2001* (“ATSA”)) architected a workforce of Transportation Security Officers (“TSOs”) to nimbly respond to quickly evolving threats to our transportation systems with the overall intent of keeping Americans safe. ATSA gave the TSA Administrator the power, “[n]otwithstanding any other provision of law,” to “employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of [TSOs] . . . necessary to carry out the screening functions”¹

By virtue of this authority, and the authority of the Homeland Security Act of 2002,² it is my determination that individuals carrying out the security screening function under section 44901 of Title 49, United States Code, shall not, as a term or condition of their employment, be entitled to engage in collective bargaining or be represented for the purpose of engaging in such bargaining by any representative or organization. It is also my determination that those individuals shall not, as a term or condition of their employment, be exclusively represented for purposes other than collective bargaining by any representative or organization.

¹ 49 U.S.C. § 44935 note.

² “All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.” 6 U.S.C. § 112(a)(3).

Background

Consistent with a flexible, at-will workforce, Congress explicitly excluded TSOs from the parts of the Civil Service Reform Act that authorize and regulate collective bargaining or any other labor-management relations matters.³

Since the inception of TSA, past Administrators have issued various determinations dictating the framework of collective bargaining for the screening workforce. In 2003, Under Secretary of Transportation Security James Loy determined that “individuals carrying out the security screening function under section 44901 of Title 49, United States Code, in light of their critical national security responsibilities, shall not, as a term or condition of their employment, be entitled to engage in collective bargaining or be represented for the purpose of engaging in such bargaining by any representative or organization.” The Federal Labor Relations Authority (FLRA) upheld Under Secretary Loy’s determination that Federal security screeners have no collective bargaining or representational rights. *Am. Fed. Gov’t Emps.*, 59 F.L.R.A. 423 (2003). The FLRA reconsidered this decision in 2010, maintaining that the Loy determination precluded collective bargaining; however, the FLRA also determined that an election could be conducted for representation for purposes other than bargaining. *Am. Fed. Gov’t Emps.*, 65 F.L.R.A. 53 (2010).

Beginning in 2011, TSA adopted a structure of limited exclusive representation and limited collective bargaining continued until former TSA Administrator Pekoske issued his December 30, 2022 Determination. Consistent with former DHS Secretary Mayorkas’ June 3, 2021 Memorandum, *Supporting the TSA Workforce Through Improving the Transportation Security Officer Employment Experience*, the 2022 Determination substantially expanded the collective bargaining rights of TSOs, permitting national level bargaining to the same extent as permitted under Chapter 71 of Title 5, U.S. Code. That structure remains in place to this day, under which nearly \$15M is annually deducted from TSOs’ paychecks. These misplaced directives have solely benefited the American Federation of Government Employees (AFGE) at TSOs’ expense, impeded Congressional intent of a flexible workforce, and failed to serve TSA’s critical mission to protect the transportation system and keep Americans safe.

New Determination

This new Determination is consistent with the policies set forth in several Executive Orders (EO), including EO 14148, *Initial Rescissions of Harmful Executive Orders and Actions* (January 20, 2025)⁴ and EO 14171, *Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce* (January 20, 2025)⁵ that rescinded EO 14003, *Protecting the Federal Workforce* (January 22, 2021). This new Determination is also consistent with the policies articulated in the January 31, 2025 Presidential Memorandum: *Limiting Lame-Duck Collective Bargaining Agreements that Improperly Attempt to Constrain the New President*, and the Memoranda from the U.S. Office of Personnel Management Acting Director: *Guidance on*

³ 49 U.S.C. § 44935 note; *Conyers v. Merit Sys. Prot. Bd.*, 388 F.3d 1380, 1382 (Fed. Cir. 2004) (“We think that the ‘notwithstanding any other provision of law’ language renders inapplicable general federal statutes that otherwise would apply to the Under Secretary’s power to “employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service” for screener positions.”).

⁴ Published at 90 Fed. Reg. 8237 (January 28, 2025).

⁵ Published at 90 Fed. Reg. 8625 (January 31, 2025).

Collective Bargaining Obligations in Connection with Return to In-Person Work (dated February 3, 2025) and *Guidance on Revocation of Executive Order 14003* (February 7, 2025).

I am issuing this Determination to ensure that TSOs critical national security responsibilities are carried out to “maximize governmental efficiency and productivity.”⁶ The following 2025 Determination supersedes and replaces the 2022 Determination in its entirety:

1. Effective immediately, I am rescinding⁷ the 2022 Determination on TSOs and Collective Bargaining, signed by former TSA Administrator David P. Pekoske on December 30, 2022.⁸ Therefore the May 2024 Collective Bargaining Agreement (CBA) between TSA and AFGE negotiated under the authority of the now-rescinded 2022 Determination is no longer applicable or binding and is hereby rescinded.
2. Effective immediately, neither individuals carrying out the security screening function under section 44901 of Title 49, United States Code, nor any unions, retain the rights set forth in any and all prior Determinations. Therefore, the election conducted by the Federal Labor Relations Authority (FLRA) under the principles and conditions set forth in the 2011 Determination and for the purposes described in the 2011 Determination,⁹ and the results attained through such an election, as certified by the FLRA on June 29, 2011, are no longer applicable or binding. AFGE is no longer the exclusive representative of any personnel carrying out screening functions under 49 U.S.C. § 44901. All rights consistent with this exclusive representation are revoked including but not limited to those in section 5 below.
3. This Determination does not incorporate by reference any provisions of Chapter 71 of Title 5 of the United States Code or its implementing regulations for these employees, any union, or TSA management.
4. Personnel carrying out screening functions under 49 U.S.C. § 44901 shall not have the right to elect an exclusive representative for the purposes of collective bargaining or for any other purposes.
5. Neither AFGE nor any other union have rights of exclusive representation for the screening workforce, including but not limited to
 - a. Engaging in Collective Bargaining at either the National or Local levels;
 - b. Engaging in Impact and Implementation Bargaining;
 - c. Exclusively Representing and Acting for Employees;
 - d. Exercising Consultation Rights;

⁶ See Executive Order 14158, *Establishing and Implementing the President’s “Department of Government Efficiency,”* January 20, 2025.

⁷ Consistent with this, I hereby rescind the Memorandum from Alejandro Mayorkas to David Pekoske, *Supporting the TSA Workforce Through Improving the Transportation Security Officer Employment Experience* at 2 (June 3, 2021), and any other like Secretarial memo that is inconsistent with the directions herein.

⁸ All other historical and superseded Determinations, and any amendments thereto, issued by former Administrators John S. Pistole, Peter V. Neffenger and David P. Pekoske, and other officials performing the duties of the TSA Administrator, are superseded and inoperative.

⁹ See the superseded *Determination on Transportation Security Officers and Collective Bargaining*, issued by former Administrator John S. Pistole, dated February 4, 2011.

- e. Attending and Being Represented at Formal Discussions; and
 - f. Attending and Being Represented at any Agency Representative's Examination of an Employee if an Employee Reasonably Believes that the Examination May Result in Disciplinary Action.
6. TSA shall review any and all working conditions described in the May 2024 CBA between TSA and AFGE and ensure any TSA policies effective after the rescission of the CBA that address these conditions are consistent with the broad statutory grant to the TSA Administrator and the policies of the current Administration.
 7. TSA and the Department shall immediately cease using the payroll system for collecting union dues from TSOs' paychecks for the benefit of AFGE.
 8. Within 90 days, TSA in collaboration with the Acting General Counsel shall conduct an orderly termination of any functions, processes, or obligations arising out of the 2024 CBA. This shall include, to the extent permitted by law, the termination of any pending grievances previously filed by a union on behalf of an employee carrying out screening functions under the negotiated grievance procedure. To the extent permitted by law, TSA will also terminate any ongoing compliance obligations arising out of a grievance award issued pursuant to the grievance and arbitration provisions of the 2024 CBA. Alternative procedures may be considered as appropriate.
 9. Within 90 days, TSA in collaboration with the Acting General Counsel shall consider what actions may be taken, consistent with law, to ensure that no future Administration may permit TSOs to elect an exclusive representative or engage in collective bargaining absent an intervening statutory change and propose an implementation plan to the Office of the Secretary.

Thank you for your leadership and for everything you have done and will do to ensure that TSA acts within its Congressional authorization and keeps Americans safe.

Cc. Joseph N. Mazarra, Acting General Counsel
 Bradley Hayes, Assistant Secretary for Legislative Affairs
 Randolph D. Alles, Acting Under Secretary for Management
 Roland Edwards, Chief Human Capital Officer
 Stacy Marcott, Acting Chief Financial Officer