

**NOMINATION OF MAJOR GENERAL ROBERT A.  
HARDING, USA, RET.**

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**HEARING**

BEFORE THE

**COMMITTEE ON  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE**

**ONE HUNDRED ELEVENTH CONGRESS**

**SECOND SESSION**

**MARCH 24, 2010**

**NOMINATION OF MAJOR GENERAL ROBERT A. HARDING, USA, RET.,  
TO BE ASSISTANT SECRETARY, U.S. DEPARTMENT OF  
HOMELAND SECURITY**

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## **NOMINATION OF MAJOR GENERAL ROBERT A. HARDING, USA, RET.**

**WEDNESDAY, MARCH 24, 2010**

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENT AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:04 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Burr, and Collins.

### **OPENING STATEMENT OF CHAIRMAN LIEBERMAN**

Chairman LIEBERMAN. Good morning and welcome to this hearing on the nomination of Major General Robert A. Harding to be the Assistant Secretary of Homeland Security in charge of the Transportation Security Administration (TSA). Of all the changes in American life since September 11, 2001, TSA is probably the most visible and, over the course of time, also one of the most effective.

The TSA Administrator oversees an agency that has grown literally from nothing to be very large, all around the country. You would oversee, if confirmed, General Harding, an agency of 50,000 employees, approximately, with an \$8 billion annual budget and, of course, a very important mission, which is to protect the safety of passengers and cargo traveling by air, rail, or road.

We were reminded again just how crucial the purpose of the agency is and why getting a first rate administrator on the job soon is critical by the attempted Christmas Day bombing on Northwest Flight 253 as it was approaching Detroit.

General Harding, I really appreciate your 33 years of service to our country in the U.S. Army. And I am particularly pleased that you have agreed to accept this call to serve your Nation, again, in such an important position at such an important time.

As the Director of Operations at the Defense Intelligence Agency (DIA), which is one of the positions you held toward the end of your career in the Army, you oversaw the intelligence collection programs used by military commanders and the civilian leadership to guide their decisions, very important, and involving the expenditure of billions of dollars of tax payer money.

While at DIA, General Harding also managed about 5,000 employees, including more than 200 attaches stationed abroad, which probably will be valuable experience you can bring to TSA, if con-

firmed, because it works so much more closely now with the international aviation community.

General Harding also commanded a U.S.-based counterintelligence group that was responsible for infrastructure protection at every Army camp, post, and station in the United States. As part of his duties in that post, General Harding worked with the Federal Bureau of Investigation (FBI) and with local law enforcement on-base security experts.

After leaving the Army, the nominee worked in the private sector on intelligence issues, at one point forming his own company, Harding Security Associates, which, in addition to other work, as is known, did business with the Federal Government.

Questions have been raised as part of the nomination and confirmation process about a particular contract Harding Security Associates had to provide interrogators for the Defense Intelligence Agency.

I am sure the Committee will explore these issues in more detail during the hearing, and I know, General Harding, you are prepared to respond to questions and speak at length about exactly what happened in that matter.

If confirmed, you will take charge of an agency that has really made enormous strides in the last 7 years to strengthen the security of the aviation sector. But as I said, the Christmas Day attack reminds us that this is a tough assignment and that our homeland defenses still can be breached. I have a series of questions that, at this point, I will put in the record at the completion of my opening statement, but I will get to them with you when we get to that point in the hearing.

For now, I thank you for your willingness to serve, for your cooperation with the Committee in our pre-hearing inquiries, and I look forward to your testimony.

Senator Collins.

#### **OPENING STATEMENT OF SENATOR COLLINS**

Senator COLLINS. Thank you Mr. Chairman, I am pleased to join the Chairman in welcoming General Robert Harding as the nominee to be Assistant Secretary for the Transportation Security Administration.

The attempted bombing on Christmas Day reminds us that terrorists remain committed to attacking our Nation. Whether on an airline or in other modes of transportation, TSA performs a critical role in protecting us from those attacks.

While progress clearly has been made in improving our security, the fact that Umar Farouk Abdulmutallab was able to board a flight with a bomb demonstrates flaws in our Nation's system of layered security. TSA must do more to ensure that U.S.-bound passengers who are potential threats receive more effective screening before they board planes. Terrorists will continue to devise new strategies to penetrate our defenses. Armed with that knowledge, the TSA cannot be caught flat-footed by focusing only on the techniques that terrorists employed in the last attack. Our defenses must be forward-looking and nimble, and TSA must foster a culture of continuous improvement to anticipate new challenges.

TSA plans to install more than 1,000 Advanced Imaging Technology (AIT) machines in our Nation's airports by the end of fiscal year 2011. This effort, along with the use of more canine teams and the deployment of additional behavioral detection officers, represent steps that will increase aviation security in the wake of the Christmas Day bombing attempt.

I am concerned, however, by a recent statement from the Government Accountability Office (GAO) that "TSA does not yet have a written policy requiring operational testing prior to deployment."

Those of us who travel a lot are very aware of TSA's previous roll-out of expensive screening technologies, such as the "puffer" machines, which took place prior to the completion of operational testing, resulting in stalled deployments and wasted taxpayer dollars. Given that experience, it is encouraging that TSA has completed operational testing on the imaging machines currently being deployed to U.S. airports.

But I would like General Harding's assurance that, if confirmed, he would ensure that successful operational testing is completed on all new screening technologies prior to installation. In the military, we call this fly before you buy, and I am sure General Harding is very familiar with that concept.

Aviation, however, is not the only sector of transportation that merits TSA's vigilant efforts. The agency's mission extends to other modes of transportation as well, including our system of mass transit. We cannot focus all our resources on terrorist threats to aviation alone, as the threat does not stop there.

General Harding, as the Chairman has pointed out, has more than 30 years of experience in support of our Nation's military and intelligence efforts. He finished his military career as second in command at the Defense Intelligence Agency. As a result, he knows first-hand the importance of using intelligence to guide operations, which will be a critical skill should he take the helm at TSA.

The nominee appears to have many strengths for this position. One area of concern, however, is the finding by the Defense Contract Audit Agency (DCAA) that General Harding's former company overbilled the government by more than \$860,000 on a contract in 2004. I will be asking a series of questions on that issue unless the Chairman has covered my concerns.

I also want to give General Harding the opportunity this morning to clarify the role that interrogators from his former company played and whether or not there were any allegations of wrongdoing related to the work of these interrogators.

I look forward to discussing these and other important matters with General Harding today.

Chairman LIEBERMAN. Thanks, Senator Collins. General Harding has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had his financial statements reviewed by the Office of Government Ethics.

Without objection, this information will be made part of the hearing record with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Our Committee rules require that all witnesses at nomination hearings give their testimony under oath. So General Harding, I ask you please to stand and raise your right hand.

Do you swear that the testimony that you are about to give to this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

General HARDING. I do.

Chairman LIEBERMAN. Thank you and please be seated.

General, we welcome your opening statement now and, as you choose, the introduction of any family and friends who are with you today.

**TESTIMONY OF MAJOR GENERAL ROBERT A. HARDING, USA, RET.,<sup>1</sup> TO BE ASSISTANT SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY**

General HARDING. Good morning, Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee. It is a privilege to appear before you today as the President's nominee for Assistant Secretary of the Transportation Security Administration. I am deeply honored by the President's call to service and by the support I have received from Secretary Napolitano.

With your kind indulgence, I would like to recognize my wife, Connie, who is behind me, and my three daughters; Michelle, Anita, and Alex, who could not be here. It is their love and support that has sustained me through the years.

I also want to express my deep appreciation to those I met in the course of my 33-year career in the U.S. Army who helped shape my ideals, character, and vision. Who I am today is very much a product of my time in the U.S. Army. Last, but not least, I want the men and women of TSA to know that I am eager to join their ranks and to lead them in safeguarding our Nation's transportation system.

The December 25, 2009, attack on Northwest Flight 253 reminded us of the ever-evolving threat our Nation confronts as terrorists seek new and inventive ways to defeat the security measures the global community put into place since September 11, 2001.

Since its creation following the tragic 9/11 terrorist attack, TSA has played a vital role in securing aviation and other modes of transportation. If confirmed, I look forward to working in close collaboration with our partners in the intelligence and international communities; Federal, State, and local governments; private industry; and, most importantly, the traveling public to continue to meet the challenge of keeping our Nation's complex transportation system secure.

I believe I am uniquely qualified to lead TSA in advancing its mission. I have spent over 30 years in the Intelligence Community. I have served as the U.S. Army's Deputy G2 for Intelligence at the time of my military retirement in 2001 and as the Director for Operations at the Defense Intelligence Agency.

At the Defense Intelligence Agency, as the Department of Defense's Senior Human Intelligence Officer, I managed intelligence collection program requirements and supervised the Department of

<sup>1</sup> The prepared statement of General Harding appears in the Appendix on page 25.



Defense's Defense Attachés in over 200 embassies and offices around the world. I also commanded a Human Intelligence and Counterintelligence Battalion in Korea and the Army's premier Counterintelligence Group, the 902nd, at Fort Meade.

Since my retirement from the U.S. Army, I have served as Chief Executive Officer of Harding Security Associates, the company I founded with my wife in 2003 and sold in July 2009. I built the company into a workforce of highly trained professionals providing strategic security solutions to the U.S. Government and the intelligence and defense communities.

I have no current financial or ownership interests in the company and I have entered into an ethics agreement with the Department's designated agency ethics official, which has been provided to this Committee, to ensure no conflicts of interest arise.

I know the importance and value of coordinated efforts between Federal agencies. As the Director of Intelligence for the Army's U.S. Southern Command, I coordinated efforts between the Defense Intelligence Agency, Drug Enforcement Administration, FBI, Central Intelligence Agency (CIA), and Customs on sensitive inter-agency counter-drug operations.

My knowledge of counterterrorism challenges, sensitive intelligence programs, and technological advances against the threat have equipped me to meet the current and future challenges of TSA.

If confirmed, I will ensure that TSA continues to work closely with and receives necessary intelligence from the Intelligence Community and that this information is applied across all transportation modes. I believe that the TSA should work closely with our partners in the Intelligence Community to improve the kinds of information needed from the watchlist system; and if confirmed, I will continue the effort begun from the President's review to work with our interagency partners to examine and, where necessary, modify the criteria and process used to build the Terrorist Screening Database and nominate names for the No-Fly and Selectee Lists.

Given the global dimensions of aviation security, I will support Secretary Napolitano's historic effort to bolster international aviation security by working with our partners around the world to enhance information collection and sharing, increase cooperation of technological development, and modernize global aviation security standards.

Additionally, I will encourage the use of enhanced screening technologies, both at domestic airports and by our international partners, while remaining respectful of privacy and civil rights and liberties. Our objective in using these technologies is clear: To strengthen our abilities to find dangerous materials and to stop dangerous people.

From my military experience, I know the importance of a well trained workforce. You have my commitment to enhance training opportunities and invest in developing TSA's employees. If confirmed, I look forward to a close working relationship with Congress and this Committee. I welcome your oversight, your suggestions, and appreciate your dedication to ensuring our Nation's security.

In closing, I again thank President Obama and Secretary Napolitano for their confidence and faith in my ability to lead TSA. Mr. Chairman, Ranking Member Collins, I thank you for the opportunity to appear before you today, and I look forward to answering your questions and, if confirmed, undertaking the challenges that lie ahead.

Chairman LIEBERMAN. Thank you very much, General. I am going to start my questioning with the three standard questions we ask all nominees. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

General HARDING. No.

Chairman LIEBERMAN. Second, do you know of anything personal or otherwise that would in anyway prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

General HARDING. No, Mr. Chairman.

Chairman LIEBERMAN. And finally, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

General HARDING. Yes, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much. We will start with a first round of questions limited to 7 minutes each.

Let me give you a sort of a broad opening question, a little bit like what I said when I had the honor to greet you in my office. I hope if you are confirmed that you will, in really what I take to be the classic mode of operating of our military, take a fresh top to bottom look at the way TSA is fulfilling its mission.

As I said in my opening statement, I think by and large it has really done a good job. Obviously, if you just judge the results by terrorist attacks or attempts—there are obviously successful attacks—they have done very well. But every time I go through the security system and watch with everyone else as we take our shoes off, as we do the various other things we do to get through, and as I watch the TSA officers doing the same repetitive work over and over again, I ask myself, is this the best way to do it? Well, so far it has worked. But I wanted to just put that before you and ask you if you have any thoughts about that.

I think any system, particularly one with this much responsibility, can benefit from a fresh look, and I guess I am asking you if you are prepared to do that.

General HARDING. Mr. Chairman, you and I discussed that, and I agree with you. It is a 9-year-old organization with a very important mission, doing great work, and I agree with you. It has worked so far. I think a fresh look is necessary; I absolutely agree with you for two reasons. Because I think any agency like this can benefit from a fresh look. But the other reason, as you and I discussed, is that ever-evolving threat—

Chairman LIEBERMAN. Right.

General HARDING. And to stay ahead of that ever-evolving threat a fresh look and then a continuous process to address that evolving threat is important.

Chairman LIEBERMAN. Let me ask you two related questions. Both come from the statement that we repeat often here from the 9/11 Commission Report, which is that one of the reasons why the attack on us on September 11, 2001, was successful was a "failure of imagination," which is to say that we failed to imagine that people would possibly do what the terrorists did to us on September 11, 2001.

So I wanted to ask you two things that I do not know that I have asked previous TSA administrators. The first is whether, to the best of your knowledge, there is an adequate connection between TSA and our intelligence community so that beyond imagination you have a baseline of what is happening, to put it as directly as I can, among the enemy forces.

The second is whether on a systematic basis the TSA tries to imagine—even beyond intelligence where this is a sort of standard military Red Team, Blue Team idea—how the terrorists might come at us next time so that they are better able to defend against it.

General HARDING. Mr. Chairman, I will take the connection question first.

Chairman LIEBERMAN. Good.

General HARDING. I think it can be improved. TSA, as a component within the Department of Homeland Security (DHS), benefits from the Office of Intelligence and Analysis at DHS. That office is, in fact, a member of the larger body of the Intelligence Community, the 16 agencies, and I think benefits from that.

But I believe the connection can be improved. If confirmed, that will be a very high priority of mine.

Chairman LIEBERMAN. So that makes sense. Of course, the Intelligence and Analysis Division at DHS is the main point of contact between the broader Intelligence Community and TSA.

General HARDING. Yes, Mr. Chairman. And TSA, as a very important proactive member of the Intelligence Community in the sense that we are part of DHS, I think, needs to continue to aggressively task that intelligence system—

Chairman LIEBERMAN. Right.

General HARDING [continuing]. For the kinds of actionable intelligence that would benefit TSA and the 10,000 folks that we are hoping to clear.

Chairman LIEBERMAN. Good.

General HARDING. To your point on imagination, I think that is very important, and you beat me to the term, Red Teaming. I think to the extent that I can carry that from the Intelligence Community into TSA, we can do some more Red Teaming internally. I know TSA has started some of that, but I would like to do more. I would like to bring to TSA, if confirmed, experts who think like bad guys and bring them inside the thought process of what we are doing presently within TSA and where we would like to go to try to get a cycle going of understanding and staying ahead of the threat.

Chairman LIEBERMAN. I appreciate that. I have a little more than a minute left, so I am going to leave the questions about Harding Security to Senator Collins, but I do want to focus on something that is a little more brief, which has been a longstanding con-

cern of mine. This is about the extent to which TSA carries out rail and transit security.

And particularly, to focus on security training for workers in rail and transit sectors, which is one of the activities that Congress mandated in the 9/11 Commission Act of 2007, there was a GAO report issued last July that concluded that several key requirements have not been implemented despite clear deadlines and requirements set by contracts. I know some rail and transit systems have developed their own training programs for frontline employees, but a lot have not. And I worry that TSA's delay in issuing final regulations for public transportation and railroad training programs has allowed some transportation agencies to ignore security vulnerabilities and avoid providing training to their employees in these transit lines, in which literally millions of Americans travel everyday.

So I wanted to ask you, if confirmed, if you will make issuing final regulations for rail and transit training programs a priority and also if you would speak just generally about the priority you will give to security on non-aviation modes of transportation in the United States.

General HARDING. Mr. Chairman, I would make that a priority. The Administrator is responsible for all transportation modes. The resources and budget would suggest that more is in aviation, which some would suggest would have been appropriate based on both the original threat and the threat as it evolved.

I think it is very important that the Transportation Security Administration look at all modes, be informed by intelligence across all modes, and I would make that a priority, Mr. Chairman.

Chairman LIEBERMAN. I appreciate that. And of course, we know from tragic experience in other countries—London, Spain, and India—that terrorists have attacked non-aviation modes of transportation with bad consequences.

Thank you very much. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman. As the Chairman suggested, I would like to ask you some questions about the firm that you founded. I think it is Harding Security Associates (HSA).

First, I want to clarify a very important issue about the interrogators that your company provided to the Defense Department. In response to the Committee's questions, you stated that HSA contractors were based at Camp Slayer in Iraq. We have learned, however, that the contractors also performed interrogations and debriefings at Camp Cropper.

Now the reason that is significant is Camp Cropper, as opposed to Camp Slayer, has been cited as being the subject of numerous reports on detainee abuse and mistreatment, including reports from the International Red Cross. For example, the Red Cross documented severely harsh living conditions, mistreatment by guards, and apparently even the death of several detainees while they were at Camp Cropper.

So, let me ask you a series of questions. First, were any of the contract interrogators that you provided ever accused of engaging in unlawful or inappropriate interrogations at Camp Cropper?

General HARDING. No, Senator they were never accused of anything like that.

Senator COLLINS. Were your firm's interrogators' actions at all times consistent with the standards of the Geneva Convention?

General HARDING. Yes, Senator they were.

Senator COLLINS. Were they trained to abide by those standards in conducting interrogations?

General HARDING. Yes they were, Senator.

Senator COLLINS. Was DIA ever concerned about any of the debriefings that were conducted by your interrogators?

General HARDING. No, DIA was not.

Senator COLLINS. Are you aware of any concerns expressed by the Red Cross or any human rights organizations about the interrogators that you provided?

General HARDING. Not concerning my interrogators, no Senator.

Senator COLLINS. Thank you. I would now like to turn to the issue of the contract that was audited by DCAA.

The Defense Contract Audit Agency audited the amounts that your company billed the Federal Government under the contract that we have discussed, and the DCAA contract audit found that approximately \$860,000 were for questionable or duplicative billing.

Could you explain the background of how these billing errors occurred?

General HARDING. Thank you, Senator, for that opportunity. I would like to give some context and then go to your specific question.

In December 2004, the Defense Intelligence Agency issued an urgent requirement for 40 interrogators/debriefers to be deployed to Iraq. DIA's urgent requirement was driven by an insufficient number of trained and qualified in-house government interrogators. The contract was for 1 year with an option to renew up to 4 years. The contract was valued at \$49.2 million if fully exercised. HSA won the contract in January 2004 and within 60 days had started placing intelligence debriefers on the ground at Camp Slayer, Iraq.

However, because of DIA's reduced interest to only a few high-value detainees, they decided to terminate the contract for the convenience of the government. This was within 4 months of HSA starting work.

HSA, as a matter of course, billed the government for termination costs. Because the termination costs were more than \$100,000, the Department of Defense also, as a matter of course, initiated an audit. The audit concluded that DIA paid too much and that HSA owed the government money. After HSA appealed the decision, the government and HSA reached a negotiated settlement in July 2008, by which HSA repaid DIA approximately \$1.8 million.

The Department of Defense IG had opened and closed an investigation concerning this settlement without any finding of wrongdoing by HSA. Additionally, DIA monitored contract performance and provided Congress with assurances that there were no indications of any alleged abuses by HSA interrogators and upon contract termination praised HSA's work.

With your indulgence, Senator Collins, I would like to give some lessons learned.

Senator COLLINS. Well, before you do that, I need to establish some facts. It is my understanding that HSA was paid approximately \$6 million for the work in total. Is that accurate?

General HARDING. That is approximately correct.

Senator COLLINS. It is important that we understand that to place it in context.

General HARDING. Absolutely.

Senator COLLINS. Because, although the contract potentially, if the options had been exercised, would have been worth over \$50 million—

General HARDING. Correct.

Senator COLLINS [continuing]. In fact, it was terminated for the convenience of the government in the first year, and HSA was paid a little over \$6 million.

Now, it is my understanding that of that amount, DCAA questioned the \$1.6 million that you billed to terminate the contract, plus questioned an overpayment of \$860,000. In other words, it appears to me that of the \$6 million that HSA was paid, \$2.4 million was questioned. That is a pretty high percentage. The White House, in talking to me about this issue, compared it to \$53 million, but that is not what was at stake here at all, and I thought the White House's comparison was pretty misleading.

Now, after the \$1.8 million settlement, HSA actually ended up netting about \$4 million.

General HARDING. The revenue was approximately \$4 million.

Senator COLLINS. So I just want to put that out to make sure you agree with those general numbers.

General HARDING. I think that is perfect context, Senator, and it describes to the best of my knowledge the accounting.

Senator COLLINS. So since \$2.4 million is a large percentage of \$6 million, more than a third obviously, I need to better understand how it happened that there was a dispute over so much of the payment.

General HARDING. I can capture that with an example of one of the largest chunks, I believe about \$800,000.

Because DIA needed interrogators and needed interrogators in an urgent manner, and because I was a Human Intelligence Officer, I went out and found the best interrogators I could find. I found the best interrogators I could find across the world. They used to work for me, many of them. I hired the best Warrant Officer-Interrogator, I think, not just in the U.S. Army, but in the Department of Defense. I brought him in as my Program Manager.

We set up to provide the Defense Intelligence Agency with what they needed in a very expedited manner, and I think we did that by putting people on the ground within 60 days.

I had brought interrogators that I had worked with, and that my Chief Warrant Officer had worked with, into our headquarters and rapidly trained them. Even though they were already certified in Geneva Conventions and interrogations, I put them through additional training in both Geneva Conventions as well as cultural training. We deployed them 24 hours a day, 7 days a week, just to make sure that they got through all of the training that they needed to include pre-deployment training, to get downrange, to get to Iraq, and we did that in an urgent manner.

I was focused on that as the CEO of the company when within 3 months of executing this contract DIA decided to change the scope of the contract and as you pointed out correctly, Senator, terminated for the convenience of the government. I then faced 40 individuals, because 22 were deployed but there were 18 just about to deploy, who were now without work within 3 months of leaving the "the Farm." I use the Farm because I remember one of my interrogators I talked off of the Farm to come back and go downrange and do what they did so well when they were in uniform.

I personally discussed with the 40, either on the phone or in a collective meeting, that I would take care of them and that I would negotiate and work with the government to provide severance payments. The total severance payments came to about \$800,000, which I paid and they dispersed.

When I went to claim it from DIA, the DCAA recognized that I did not have a policy on that—that I had not negotiated with the government for severance, and I had not provided the government my plan for severance for these individuals that I had taken away from wherever they were in the world and sent them back home. Therefore, it was not allowed, that \$800,000. That is just one example.

What you will see in the report from DIA is that because it was a fixed price contract, certain things were allowed under the contract, but even DIA admitted that when they did the audit, they did it as a time and materials contract. So DIA even admits to some degree there was mistakes on both sides.

I accept, Senator Collins, the mistakes that I made. As a matter of fact, as a small business owner, I am convinced that I made a mistake.

This was our largest and, in my opinion, our most important contract, and in an effort to stay engaged with my client, in an effort to stay engaged with my employees and take care of them, and in an effort to take care of my stakeholders, which is the Iraq Support Group, I lost sight of the fact that I also had to be cognizant of what was going on in my backroom, in the accounting shop, in the contract shop.

And so, what did I do? I hired the best chief financial officer. I increased accountability within my organization, starting with me. I purchased state-of-the-art accounting systems and upgraded twice within 3 years. I emphasized the importance of internal controls, again, starting with me and everybody else in my company.

The result was that HSA grew from approximately 60 people, when I had this DIA contract, to more than 400 by the time I sold my company, in no small measure from the lessons learned very early on in my first year of business from this DCAA audit. The most important result—it never happened again.

If confirmed, I believe that this private sector management lesson learned would benefit me in my new post. I take the need to protect taxpayer dollars seriously and would look forward to working with this Committee to collectively ensure that we continue to maintain that standard within TSA.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Collins. Senator Burris, good morning.

**OPENING STATEMENT OF SENATOR BURRIS**

Senator BURRIS. Thank you, Mr. Chairman. General Harding, that was very interesting. I appreciate your forthrightness in your testimony with reference to your business. I am a former banker, and I financed startup companies. And if a startup company receives a contract and they have to gear up for these emergency situations, there is a great deal of outlay and confusion and rushing because you want to make an impression on the contract.

Being a former banker, I never lent money to companies that are doing that. I very well understand exactly what your company was going through, especially with a contract the size of \$48 million because you are now trying to gear up, you are trying to hire, you are trying to work under these time constraints that have been put on you. So even though there were mistakes made, I am glad to see that you have come forward and understand it was a learning experience.

And I tell you, your comment about the fact that you have not done that again proves it. So, I appreciate your forthrightness and candidness.

General HARDING. Thank you.

Senator BURRIS. General Harding, I travel quite a bit through these airports and deal with the TSA, if not daily, almost weekly. General Harding, it is a major process, and the rules, regulations, and procedures that have to take place for the security of our travel are a little mind-boggling when you figure what that screener has to deal with.

General Harding, if you are confirmed, do you see any options for improvement in the processing and the responsibility facing screeners and TSA employees?

I chat with them all of the time. I try to encourage them because a lot of people are upset when they have to go through the screening and when they have to go back because their watch or their keys or their loose change was setting off the alarm. Do you have any ideas for helping these screeners and employees who I am sure are trying to do their best?

General HARDING. That is a great question, Senator, and a great comment. As I began my process here, as the Chairman knows, I think I had the great opportunity and honor to speak to no less than 25 Senators, personally.

Clearly, the majority had very positive anecdotes about the Transportation Security Officers (TSOs) and their experiences because you travel quite often. And I took that to heart, and so, Senator, my first response to you is that the TSOs need to know and need to hear from somebody like me, whether confirmed or not, that the Senators I have spoken to speak very highly of them, feel very confident in their abilities, and want somebody to help their morale, and that is to your point.

Senator, I have worked with large organizations, and I have worked with organizations from battalion size to the Director of Operations of DIA, and morale is something that we have always learned that we need to keep an eye on. And if confirmed, Senator, I guarantee you that the experiences that the Senators had, that I have heard some great things about those TSOs, will be shared



with the TSOs. I think they will, if confirmed, be a well-trained force. They will be well led and well-motivated.

Senator BURRIS. General Harding, tell me, how will your military experience in the Intelligence Community translate into operating the TSA?

General HARDING. Senator, it is not as exotic as it may sound. It was hard work, and I know you appreciate that. I believe that TSA across all modes of transportation, as I said earlier, can benefit by intelligence and being part of the process. I know that process very well because I have lived it, to your point. I know how to task the intelligence system; I know how robust it is. I know it has great leaders with innovative and creative ideas, and I need to tap into that, and I am hoping my experience will benefit TSA, if confirmed.

Senator BURRIS. General Harding, there was a leak of the TSA manual. How do you plan to control that and what would you do to prevent something like that from happening under your watch?

General HARDING. That release was a mistake. I know TSA went to great pains to review their process, and they have made corrections. I would systematically review processes like that and hold people accountable, Senator, for the kinds of the things that are readily available to the public.

We are using, I believe, a good system that protects information within TSA right now, and I would reinforce that system.

Senator BURRIS. General Harding, if you are confirmed, what would be your three top priorities for TSA?

General HARDING. Identifying and neutralizing the threat, I believe, has to be the top priority. I think to your earlier point, taking care of the workforce. And then finally, an outreach to stakeholders, and those stakeholders would include folks in the technology industry, the research and development industry, our international partners as well as the airline and transportation industry, as well as privacy rights groups. I think reaching out to stakeholders would be very important.

And getting back to the workforce, I would like to close my answer here with the comment that a well-trained, well-equipped, well-motivated, and well led workforce needs to be increasingly sophisticated, and I think I need to work on that. I appreciate what TSA is currently doing with their workforce in developing them, but I would reinforce that, if confirmed.

Senator BURRIS. Mr. Chairman, may I just make one comment? Before I have to go preside, I would like to have permission to make one comment.

Chairman LIEBERMAN. Sure.

Senator BURRIS. I just want this story to be on the public record. I told you in our meeting the other day about the experience I had with TSA in Chicago. I want you all to know that I showed up at the airport without my ID, but they know who I am at the Chicago Airport. There is no question. I did not even show it at the ticket counter because I was running late, and they gave me my boarding pass, and I reached the TSA checkpoint there, and I did not even have my wallet with me. So the gentleman called the supervisor, and the supervisor called another supervisor.

They knew who I was, but they went through every step in that manual to verify my identity before I got on that plane. General Harding, those employees have to be commended. We have to make sure that they understand that by carrying out their duties in that fashion—even though they could have said, “Senator, go ahead. You are a Senator.” They did not. And I am glad that they did not because we do not want that one person who would try to use that to get by and then may cause damage to some of our travelers.

So please pass that on when you are confirmed. Thank you, General Harding.

General HARDING. Thank you.

Senator BURRIS. Thank you, Mr. Chairman. I appreciate the opportunity.

Chairman LIEBERMAN. Well, thank you, Senator Burris, for telling that story, and I must say thank you for being the kind of person who would not pull rank at that moment. [Laughter.]

Senator BURRIS. Two supervisors came, and they verified my address. I had no identification; I had nothing.

Chairman LIEBERMAN. It was a good story. Thanks for telling it.

General HARDING. Thank you, Senator.

Chairman LIEBERMAN. General Harding, we will do one more round.

In the aftermath, and you referred to this briefly in your opening statement, of the Detroit bombing attempt, our Committee has been reviewing the processes the Federal Government and TSA employ in developing and utilizing the numerous terrorist watchlists—not only TSA, but obviously, the Terrorist Screening Center.

One of the things that has perplexed me is that, as you know, there are over 400,000 individuals who have been identified as known or suspected terrorists. And a lot of it is suspected, I understand that. And they are on the consolidated Terrorist Screening Database, the so-called TSDB.

But only a small subset of those people, about 12,000, currently meet the standards for the so-called Selectee List and face enhanced physical screening measures at our airports. There is the ultimate list, the No-Fly List, which is a list of the really bad folks that get pulled off and do not get on the plane.

So it just seems to me and I would bet it would seem to most travelers that if we have this 400,000 TSDB list, even though it is not conclusive that these are terrorists, it is at least worth running the name of every passenger going on a plane through the computers to see whether there is a match and at least to pull them aside for a secondary screening. I know there is a review of this going on, and I want to ask you for some initial thoughts on that and, if I can put it this way, on what criteria you think TSA should apply as it does this review of the use of the Terrorist Watchlist.

General HARDING. Senator, I think it is an excellent question. As you pointed out, the President directed a review, I believe, that is being headed up by John Brennan, and I think they should be coming to some recommendations here pretty soon. I would look forward, if confirmed, to being informed by that exhaustive review that John Brennan owes the President.

To your point, the 400,000 or so individuals on the Terrorist Screening Database, and looking at those individuals against how we receive within TSA the No-Fly List and the Selectee List, and also the Secure Flight process that we are working—I think this is something that I would like to look at if confirmed. I would like, one, to be informed by the process that John Brennan is leading, and then, two, to use the applications, conclusions, and recommendations to look at your discussion point on how do we best use the Terrorist Screening Database.

Yes, there are fragments within that TSDB. It is not a bunch of information. It may just be one name. But how can we better use that to your point, Mr. Chairman, to protect the traveling public? I would look into that.

Chairman LIEBERMAN. I appreciate that answer. Let me move to another subject, which is providing collective bargaining rights to the Transportation Security Officers. I know that this was discussed, I gather from newspaper accounts, at your hearing yesterday at the Commerce Committee and that you did not, if I understood the articles, state a particular position.

I support collective bargaining rights for TSOs, although I understand any contract that was negotiated would have to put their security responsibilities first. As you know, we have done that quite successfully in a whole variety of law enforcement and intelligence and security rated organizations. In other words, they have been given collective bargaining rights, but it has not affected their ability to carry out their functions.

President Obama has previously stated his support in general for the collective bargaining rights for these TSOs. The President has nominated you, but the article in the paper made it sound like you were neutral. I wanted to ask, since the President has taken this position, what you understand to be the position of the Administration as well as your own position on collective bargaining rights for the Transportation Security Officers.

General HARDING. Mr. Chairman, my understanding of the position of the Administration is exactly the same as yours. I also understand——

Chairman LIEBERMAN. Meaning that they are in favor of collective bargaining?

General HARDING. Yes, Mr. Chairman.

Chairman LIEBERMAN. Thank you.

General HARDING. My understanding also of the Administration is, and especially listening to my colleagues, that this Administration is informed by recommendations from, and in the case of my colleagues, flag officers. Whether it be on the closing of Guantanamo or “Don’t Ask, Don’t Tell,” and I think the focus, which I would believe you would agree is very important, would be on the implementation if that is the decision.

If confirmed, I think it is very important that the implementation of such a policy, if that is the direction both the Administration and the Secretary choose to go, should be part and parcel of working the decision. It may sound like I am being neutral, I think it should come across as being thoughtful, and I think I owe both to the Secretary and to the President the implications on if that policy was implemented.

And if confirmed, I guarantee you, Mr. Chairman, my recommendations would be very unbiased, they would be very factual, and I think that is what I would owe the Secretary and the President.

Chairman LIEBERMAN. I appreciate the analogy to the "Don't Ask, Don't Tell" repeal because it is in our minds.

In other words, and it is comparable, the President has stated a position there as here. Secretary Gates is doing a review; Admiral Mullen is doing a review, which in my opinion is geared to how best to implement the decision of the Commander-in-Chief. Am I right that is essentially what you are saying you are going to do here?

General HARDING. Yes, Mr. Chairman, and make a recommendation then to the Secretary and the President.

Chairman LIEBERMAN. Very good. My time is up. I would just add this, and I think I may have mentioned this to you in my office.

As you said, we travel a lot and we see a lot of TSOs, and on two occasions now I have had TSOs sort of, in a friendly way, follow me out and ask me for a moment and say they were concerned that promotions within TSA were being done on what they described as a political basis. They did not mean Democrat/Republican. I think they meant in the classic organizational sense of internal politics.

Now look, for all I know these two people had sought promotions and felt that they were unjustifiably denied. You come from organizations that are highly organized in your background. But I know certainly based on your HSA story you understand the importance of having the best people brought to the top. So, I know it is a big organization now, about 50,000 employees, but I think part of what will be important in not only improving effectiveness but morale is to make sure you do a double check to make sure that the people being promoted are really the best that can be promoted.

General HARDING. Mr. Chairman, I totally understand your message, and I agree with it.

Chairman LIEBERMAN. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman. General, I want to follow up on an issue that I raised in my opening statement about the importance of operational testing. We have seen the waste of taxpayer dollars by TSA because of new technology which worked great in the lab, but failed to work in a real life environment in the airport. I would think that one way to ensure that we always have operational testing is for TSA to have a written policy requiring operational testing.

Could you give me your thoughts on that issue, please?

General HARDING. Senator, I agree with you. I agree with, I believe it was, a GAO report. I believe that with the operational testing of equipment, especially when you are talking the amount, the size, the footprint, and most importantly the cost of this equipment, we are dealing with stakeholders who have to implement and put into practice the policies attendant to that equipment. The equipment needs to be tested. We need to provide stakeholders a chance to comment, even on the testing, and I believe the process should

look more like what I think you and I discussed, which is more like what we see in the Department of Defense.

And I think I can bring that to the table, Senator. And I absolutely agree with your point, and if confirmed, I would reinforce, as you pointed out, the process that TSA currently put in place with the AITs, but I think we can reinforce that with all of the technologies going forward.

Senator COLLINS. Thank you. I want to bring up the privacy concerns that have been raised with regard to whole body imaging technology. We recently had the Acting TSA Administrator testify before us, and she said that TSA has done a great deal to implement measures from a privacy standpoint to protect the traveling public.

Have you had the opportunity to look at this issue?

General HARDING. I did, Senator, and I will share with you that in my visit to Reagan Airport that was upmost in my mind. I had read the reports, like many. I had seen Acting Administrator Gale Rossides' testimony.

I visited Reagan National Airport. I saw the Millimeter Wave Machine, the one that goes around. I went to the booth, which was a distance away from the actual AIT machine, and inside the booth, before I got in, my phone was taken away. I got in the booth. I did talk to the TSO. I looked at the screen. I asked questions about what it was, how he is able to store or not store. It turns out he could not store the image.

I did get to see a live scan where a woman on the line did walk through and had something in her left pocket that was identified on the screen. The TSO identified that to the person on the line. The woman went back through; it was removed.

Two things on privacy. I can assure you there was no way for that TSO to store that information. I had no way to record the information because my phone was taken away from me as reported. And more importantly, I could not even leave the booth, Senator, until that woman had cleared the area.

The policies and procedures that TSA put in place are being followed. I think they are very thoughtful, and I think they are made with privacy in mind, and I felt very comfortable that day with that experience, Senator.

Senator COLLINS. That is very helpful. I want to follow up on, for my final questions, two issues that the Chairman raised. Both the Chairman and I have spent a great deal of time looking at why Abdulmutallab was not stopped in light of the fact that there were credible intelligence reports about him from his own father. And that information, had it been linked to information from Yemen, would have been sufficient to put him on the Terrorist Watch List or perhaps even the No-Fly List, which is the highest list.

Do you think that TSA needs to make better use of intelligence data, even if it is fragmentary, to screen airline passenger data overseas and require perhaps additional screening or questioning of passengers?

General HARDING. I do, Senator.

Senator COLLINS. One of the reasons that I think your background is so ideal for this job is you do bring an intelligence back-

ground, and I think that is going to be very helpful, should you be confirmed, not only to TSA, but throughout DHS.

DHS is always reminding us that they are a consumer not a producer of intelligence. Having someone who has been on the producer end, the collection end, I think will be very helpful to the Department.

General HARDING. Thank you, Senator.

Senator COLLINS. Finally, let me end my questioning by going to the collective bargaining issue that you discussed with the Chairman.

As you know from our discussion, I believe that we should be focused on ensuring that individuals at TSA have the right to appeal to the Merit Systems Protection Board, or to some other unbiased body, adverse personnel actions. I think that is really the issue here rather than full collective bargaining rights.

In order to perform its critical mission, the TSA has to be able to shift resources, including people, on very short notice. We saw that in the summer of 2006 in response to the liquids bombing plot from Great Britain where TSA was able to change the nature of its employees' work and even the location of that work in response to that emergency. I think we have to be extremely careful as we proceed in this area that we do not take away the absolutely critical authority that the head of TSA must have to respond to threats, to respond to an emergency, and to respond even to a severe snowstorm such as happened in December 2006 when severe blizzards hit the Denver area and TSA officers were not able to get to the airport. They had to be ferried in from Las Vegas to cover shifts.

If we lose that flexibility because those changes in location or duties or the nature of the work have to be bargained, that is going to undermine our security, and I am asking today for your commitment to ensuring that TSA continues to have those vital flexibilities that allow a quick reaction to ever-changing circumstances, to new threats, to everything from a terrorist plot to a blizzard.

And that is my question for you today.

General HARDING. Senator, you have my commitment that, if confirmed as the Administrator, I would never negotiate away the authorities for the flexibility and the urgency that you described.

Senator COLLINS. Thank you, General. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator Collins. Thanks to you, General Harding.

Maybe I will just mention one other thing that I want to put on your screen. The Implementing Recommendations of the 9/11 Commission Act of 2007 included a requirement that TSA regulate the transportation of the most dangerous rail cargos, including toxic inhalation hazard gas, explosives, and radioactive cargo, in the language of the statute, using "the safest and most secure routes." Unfortunately, from what I have heard, that provision seems to have been implemented in a way that, at least in some cases, has had the opposite effect with, for instance, materials that come under that statutory description going through High Threat Urban Areas. So I wanted to ask you to take a tough look at that issue to make sure that we are protecting the public in densely populated areas.

General HARDING. I am familiar with that. I can tell you, Mr. Chairman, I will look forward to working with you and your Committee on that.

Chairman LIEBERMAN. Good. Thank you. I want to note the presence and welcome an unexpected guest, Congresswoman Sheila Jackson Lee, who I would guess is here both personally and in her capacity as Chair of the Transportation Security Subcommittee of the House Homeland Security Committee. This is one of those happy examples of bipartisan and bicameral cooperation. It is an honor to have you here.

General Harding, thanks for your answers to our questions. We are going to keep the record open for 5 days for additional questions or statements. It is probably going to be hard with everything going on for the Commerce Committee and this Committee to complete work on your confirmation before the recess. But our staffs are going to work on it over the recess, and it will certainly be my hope to have a business meeting right after we get back so we can, assuming there are no problems, and I hope and trust there will not be, get you on the job as quickly as possible.

General HARDING. Thank you so much, Mr. Chairman.

Chairman LIEBERMAN. Thank you very much. The hearing is adjourned.

[Whereupon, at 11:10 a.m., the Committee was adjourned.]





## A P P E N D I X

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**Statement of Chairman Joseph Lieberman  
Homeland Security and Governmental Affairs Committee  
Nomination of Maj. General Robert A. Harding to be DHS Assistant Secretary  
for the Transportation Security Administration  
Washington, DC  
March 24, 2010  
AS PREPARED FOR DELIVERY**

Good morning and welcome to this hearing on the nomination of Maj. General Robert A. Harding to be Assistant Secretary of Homeland Security in charge of the Transportation Security Administration.

Of all the changes in American life since September 11, 2001, TSA is one of the most visible and, over time, has become one of the most effective.

The TSA Administrator oversees an agency of 50,000 employees with an \$8 billion annual budget with a very important mission, which is to protect the safety of passengers and cargo travelling by air, rail, or road while also ensuring passengers and cargo movement is not unduly restricted.

We were reminded just how crucial the work of this agency is – and why getting a capable administrator on the job is critical – by the attempted Christmas Day bombing of Northwest Flight 253 as it was descending over Detroit.

General Harding, I really appreciated your 33 years of service in the U.S. Army. You are a nominee with vast experience in intelligence and security issues, as well as a proven ability to manage organizations that themselves need to work cooperatively with other organizations if they are to fulfill their missions.

To highlight just a few points of General Harding's long military career, he last served as Deputy to the Army's Chief of Intelligence, and prior to that he served as Director for Operations in the Defense Intelligence Agency.

As the Director for Operations at the DIA, General Harding managed the \$1 billion intelligence collection programs used by military commanders and the civilian leadership to guide their decisions. While at DIA, General Harding managed almost 5,000 employees, which included more than 200 attachés stationed abroad – a valuable experience he can bring to TSA as it now seeks to work more closely with the international aviation community to raise security standards around the globe.

General Harding also commanded a U.S.-based counterintelligence group that was responsible for infrastructure protection at each and every Army camp, post, and station in the United States. As part of his duties in that post, General Harding worked with the FBI and with local law enforcement on-base security experts.

General Harding has also been the recipient of numerous medals, awards and honors, including the Defense Distinguished Service Medal, the National Reconnaissance Office Agency Seal Medallion, the Central Intelligence Agency Seal Medallion and was inducted into the Military Intelligence Hall of Fame in 2009.

After leaving the Army, General Harding worked in the private sector on intelligence issues, at one point forming his own company – Harding Security Associates – that did business with the federal government. Questions have been raised as part of the normal confirmation process about a particular contract to provide interrogators for the Defense Intelligence Agency. General Harding, I appreciate the time you spent with our staff last week answering questions about this and other matters. I am sure the Committee will explore these issues in more detail during the hearing and we will give you a chance to fully explain the contract, the issues that arose, and how they were resolved.

If you are confirmed you take charge of an agency that has made enormous strides in the last seven years to strengthen the security of the commercial aviation sector. But the Christmas Day attack reminds us that this is a tough assignment and our homeland defenses can still be breached. In light of that attack, I believe we should consider pre-screening all passengers against the TSDB, or watch list, and require enhanced physical screening of all passengers whose names are on this list, and I would welcome your thoughts on the matter.

I also believe TSA must be more aggressive in increasing the security of other forms of transportation, particularly mass transit and railways. We have already seen these modes of transportation attacked by terrorists in other countries – like the 2005 attacks on London's buses and subways and the 2004 train bombings in Madrid – and I look forward to your thoughts on how better security of these transportation systems can be achieved.

Other issues I am interested in are ensuring a smooth roll out of Secure Flight, TSA's program to assume responsibility for matching passenger names against watch lists; promoting greater effectiveness and fairness within the Transit Security Grant Program; and balancing privacy, safety and security concerns with the development of new technologies, like advanced imaging technology.

There are many management issues that will demand your attention, but a central question is whether Transportation Security Officers, or TSOs, should be granted collective bargaining rights. TSOs have sought this right since the Department of Homeland Security was created in 2003 – and I support their efforts – and I am drafting legislation to grant them that right, but I look forward to hearing your thoughts on this issue.

Again, welcome General Harding and I look forward to your testimony.

Statement of  
Senator Susan M. Collins

**"Nomination of Robert Harding to be Assistant Secretary of Homeland Security"**

Committee on Homeland Security and Governmental Affairs  
March 24, 2009

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I join the Chairman in welcoming General Robert Harding as the nominee to be Assistant Secretary for the Transportation Security Administration.

The attempted bombing on Christmas Day reminds us that terrorists remain committed to attacking our nation. Whether on an airline or in other modes of transportation, TSA performs a critical role in protecting us from these attacks.

While progress has been made in improving our security, the fact that Umar Farouk Abdulmutallab was able to board a flight with a bomb demonstrates flaws in our nation's system of layered security. TSA must do more to ensure that U.S.-bound passengers who are potential threats receive more effective screening before they board planes.

Terrorists will continue to devise new strategies to penetrate our defenses. Armed with that knowledge, the TSA cannot be caught flat-footed by focusing only on the techniques terrorists employed in their last attack. Our defenses must be forward-looking and nimble, and TSA must foster a culture of continuous improvement to anticipate new challenges.

TSA plans to install more than 1,000 Advanced Imaging Technology (AIT) machines in our nation's airports by the end of Fiscal Year 2011. This effort, along with the use of more canine teams and the deployment of additional behavior detection officers, represent steps that will increase aviation security in the wake of the Christmas Day bombing attempt.

I am concerned, however, by a recent statement from GAO that "TSA does not yet have a written policy requiring operational testing prior to deployment." TSA's previous roll-outs of other screening technologies, such as the explosives trace portal (ETP) or "puffer" machines, took place prior to the completion of operational testing, resulting in stalled deployments and wasted taxpayer dollars. Given that experience, it is encouraging that TSA

has completed operational testing on the imaging machines currently being deployed to U.S. airports. I would like General Harding's assurance that, if confirmed, he would ensure successful operational testing is completed on all new screening technologies prior to installation.

Because foreign governments must be our partners in improving aviation security, TSA also must continue its international outreach, which has accelerated in recent months. This should include increased information sharing, the deployment of advanced technology, and enhanced screening of individuals who warrant more scrutiny.

But aviation isn't the only sector of transportation that merits TSA's vigilant efforts. The agency's mission extends to other modes of transportation as well, including our mass transit system. We cannot focus all our resources on terrorist threats to aviation alone, as the threat does not stop there.

General Harding has more than 30 years of experience in support of our nation's military and intelligence efforts. He finished his military career as the

second in command at the Defense Intelligence Agency. As a result, he knows first-hand the importance of using intelligence to guide operations - which will be a critical skill should he take the helm at TSA.

The nominee appears to have many strengths for this position. One area of concern, however, is the finding by the Defense Contract Audit Agency that General Harding's former company overbilled the government by more than \$860,000 on a contract in 2004. I will be asking a series of questions on this issue.

I also want to give General Harding the opportunity to clarify the role that interrogators from his former company played and whether or not there were any allegations of wrongdoing related to the work of these interrogators.

I look forward to discussing these and other matters with General Harding today.

**Statement of General (Ret.) Robert A. Harding**  
**Nominee for Assistant Secretary**  
**Transportation Security Administration**  
**U.S. Department of Homeland Security**  
**Before the**  
**Senate Committee on Homeland Security and Governmental Affairs**  
**United States Senate**  
**March 24, 2010**

Good Morning Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee. It is a privilege to appear before you today as the President's nominee for Assistant Secretary of the Transportation Security Administration (TSA). I am deeply honored by the President's call to service and by the support I have received from Secretary Napolitano.

With your kind indulgence, I would like to recognize my wife and my children. It is their love and support that has sustained me through the years. I also want to express my deep appreciation to those I met in the course of my 33-year career in the U.S. Army who shaped my ideals, character and vision. Who I am today is very much a product of my time in the U.S. Army. Last, but not least, I want the men and women of TSA to know that I am eager to join their ranks and to lead them in safeguarding our nation's transportation system.

The December 25, 2009, attack on Northwest Flight 253 reminded us of the ever-evolving threat our nation confronts as terrorists seek new and inventive means to defeat the security measures the global community put into place since September 11, 2001.

Since its creation following the tragic 9/11 terrorist attack, TSA has played a vital role in securing aviation and other modes of transportation. If confirmed, I look forward to working in close collaboration with our partners in the intelligence and international community; federal state, and local governments; private industry; and, most importantly, the traveling public to continue to meet the challenge of keeping our nation's complex transportation system secure.

I believe I am uniquely qualified to lead TSA in advancing its mission. I have spent over 30 years in the Intelligence Community. I served as the U.S. Army's Deputy G2 (Intelligence) at the time of my military retirement in 2001, and as the Director for Operations at the Defense Intelligence Agency (DIA). At DIA, as the Department of Defense's (DOD) senior Human Intelligence (HUMINT) Officer, I managed intelligence collection program requirements and

supervised security of DOD's Defense attachés in over 200 embassies/offices around the world. I also commanded a HUMINT and Counterintelligence Battalion in Korea, and the Army's premier Counterintelligence Group, the 902nd, at Fort Meade.

Since my retirement from the U.S. Army, I have served as CEO of Harding Security Associates (HSA), a company I founded in 2003 and sold in July 2009. I built the company into a workforce of highly trained professionals providing strategic security solutions to U.S. Government agencies in the Intelligence and Defense communities. I have no current financial or ownership interests in the company and I have entered into an ethics agreement with the Department's designated agency ethics official, which has been provided to this Committee, to ensure no conflicts of interest arise.

I know the importance and value of coordinated efforts between federal agencies. As the Director for Intelligence for the Army's U.S. Southern Command, I coordinated efforts between the DIA, Drug Enforcement Administration (DEA), FBI, CIA and Customs on sensitive interagency counter-drug operations.

My intimate familiarity with counterterrorism matters, military assignments implementing intelligence programs throughout the world, and reliance upon ever-changing technological advances have equipped me to meet the current and future challenges of TSA.

If confirmed, I will ensure that TSA continues to work closely with and receives necessary intelligence from the Intelligence Community, and that this information is applied across transportation modes. I believe that the TSA should work closely with our partners in the Intelligence Community to improve the kinds of information needed from the watchlist system; and if confirmed, I will continue the work begun from the President's review to work with our interagency partners to review and, where necessary, modify the criteria and process used to build the Terrorist Screening Database (TSDB) and nominate names for the No-Fly and Selectee Lists.

Given the global dimensions of aviation security, I will also support Secretary Napolitano's historic effort to bolster international aviation security, by working with our partners around the world to enhance information collection and sharing, increase cooperation on technological development, and modernize global aviation security standards.

Additionally, I will encourage the use of enhanced screening technologies, both at domestic airports and by our international partners, while remaining respectful of privacy, and civil rights and liberties. Our objective in using these technologies is clear: to strengthen our abilities to find dangerous materials and to stop dangerous people.

From my military service, I know all too well how important a well trained workforce is. You have my commitment to enhance training opportunities and invest in developing TSA's employees.

If confirmed, I look forward to a close working relationship with Congress and this Committee. I welcome your oversight, your suggestions, and appreciate your dedication to ensuring our nation's security. In closing, I again thank President Obama and Secretary Napolitano for their confidence and faith in my ability to lead TSA. Mr. Chairman, Ranking Member Collins, I thank you for the opportunity to appear before you today and I look forward to answering your questions and, if confirmed, undertaking the challenges that lie ahead.

## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

## A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)
  - Robert A. Harding
2. **Position to which nominated:**
  - Assistant Secretary of Homeland Security, Transportation Security Administration
3. **Date of nomination:**
  - March 8, 2010
4. **Address:** (List current place of residence and office addresses.)
  - Residence & Office: **Redacted**
5. **Date and place of birth:**
  - 13 May 1948, New York, NY
6. **Marital status:** (Include maiden name of wife or husband's name.)
  - Married to Constance L. Bernard
7. **Names and ages of children:**
  - Michelle Stallings (43; step-daughter)
  - Anita Harding-Green (34)
  - **Redacted**
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.
  - 1985: Bowie State University - BS, Business Administration, 1985 (degree also includes credits earned at other institutions while serving abroad in U.S. Army)
  - August 1990-June 1991: United States Naval War College – MA, National Security and Strategic Studies, 1991
  - September 1990-June 1991: Salve Regina - Newport College – MS, Management 1991

9. **Employment record:** List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

- June 1966 – May 1968, Valuation Clerk, Bank of New York, New York, NY
- May 1968 – September 1969, US Army Training Ft Jackson, SC, Fort Leonard Wood, MO, Fort Belvoir, VA and Fort Holabird MD
- September 1969 – April 1971, Intelligence Research Officer, 108th Military Intelligence Group, Fort Devens, MA
- April 1971- May 1972, Commander, Field Office, 502d Military Intelligence Battalion, 8th United States Army, Korea
- June 1972 - December 1972, Team Leader, 14th Military Intelligence Battalion, Fort Bragg, NC
- December 1972 – June 1973, Team Leader, 519th Military Intelligence Battalion, Fort Bragg, NC
- July 1973 - March 1975, Commander, Headquarters Company, 1st Military Intelligence Battalion, Fort Bragg, NC
- March 1975- October 1978, Strategic Intelligence Officer, Defense Intelligence Agency, Washington, DC
- October 1978 - June 1979, Intelligence Officer, 1st Battalion, 59th Air Defense Artillery, 8th Infantry Division, US Army Europe, Germany
- June 1979 - August 1981, Intelligence Officer, 1st Brigade, 8th Infantry Division, United States Army Europe, Germany
- August 1981- June 1983, Professional Development Officer, US Army Military Personnel Center, Alexandria, VA
- January 1984 - June 1984, Student, Armed Forces Staff College, Norfolk, VA
- July 1984 - October 1985, Executive Officer, United States Army Intelligence Operations, Washington, DC
- October 1985 - June 1988, Assistant to the Director, Army Staff, Office of the Chief of Staff, US Army, Washington, DC
- June 1988- June 1990, Commander, 524th Military Intelligence Battalion (Collection), Eighth United States Army, Korea
- July 1990 - July 1991, Student, United States Naval War College, Newport, RI
- July 1991- June 1992, Assistant Deputy Chief of Staff for Operations and Plans, United States Army Intelligence and Security Command, Fort Belvoir, VA
- June 1992 - June 1994, Commander, 902d Military Intelligence Group (Counter Intelligence), Fort Meade, MD
- June 1994 - September 1995, Executive Officer to the Deputy Chief of Staff for Intelligence, United States Army, Washington, DC
- September 1995 - December 1996, Director of Intelligence, (J-2), United States Southern Command, Quarry Heights, Panama
- December 1996 – March 2000, Director for Operations, Defense Intelligence Agency, Arlington, VA



- April 2000 – August 2001, Assistant Deputy Chief of Staff for Intelligence, US Army, Washington, DC
- August 2001 - February 2003, Executive Vice President, Innovative Logistics Inc. McLean, VA 22101
- February 2003 - July 2009, CEO, Harding Security Associates, Inc. McLean, VA 22102
- July 2009 – Present, Self-employed, Bernard Consulting Group (my wife and myself) not active/no revenue

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

- Advisory Board, National Geospatial Intelligence Agency (NGA), Washington, DC (July 2009-Present)
- Advisory Board, Defense Intelligence Agency (DIA), Washington, DC (March 2010-Present)
- Diversity Senior Advisory Panel for the Intelligence Community (DNI), Washington, DC (Approx. 2004-Present)
- National Counterintelligence Review Group, (DNI), Washington, DC (May 2009-Present)

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Association of Former Intelligence Officers (AFIO)	Board of Directors	February 2010 – Present
Intelligence and Security Alliance (INSA)	Board of Advisors	Approx 2001 – Present
The Tower Club	Board of Governors	2006 – Present
Wolf Trap Foundation for the Performing Arts	Board of Directors	2006 – Present
CGI, Federal	Board of Directors	2006 – Present
FedCap Partners, LLC	Board of Directors	February 2010 – Present
Harding Security Associates, Inc.	Owner, CEO, President	11 August 2003 – 2009
Innovative Logistics, Inc.	EVP Operations	August 2001 – Feb 2003
Caelum Research, Inc.	Member of Advisory Bd.	2004 -2006
Harding-Bernard Foundation	Owner	December 2009 – Present

12. **Memberships:** List all memberships, affiliations, or and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations.

Association of Former Intelligence Officers (AFIO)	Board of Directors	February 2010 – Present
National Military Intelligence Association (NMIA)	Member	Approx 1995 – Present
Military Intelligence Corps Association (MICA)	Member	Approx 1995 – Present
Intelligence and Security Alliance (INSA)	Board of Advisors	Approx 2001 – Present
The Rocks, Inc	Member	Approx 1988 – Present
Beta Nu Boulé of Sigma Pi Phi Fraternity	Member	2006 – Present
The Tower Club	Board of Governors	2006 – Present
Wolf Trap Foundation for the Performing Arts	Board of Directors	2006 – Present
Kennedy Center for the Performing Arts	Member	2005 – Present
Military Intelligence Hall of Fame	Member	2009 – Present
CGI, Federal	Board of Directors	2006 – Present
FedCap Partners, LLC	Board of Directors	February 2010 – Present
Harding Security Associates, Inc	Owner, CEO, President	11 August 2003 – 29 July 2009
Innovative Logistics, Inc	EVP Operations	August 2001 – February 2003
Electronic Warfare Associates, IIT	Consultant	February – August 2003
Board of Advisors National Geospatial Intelligence Agency (NGA)	Advisor	July 2009 – Present
Diversity Senior Advisory Panel for the Intelligence Community	Advisor	Approx 2004 – Present
Vistage (formerly TEC) Chief Executives Working Together	Member / Student	2005 - 2006
Board of Advisors Defense Intelligence Agency	Advisor	March 2010 – Present
United Airlines Red Carpet Club	Member	1995 – Present
Metropolitan Museum of Art	Member	2009 – Present
Caelum Research, Inc	Member of Advisory Bd	2004 -2006
Blue Star Jets, LLC	Member	2009 – Present
Harding-Bernard Foundation	Owner	December 2009 – Present

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

- None

- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.
    - None
  - (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more during the past 5 years.
    - 10/30/09, Forward Together PAC \$5,000
    - 09/29/09, Huddleston for Congress \$1,000
    - 06/10/08, Friends of Mark Warner \$1,500
14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.
- Inducted into the Military Intelligence Hall of Fame (2009)
  - National Reconnaissance Office (NRO) Agency Seal Medallion
  - Central Intelligence Agency (CIA) Agency Seal Medallion
  - Defense Distinguished Service Medal
  - US Army Distinguished Service Medal
  - Defense Superior Service Medal
  - Legion of Merit (with 3 Oak Leaf Clusters)
  - Defense Meritorious Service Medal
  - Meritorious Service Medal (with 2 Oak Leaf Clusters)
  - Army Commendation Medal (with 2 Oak Leaf Clusters)
  - Army Staff Identification Badge
15. **Published writings:** Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.
- None.
16. **Speeches:**
- (a) Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body.
    - None within the last five years.
  - (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please

provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

- I have given no formal speeches. I did appear on a panel entitled "Securing Our Nation and Our Families" for the Congressional Black Caucus Annual Legislative Conference in September 2001.
- I provided classified testimony to the HPSCI and SSCI on numerous occasions from 1997 to 2000.
- I provided public testimony to the House Permanent Select Committee on Intelligence on November 5, 2003 regarding diversity in the intelligence community.

17. **Selection:**

- (a) Do you know why you were chosen for this nomination by the President?
  - I believe I was chosen for this nomination because of my experience in the fields of intelligence and security and my qualifications as a senior intelligence officer, former director for operations at the Defense Intelligence Agency, and an Army Major General.
- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?
  - I believe that my extensive background in intelligence collection, analysis and production qualifies me for this position. Additionally, my 33 years in the US Army provide me a grounding in leadership and management that will be put to good use if I am confirmed to lead an agency of over 56,000 people. As the commander of a US-based Counterintelligence Group, I had responsibility for infrastructure protection at each Army camp, post and station in the United States. Working with FBI, local law enforcement and on-base security experts, we provided security to such facilities under the National Infrastructure Protection Program. As the Director for Operations at the Defense Intelligence Agency, I had responsibility for leading and managing the Department of Defense Attaché System. Our attachés represented the Secretary of Defense and were located in more than 200 Embassies around the world. I also managed the billion-dollar intelligence collection requirements system which facilitated answering intelligence questions and requirements from commanders, decision-makers and national agencies. The combination of my time as a senior military and senior intelligence officer afforded me the opportunity to work in the interagency process. I have worked with senior US law-enforcement, policy and operations professionals in the FBI, DEA, Customs and CIA.

After I retired from government, I spent my first 17 months in industry as an executive vice president of a small logistics company. Here, I combined my experience in security with the inherent logistics strength within the company to

convert simple supply-chain-management solutions into supply chain security solutions.

That experience led me to start my own company, Harding Security Associates, Inc. We provided counterintelligence, human intelligence, biometrics and analytic support to the US Army, US Navy, Department of Defense, Department of Treasury, Department of Homeland Security, and Department of State.

After more than 30 years in government, I continue to feel a calling to service. If confirmed, it would be an honor to serve in this position.

#### **B. EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?
  - Yes.
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.
  - No.
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity?
  - No.
4. Has anybody made a commitment to employ your services in any capacity after you leave government service?
  - No.
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?
  - Yes.
6. Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.
  - No.

### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.
  - In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Homeland Security's Designated Agency Ethics Official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.
2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.
  - During a six month period in 2003, I provided personal consulting services to three defense contractors. Although most of my work for those companies involved providing advice to employees, a small portion of my work included meeting with government or military officials with my clients.

During 2005–2006, HSA employed one lobbyist.
3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?
  - Yes.

### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.
  - No.

2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

- No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

In 2004, the Defense Intelligence Agency (DIA) terminated a contract with HSA for the convenience of the government. Following the termination, HSA submitted a proposed final settlement, which was reviewed by the Defense Contract Audit Agency (DCAA). In 2006, the DCAA determined that HSA should reimburse the government \$2.2 million. HSA appealed DCAA's decision. In July 2008, HSA settled with the government and agreed to pay \$1.8 million. During the course of these negotiations, DOD IG began a related investigation. In July 2008, HSA provided documents to the IG. To the best of my knowledge, this is the last contact HSA had with the IG, and I believe it is likely the matter has been closed.

In 1994, while stationed at Fort Meade, a white male officer alleged that I had engaged in discrimination when he was passed over for a subordinate position that was ultimately awarded to a white female civilian. The male officer filed an EEO complaint and subsequently a lawsuit. A federal court dismissed the suit in 1997, and an appellate court subsequently upheld the dismissal.

During my military career, I believe I was the subject of several administrative or IG complaints that never rose to the level of an agency proceeding or litigation. Aside from the minor issue below regarding a travel voucher, none of these complaints were ultimately substantiated. I do not recall many of the details, and I have been unable to locate any records of these complaints for me to review, but I recall the following:

- During my time at DIA (1996-2000), I was the subject of an IG complaint. Although I do not recall the primary subject of the complaint, I recall that while I was cleared of the primary complaint, I was required to pay approximately \$250 due to a mistake I made on a travel expense voucher.
- In 1992, while stationed at Fort Meade, a civilian at another base claimed that I had a relationship with a female subordinate officer. The allegation was false, and a preliminary investigation cleared me of any wrongdoing.

In addition, while I was serving as Director of Operations at DIA (1996-2000), DIA terminated a contract after the contractor, Range Technological Corp., failed to meet the terms of the contract. In an appeal of the decision, the company claimed that I had unduly influenced the contracting officer to terminate the contract. Although I was not a

party to this case, to the best of my knowledge, an appeals court found no evidence to substantiate that claim.

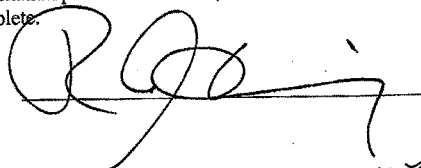
4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.
  - Please see my response to Question 3, above.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
  - None.

#### E. FINANCIAL DATA - Redacted

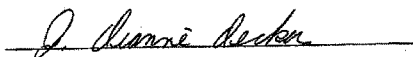
All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

#### AFFIDAVIT

ROBERT A. HARDING being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.



Subscribed and sworn before me this 12<sup>th</sup> day of March, 2010



Notary Public

MY COMMISSION EXPIRES MAY 31, 2014

NOTARY PUBLIC  
DISTRICT OF COLUMBIA





United States  
**Office of Government Ethics**  
 1201 New York Avenue, NW, Suite 500  
 Washington, DC 20005-3917

MAR 10 2010

The Honorable Joseph I. Lieberman  
 Chairman  
 Committee on Homeland Security  
 and Governmental Affairs  
 United States Senate  
 Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Robert A. Harding, who has been nominated by President Obama for the position of Assistant Secretary, Transportation Security Administration, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick  
 Director

Enclosures - Redacted

OGE - 106  
 August 1997

**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire  
For the Nomination of Maj. Gen. Robert A. Harding to be  
Assistant Secretary of Homeland Security**

**I. Nomination Process and Conflicts of Interest**

1. *Why do you believe the President nominated you to serve as Assistant Secretary of Homeland Security?*

**Response:** I believe the President nominated me for this position because of my experience in the fields of intelligence and security and my qualifications as a senior intelligence officer, former director for operations at the Defense Intelligence Agency (DIA), and an Army Major General.

2. *Were any conditions, expressed or implied, attached to your nomination? If so, please explain.*

**Response:** No.

3. *What specific background and experience affirmatively qualifies you to be Assistant Secretary of Homeland Security?*

**Response:** I believe that my extensive background in intelligence collection, analysis and production qualifies me for this position. Additionally, my 33 years in the US Army provide me a grounding in leadership and management that will be put to good use if I am confirmed to lead an agency of over 56,000 people. As the commander of a US-based Counterintelligence Group, I had responsibility for infrastructure protection at each Army camp, post and station in the United States. Working with FBI, local law enforcement and on-base security experts, we provided security to such facilities under the National Infrastructure Protection Program. As the Director for Operations at the Defense Intelligence Agency, I had responsibility for leading and managing the Department of Defense Attaché System. Our attaches represented the Secretary of Defense and were located in more than 200 Embassies around the world. I also managed the billion-dollar intelligence collection requirements system which facilitated answering intelligence questions and requirements from commanders, decision-makers and national agencies. The combination of my time as a senior military and senior intelligence officer afforded me the opportunity to work in the interagency process. I have worked with senior US law-enforcement, policy and operations professionals in the FBI, DEA, Customs and CIA.

After I retired from government, I spent my first 17 months in industry as an executive vice president of a small logistics company. Here I combined my experience in security with the inherent logistics strength within the company to convert simple supply chain management solutions into supply chain security solutions. That experience led me to

start my own company, Harding Security Associates, Inc. that provided counter-intelligence, human intelligence, biometrics and analytic services. After more than 30 years in government, I continue to feel a calling to service. If confirmed, it would be an honor to serve in this position.

4. *Have you made any commitments with respect to the policies and principles you will attempt to implement as Assistant Secretary of Homeland Security? If so, what are they and to whom have the commitments been made?*

**Response:** No.

5. *If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.*

**Response:** Yes. I will recuse myself as summarized below:

Under the terms of my ethics agreement and pursuant to ethics regulations under 5 CFR 2635.502(a)(2), I will be recused from specific party matters involving Six3 Systems, Inc. (the purchaser of Harding Security Associates, Inc.) and HSA Strategic Security Solutions (formerly Harding Security Associates, Inc.) for one year from the date of the sale of my company in July 2009. In addition, I will be recused from specific party matters involving SRA International or Northrop Grumman for a period of one year from the date when I last provided services to them under 5 CFR 2635.502(b)(1)(iv). This one-year recusal applies to SRA International and Northrop Grumman because they were Harding Security Associates, Inc. clients for whom I personally provided services while at the company.

Under the Obama Administration Ethics Pledge, I will be recused for 2 years from the date of my appointment from specific party matters involving HSA Strategic Security Solutions (formerly Harding Security Associates, Inc.), SRA International or Northrop Grumman. This two-year recusal applies to SRA International and Northrop Grumman because they were Harding Security Associates, Inc. clients for whom I personally provided services while at the company.

I will also voluntarily recuse myself from specific party matters involving my former company's clients that were clients at time of the company's sale, for a year from the date of that sale in July 2009. This is not required by the Ethics Pledge, the ethics agreement, or any ethics regulations. In that regard, I am following the spirit of the Ethics Pledge, which goes beyond previous requirements. This voluntary recusal is not out of any concern about conflicts or appearances of conflicts. Instead, it is solely for the purpose of drawing bright, clear-cut lines and preventing any possible confusion in the implementation of his recusals. This voluntary recusal will apply to the following former

Harding Security Associates, Inc. clients: Analytic Services, Inc. BAE Systems, Inc., CACI, FedSys, Inc., General Dynamics, Global Resource Solutions, Inc., IIT, Lockheed Martin, SAIC, and Szanca Solutions, Inc. As noted above, I will also recuse from SRA International and Northrop Grumman, as required by the ethics rules and the Ethics Pledge.

DHS ethics officials have determined that these recusals will not impair my ability to effectively carry out my duties as TSA Administrator, should I be confirmed. If confirmed, I will work with the DHS Ethics Official to implement my recusals. In addition, should a potential conflict arise, I will confer with the DHS Ethics official to determine the appropriate course of action.

6. *Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.*

**Response:** No.

7. *In your responses to the biographical questionnaire, you mentioned that in 2004, a contract that Harding Security Associates (HSA) had with the Defense Intelligence Agency (DIA) was terminated for the convenience of the government.*

- a. *What was the nature and scope (including the start date and expected expiration date) of this contract?*

**Response:** On January 30, 2004, the DIA awarded a contract to Harding Security Associates (HSA) for interrogator and debriefer services in support of the Iraq Survey Group (ISG). The initial contract specified that HSA would provide 40 personnel (12 debriefers and 28 interrogators) for a base period of 8 months with options to extend for up to 4 additional years. The cost of the base period was \$7.4 million. On March 30, 2004, the base period was modified to 1 year, and the cost was increased to \$11.1 million.

On June 9, 2004, DIA partially terminated the contract for the convenience of the government, reducing the requirements to 3 debriefers and 6 interrogators.

On September 30, 2004, DIA completely terminated the contract, again, for the convenience of the government.

Pursuant to the contract, during the period from February 2004 to August 2004, HSA sent a total of 22 personnel to Iraq. All of these personnel were assigned to Camp Slayer, Baghdad and reported to the Iraq Survey Group. All of the contractors provided by HSA were highly trained and experienced and were sent to Iraq after the prisoner abuse at Abu Ghraib. To the best of my knowledge, none of the contractors engaged in, or have been accused of engaging in, any inappropriate interrogation activities during their time as HSA contractors.

- b. *Please describe DIA's reasons for terminating the contract.*

**Response:** As described in my response to question 7(a) above, the contract was partially terminated for the government's convenience on June 9, 2004 and was subsequently completely terminated for the government's convenience on September 30, 2004. DIA gave no specific reason when it terminated the contract for convenience. I believe that HSA's contract was one of a number of government contracts for interrogator, debriefer, and similar services that were terminated by the government for convenience during 2004. To the best of my knowledge, the termination was not related to HSA's performance under the contract.

- c. *Please describe what HSA was reimbursing the government for in the \$1.8 million settlement in 2008?*

**Response:** In 2006, the Defense Contract Audit Agency (DCAA) audited HSA's termination settlement proposals and contract costs. The audit report stated that the government had overpaid HSA by \$2.2 million: \$862,000 in contract payment related to travel expenses, program management charges, and interrogator/debriefer rates, and \$1.3 million in termination settlement charges related to payments for employees affected by the contract termination, recruiting expenses and other charges. After HSA appealed the contracting officer's decision based on this audit, HSA and DIA settled on a payment of \$1.8 million.

- d. *To the best of your knowledge, what was the subject of the related Department of Defense Inspector General (IG) investigation? When was it concluded?*

**Response:** To the best of my knowledge, the subject of the IG investigation was alleged overpayments paid to HSA under the contract, including HSA's settlement proposal. HSA has had no contact with the IG since July 2008. It is my understanding that the IG investigation is now closed.

8. *In your responses to the biographical questionnaire, you state that while you were serving as the Director of Operations at DIA, a contractor claimed that you had unduly influenced the contracting officer to terminate the contract. Please describe your dealings with the contracting officer with respect to this contract.*

**Response:** As Director of Operations at DIA, I was a customer of the service being provided by the contractor, Range Technological Corp., and my interactions with the contract officer were appropriately limited to that role. After the contract officer made the decision to terminate the contract in 1998, the contractor appealed the decision. On June 19, 2006, the Armed Services Board of Contract Appeals (ASBCA) denied the appeal. The decision specifically refuted the contractor's allegation that the contract officer had been directed to terminate the contract by either me or by DIA's Director, Lieutenant General Patrick Hughes. The Board concluded: "Nobody at DIA, and in particular neither LTG Hughes nor BG Harding, directed him to terminate the contract."

9. *In the biographical questionnaire, you say you do not recall the subject of an IG complaint while you were at DLA from 1996-2000, but you did have to pay \$250 as a result of this complaint. Please explain the nature of the mistake on your travel expense voucher?*

**Response:** I do not recall the specific nature of the mistake. I am fairly sure that it involved a detailed travel voucher, probably from a trip overseas that I made as the Director for Operations at DIA. I suspect it may have been a simple accounting mistake on my part.

## **II. Role and Responsibilities of the Assistant Secretary of Homeland Security**

10. *What is your view of the role of the Assistant Secretary of Homeland Security and head of the Transportation Security Administration (TSA)?*

**Response:** In my view, the position of Assistant Secretary of the TSA is critical to providing leadership and vision to strengthen the people, processes, technology, and partnerships which will allow the United States to address current and potential future threats to transportation security. The Assistant Secretary is responsible for ensuring the agency is doing everything possible to secure the transportation system using a risk-based approach, to thwart or mitigate the likelihood of an attack, and to be resilient should an attack occur.

11. *In your view, what are the major internal and external challenges facing the Department of Homeland Security ("DHS" or "the Department") and TSA? What do you plan to do, specifically, to address these challenges?*

**Response:** I believe the top challenges currently facing TSA are:

- **Identifying and neutralizing the threat:** Identifying and neutralizing the threat is the common denominator of TSA's mission across all modes of transportation – air, surface, rail, and ports. It is essential to develop a comprehensive and dynamic understanding of the threat posed to our transportation systems, with a particular focus on the evolving sophistication of terrorists who will go to great lengths to try to defeat the security measures that have been put in place since September 11, 2001, and effectively implement strategies to interdict and neutralize them. Concurrently, TSA must ensure the safety, interests and rights of the traveling public are paramount.
- **Taking care of the TSA workforce:** It is critical that TSA maintain an increasingly sophisticated, agile and committed workforce that is well trained, well equipped, and well motivated.
- **Ensuring sufficient privacy, technology and stakeholder outreach:** It is important that TSA maintain an inclusive and effective outreach program. We must leverage the expertise and resources of our partners in the intelligence, scientific,

12. *How do you plan to communicate to TSA staff on efforts to address relevant issues?*

**Response:** If confirmed, I would engage with the TSA Senior Leadership Team on day-to-day management issues. I would also proactively communicate with the TSA workforce through a strong messaging campaign complemented by field visits outlining our strategic priorities. I also make frequent use of emerging and innovative communications tools – including TSA’s own groundbreaking IdeaFactory. Our strategic priorities would be developed in a collaborative manner with all appropriate stakeholders, including employees, and align with those of the Department’s Quadrennial Homeland Security Review, and the subsequent Bottom Up Review.

### **III. Policy Questions**

#### *General*

13. *What your views on how the Department can best strike the appropriate balance between the need to protect the traveling public while not disrupting the flow of people and commerce in each of the transportation sectors (aviation, surface, maritime)?*

**Response:** TSA’s foremost mission is to protect the traveling public and the Nation’s transportation systems to ensure the freedom of movement for people and commerce. Both the transportation system and the threats that terrorists pose to the system, are continually evolving. We must implement enhanced security measures to adapt to those changes. There must be meaningful and comprehensive dialogue with all stakeholders to ensure that we take into consideration the flow of commerce, privacy, and customer service as we develop and implement security measures.

14. *To what extent should TSA focus more on building, or encourage system operators to build on, resiliency – the ability to recover quickly from an incident or “bounce back” – rather than protection?*

**Response:** As a nation, I believe that we must ensure that we can quickly rebound from any attack, and it is critical that we emphasize resilience with respect to protecting transportation networks. The Quadrennial Homeland Security Review makes clear that the entire Department is emphasizing resilience as it further develops and assesses its programs while also continuing to focus on the foundational mission of DHS of countering terrorist attacks and enhancing security.

15. *If you agree that more resiliency is desirable, how could TSA better incorporate*

*resiliency and protective measures into its operations?*

**Response:** The concept of resilience planning should be incorporated into all program development, planning and evaluation efforts throughout TSA.

16. *Implementing transportation security policy requires strong coordination between TSA and stakeholders at all levels of government and the private sector. Nonetheless, the Government Accountability Office (GAO) has reported that, despite TSA efforts to strengthen stakeholder collaboration, additional progress is needed.*

- a. *What strategies might be considered to ensure that TSA builds on its successes while employing innovative approaches to strengthen collaborations with stakeholders?*

**Response:** My understanding is that over the course of the last several years, TSA has taken action in accord with the GAO's recommendations. I also understand that processes have already been strengthened with stakeholders to more frequently and proactively engage on matters, such as contemplated security measures, whenever possible. If confirmed, I would work to ensure this collaborative spirit continues, and that these processes are strengthened.

- b. *How could TSA work more effectively with international partners to, for example, enhance the security of air cargo transported into the United States?*

**Response:** My understanding is that TSA has made significant efforts in working with international partners to address many of these challenges, and expects to continue to see significant improvements in the level of security for inbound air cargo on passenger aircraft going forward. Domestically, I understand that TSA has addressed some of the issues through the Certified Cargo Screening Program, to improve the screening of cargo originating from the United States. Through bilateral and quadrilateral arrangements, I also understand that TSA is working with a number of countries to introduce the supply chain approach to securing air cargo into their programs and regulations in a similar fashion. The foreign partners involved in these arrangements are Canada, Australia, and the 27 Member States of the European Union. Further, it is my understanding that Customs and Border Protection (CBP) currently assesses the risk of the presence of contraband and restricted merchandise, including explosives, in inbound international air cargo as part of its supply-chain security programs and advance cargo requirements. I am told that TSA and CBP are actively working on better integrating those processes to ensure air travel safety and security. If confirmed, I would work to ensure TSA builds on these efforts with all international shippers and transporters, so that TSA further enhances the security of inbound air cargo on commercial passenger flights.

- c. *How can you ensure that policies, operations, and future plans are seamlessly coordinated with the rest of DHS?*



**Response:** If confirmed, I would expect to be a key member of the DHS senior management and leadership team and I would participate fully working towards the goal of maturation of the Department. This will ensure a unity of effort throughout the Department and the incorporation of policies, operations and future plans with other components and DHS HQ. As the former Deputy (G2) for Intelligence for the United States Army, I am well acquainted with the need for a unity of effort across a spectrum of activities in a major government organization to ensure mission success.

17. *DHS and TSA have repeatedly said they would employ risk management principles to better target its security programs, activities, and resources, yet recent GAO reports (including a report on the Transit Security Grant Program, GAO-09-491; and another on Mass Transit and Passenger Rail Security, GAO-09-678) show that more could be done to fully implement these principles in key program areas. If confirmed, to what extent will risk management play a role in designing and funding future security programs and activities at TSA? Are there particular areas or programs where you believe TSA should focus on improving its utilization of risk management?*

**Response:** If confirmed, I am committed to using risk management to continually enhance TSA's security programs. I am aware that there is a substantial and developing body of work within the Department and TSA specifically pertaining to risk management amongst the transportation sectors. To better address that work, I understand TSA formally established the Executive Risk Steering Committee (ERSC) to provide:

- Oversight and approval for TSA's risk management strategy, communications, and related activities;
- Integration among TSA offices on major projects/issues relating to risk management;
- A corporate voice on risk management issues for DHS, the Government Accountability Office, Congress, and other organizations as appropriate;
- A structure to support standing and ad hoc working groups on risk management which supports the above; and
- Integration of risk management activities, policies, and actions set-forth by DHS' Office of Risk Management and Analysis (RMA).

I also understand that TSA is nearing completion of the Transportation Sector Security Risk Assessment that will provide a comprehensive view and comparative analysis of terrorist risk involving five modes of transportation: aviation, freight rail, highway, mass transit, and pipeline.

If confirmed, I would build on these efforts to ensure the principles of risk management are ingrained in the management of TSA's programs.

18. *Information security continues to be a serious and growing problem throughout government. TSA has suffered from several security breaches and vulnerabilities over the past several years, including a notable security vulnerability with TSA's traveler redress program which was the subject of a 2008 House Committee on Oversight and*

*Government Reform report.*

- a. *Are you familiar with the responsibilities for agency heads that were established under the Federal Information Security Management Act of 2002 (FISMA) (P.L. 107-347)?*

**Response:** Yes, I am familiar with the Federal Information Security Management Act (FISMA). If confirmed, I would work to enhance the culture of information security within the agency and use the appropriate technologies to ensure that our security officers and our many partners receive the intelligence they need in order to effectively protect the traveling public and transportation assets while appropriately protecting sensitive requests for information.

- b. *Please describe your experience with developing information security procedures for large organizations.*

**Response:** My military experience, which includes substantial service in the intelligence community, along with my industry experience advising federal agencies and private sector stakeholders on cyber security issues provides me with a broad and diverse background to address information security at TSA. My background in intelligence gives me a strong understanding of the types of threats that are posed to our transportation sectors' infrastructure as well as the government systems used by TSA employees every day. With this knowledge of threats and the understanding of critical cyber issues from my prior experiences, if confirmed, I will work to improve TSA's ability to protect sensitive information.

- c. *What will you do, if confirmed, to ensure that TSA is meeting its responsibilities under FISMA and protecting its information and information systems overall?*

**Response:** If confirmed, I would continue to ensure that security is addressed early in the technology life cycle so that TSA can share information more effectively while maintaining a high FISMA posture. I would also focus on interoperability and standardization of our technology, which will enhance security and allow for better information sharing. Finally, I would continue to enhance our ability to monitor against cyber threats to our network and to respond quickly should remediation be required.

19. *In 2008, TSA posted a copy of its "Screening Management Standard Operating Procedures" on fedbizopps.gov, the government-wide website for procurement postings. The document was designated as "Sensitive Security Information" (SSI), and was supposed to have the information TSA considered most sensitive redacted. Unfortunately TSA did not properly redact the information and in December 2009, TSA was made aware that the public was able to read the entire document. The DHS IG determined that TSA and DHS internal controls for reviewing, redacting and coordinating the protection of SSI are deficient. From your experience, how can TSA improve its handling and*

*protection of SSI? Do you think TSA should post redacted versions of SSI documents on public websites?*

**Response:** I understand that the Department's IG has provided its recommendations and that both DHS and TSA have concurred and began implementation of stronger controls and protection measures already underway. In addition, I understand that TSA took steps after the breach was discovered to ensure that new redactions were technically correct and to take responsibility for the proper protection of Sensitive Security Information (SSI) in both redacted and un-redacted form.

If confirmed, I believe I can draw on my experience in the intelligence community handling the most sensitive classified information in examining ways to enhance the protection of SSI materials, to include a final review of how TSA has implemented the IG's recommendations. While SSI is sensitive information and not classified information, similar protocols may apply as there are common themes—the information must be properly protected, it can only be shared with those with a need to know, and everyone who handles any sensitive information must be accountable for safeguarding it.

20. *In May 2009, GAO issued a report (GAO-09-292) which stated that Secure Flight had generally achieved nine statutory conditions, but one condition related to life-cycle costs and schedule estimates was only conditionally achieved. If confirmed, will you use GAO's best practices for cost and schedule estimates when developing or improving programs?*

**Response:** If confirmed, I would work closely with TSA senior leadership to ensure that acquisitions are conducted in a manner that incorporates, where appropriate, best practices from the GAO, DHS HQ, partner agencies across the federal government and private industry.

#### *Aviation Security*

21. *On December 25, 2009, Umar Farouk Abdulmutallab attempted to ignite an explosive as a commercial aircraft was approaching Detroit. While intelligence has long indicated that the transportation network continues to be a key and attractive target for those wishing to harm U.S. interests, this event served as a stark reminder that DHS must continue to adapt and evolve to ensure the aviation sector is secure. DHS has made considerable progress in strengthening the security of commercial aviation since September 11, 2001, but must continue to adapt security measures to counter evolving threats, balance resources across missions, and enhance technologies to strengthen security.*

- a. Please describe any experience you have with aviation security?*

In 2001, when I was the Executive Vice President for Operations for Innovative Logistics, Inc., I responsible for providing logistics support to transition airports from contract screeners to government screeners. I played a direct role in establishing

procedures for screener training, uniform issuance, lane assignments, and standards established by the Federal Security Directors (FSD). The intensity and urgency of this effort left a lasting impression on me of the gravity and scope of aviation security measures and standards.

- b. *In your view, what are the most significant challenges facing the Department in its efforts to secure the nation's aviation system?*

**Response:** I believe the most significant challenge the DHS faces in its efforts to secure the Nation's aviation system is the sophisticated, dynamic enemy we face. As recent events have shown, our adversaries are constantly watching our security measures for potential vulnerabilities and attempting to exploit our cultural norms to circumvent our security measures and do us harm.

- c. *Is there a need to reassess TSA's layers of aviation security, and if so, how would you propose doing so?*

**Response:** In light of the dynamic and sophisticated nature of the enemy we face, I believe that the aviation security system must be constantly evaluated to ensure we remain ahead of the adversary. If confirmed, I will work closely with agency leaders to ensure we engage in constant evaluation to push aviation security to the next level.

- d. *How can TSA better ensure that the flying public's experience is as seamless and comfortable as possible without sacrificing greater security?*

**Response:** I believe the key to providing a seamless and comfortable security experience for the traveling public is to provide as much information as possible and prepare the public on what to expect when they encounter TSA. It is also critical that the Department HQ and TSA engage the traveling public in making security work. As described in more depth in the Quadrennial Homeland Security Review, homeland security is a shared and participatory responsibility for all Americans. If confirmed, I would work with agency leadership to implement a comprehensive communications strategy to reach the public.

- e. *How do you propose to use cost-benefit, feasibility, alternatives or other analyses to assess the success or failure of TSA's layers of aviation security?*

**Response:** Cost-benefit, feasibility, and alternatives analyses are widely recognized best practices for program and acquisition management. If confirmed, I will work with TSA leadership to integrate these forms of analyses into TSA's acquisition management processes and its system reviews of its security plans.

- f. *What metrics should the DHS and TSA use to properly evaluate the effectiveness of operations and technological solutions?*

**Response:** It is my understanding that TSA uses a wide variety of metrics to measure

the effectiveness of its operations and technical solutions, including evaluating equipment based on the cost per passenger screened, time to screen a single passenger, public acceptance of screening technology, and its effect on overall screening throughput. Metrics such as this must be balanced with an assessment of the ongoing threat that the transportation networks face and the overall risk climate. If confirmed, I will work with TSA leadership to further develop and implement a metrics program to monitor effectiveness.

- g. *If confirmed, what efforts would you undertake to become more proactive in identifying security vulnerabilities and emerging threats?*

I would focus on three things:

- The common threats facing all modes of transportation—air, surface, rail, transit, pipelines, ports—must be better understood. If confirmed, I will work to develop a comprehensive and dynamic understanding of the threats to our transportation systems with a particular focus on the evolving sophistication of terrorists who seek to exploit our existing security systems and exploit social norms for screening. Working collaboratively with the Intelligence Community is essential to our success, and I know that, if confirmed, TSA will benefit from the close relationship I have with Under Secretary for Intelligence and Analysis Caryn Wagner. Together, we will leverage the intra-agency, interagency and intelligence communities to provide early and actionable intelligence on the threats to our Nation's transportation systems to frontline law enforcement and security officials.
  - We must concurrently take care of the TSA workforce: It is critical that TSA maintain an increasingly sophisticated, agile, and committed workforce that is well-trained, well-equipped, and well-motivated. TSA employees should feel empowered to execute their responsibilities, while mindful that the agency exists to serve the public. Increasing the flow of intelligence to this committed workforce will help build a culture of urgency and dedication.
  - Finally, it is important that TSA maintain an inclusive and effective outreach program. We must leverage the expertise and resource of our partners in the intelligence, scientific, academic, intra-agency, interagency, private sector, law enforcement and international communities in order to most effectively fulfill our mission. We must also ensure we work collaboratively with privacy and civil rights and civil liberties groups to ensure that we safeguard the rights and privacy protections of all members of the traveling public.
22. *Over 400,000 individuals have been identified as known or suspected terrorists on the Consolidated Terrorist Screening Database (TSDB), but only a small subset of these people, about 12,000, face enhanced physical screening measures at our airports. In the wake of the December 25<sup>th</sup> attack, do you think TSA should consider pre-screening passengers against the TSDB, and not just the no-fly or selectee list, to determine if they*

*should be subjected to enhanced physical screening measures? What, if any, implications are there for expanding pre-screening and screening in this manner for international flights to the U.S., versus domestic flights and outbound flights, prior to the full implementation of Secure Flight?*

**Response:** It is my understanding that the Secure Flight program currently limits its passenger prescreening to the No Fly and Selectee components of the Consolidated Terrorism Watch List (TSDB). I also understand that TSA is examining what other sources of information, including the entire TSDB, would enhance its decisions regarding passenger screening and what impact that would have on traveler delays. I understand that the appropriate Federal agencies are undertaking a comprehensive review of the watchlist process as a result of the recent directive from the President. If confirmed, I look forward to participating in further reviews to ensure that the watchlists, and the procedures for using them, provide robust security, while fully respecting the civil rights and civil liberties of the traveling public.

23. *In early 2009, TSA began assuming responsibility for checking airline passenger data against the No-Fly and (automatic) Selectee Lists when it began implementation of the Secure Flight Program. As of December 2009, 23 airlines have been relying exclusively on TSA's ability to pre-screen passengers under the Secure Flight program, and the agency's stated goal is to have all domestic airlines using Secure Flight by the end of March 2010, and full implementation, including foreign airlines, by the end of 2010.*

- a. *If confirmed, what will you do to ensure TSA continues the smooth implementation of Secure Flight?*

**Response:** It is my understanding that Secure Flight has fully or partially cutover 48 domestic and four foreign flag carriers representing approximately 50 percent of daily enplanements, and the program is on schedule to complete cutover of all aircraft operators covered under the Secure Flight Final Rule by the end of calendar year CY 2010, assuming aircraft operators make all required system changes. If confirmed, I will work closely with the Secure Flight program staff, air carriers, and international partners to ensure that Secure Flight is fully implemented by the end of CY 2010.

- b. *If it was determined that passenger manifests should be checked against the Terrorist Screening Database (TSDB) would TSA need to recalibrate its false positive-false negative performance targets?*

**Response:** It is my understanding that expanding the prescreening conducted by Secure Flight to the full Terrorist Screening Database (TSDB) could result in a significant increase in possible matches, including false positives.

24. *The development and implementation of many of TSA's programs, including Secure Flight and its cargo screening program, have required extensive outreach with stakeholder entities and foreign governments. For example, Secretary Napolitano has begun working with International Civil Aviation Organization (ICAO) and foreign*

*governments to begin developing heightened international aviation security standards. Have you had experience in working with stakeholder groups or foreign countries on divisive issues? If confirmed as Assistant Secretary, what would be your strategy for reaching out to these groups?*

**Response:** If confirmed, I would like to further develop our international capabilities and stakeholder outreach. I have seen firsthand - through the Defense Attache System that I managed - that in-country presence is vital to progress. It is my understanding that TSA has an aggressive strategy to build upon its current international outreach efforts focusing on priority areas designed to affect the greatest change in international aviation security. If confirmed, I will work with TSA and the Department HQ senior leadership to continue these efforts through targeted coordination and collaboration in furtherance of key security objectives.

25. *Every day, nearly 2,000 daily commercial flights around the world depart for America. They depart from 270 locations in over 100 countries. In addition, there are more than 80 general aviation flights and over 180 cargo flights bound for America on a daily basis. Nearly 2,300 flights departing daily from a foreign airport bound for America represents an impressive security challenge. However, TSA has only 21 Transportation Security Administration Representatives, or TSARs, and only four TSA International Industry Representatives around the world. For such an important role and large number of flights, 21 TSARs and four International Industry Representatives seems like a small number of people responsible for enhancing and directly coordinating international aviation security activities.*

- a. *Generally, what is your impression of TSA's international capabilities and are there areas that you think need to be improved?*

**Response:** If confirmed, I would like to further develop our international capabilities. I have seen firsthand - through the Defense Attache System that I managed - that in-country presence is vital to progress. I understand that the TSA Office of Global Strategies is committed to working with sovereign nations, all of whom have different structures, regulations and laws. If confirmed, I will prioritize examining ways to enhance the resources and visibility of TSA's international capabilities.

- b. *Specifically, do you have any plans to increase the number of on-the-ground TSA personnel at overseas airports?*

**Response:** If confirmed, this is an issue I would like to explore further.

26. *GAO, the DHS IG and TSA covert tests have identified vulnerabilities in TSA's baggage and passenger screening process.*

- a. *How can TSA ensure better uniform procedures for personnel responsible for screening bags and people?*

**Response:** It is my understanding that TSA is aggressively working to increase screening uniformity by reducing the number of distinct passenger and baggage screening procedures currently in place. However, uniformity should not be mistaken for predictability. A key aspect of TSA's layered approach to security is the lack of predictability. If confirmed, I will work with TSA senior leadership to streamline and improve screening procedures – including the use of covert test results to drive improvement. These actions would decrease vulnerabilities and increase uniformity at screening locations throughout the country.

b. *How can TSA hold personnel responsible for not following uniform procedures?*

**Response:** It is my understanding that TSA has a management directive that states that employees who do not follow standard operating procedures are appropriately re-trained or disciplined depending on the severity of the infraction.

c. *Should TSA's covert testing program be expanded to include other layers of security, such as Visible Intermodal Prevention and Response (VIPR) teams or travel document checkers?*

**Response:** It is my understanding that TSA currently tests several layers of aviation security, including travel document checkers. The covert testing program consistently assesses all security layers, in conjunction with TSA's stakeholder and local law enforcement partners (including the Visible Intermodal Prevention and Response layer), in order to determine if covert testing is applicable or worthwhile.

27. *Through its ENGAGE training for Transportation Security Officers and its Screening of Passengers by Observation Techniques (SPOT) program, TSA has taken steps to expand its security efforts to screen for passengers with suspicious behaviors in addition to screening for prohibited items.*

a. *How will you gauge the effectiveness of this layer of security?*

**Response:** It is my understanding that ENGAGE trains TSOs to apply intelligence information, maintain a situational awareness, and promote calm critical thinking during the screening process. It is my understanding that TSA is able to gauge the effectiveness of this effort each day. According to TSA, incident reporting indicates that the TSO workforce understands and can communicate the reasoning behind any decisions they make to engage in enhanced screening in addition to Standard Operating Procedure (SOP) requirements.

It is also my understanding that the Screening Passengers by Observation Techniques (SPOT) program is currently undergoing a scientific validation process that will measure the effectiveness of SPOT vs. random screening protocol. It is my understanding that the initial data for this study is quite encouraging. If confirmed, I plan on working with TSA and Department HQ leadership to ensure SPOT continues



to use both internal and external data to help make decisions on program effectiveness and further refine areas of deployment across multiple modes of transportation.

- b. *How can TSA ensure passengers' rights are protected under this program, and what protections do you believe TSA should have in place to ensure the program does not rely on profiling?*

**Response:** It is my understanding that the Screening Passengers by Observation Techniques (SPOT) program training and implementation received a comprehensive review by DHS's Office for Civil Rights and Civil Liberties (CRCL) and TSA's Office of Civil Rights and Liberties (OCRL) as well as TSA's Office of Chief Counsel to ensure there were no such concerns. It is also my understanding that the SPOT training is very specific in teaching and stressing that SPOT is based solely on behavior. SPOT stresses that profiling on factors not related to behavior are counterproductive to the purposes of the program and would in fact lessen its effectiveness.

Similarly, it is my understanding the principles of ENGAGE are designed to remind TSOs that they have a network of resources to help them throughout the screening process. The concepts remind TSOs that they should use their experience and knowledge and not ignore anomalies because they are not specifically addressed in an SOP.

28. *TSA recently announced the deployment of backscatter x-ray passenger screening technology, a type of Advanced Imaging Technology (AIT), to eleven additional airports for use at primary passenger checkpoints. The AITs being deployed are the first of the 150 machines already purchased with funds from the American Recovery and Reinvestment Act (ARRA) of 2009. TSA is also planning to procure and deploy approximately 300 additional machines in Fiscal Year (FY) 2010.*

- a. *How should TSA monitor and evaluate wait times at airports or checkpoints with backscatter machines compared to other airports? How should TSA monitor and evaluate the efficacy of this equipment, individually or compared with other types of currently available screening technology?*

**Response:** I understand that TSA's method of collecting wait times will be the same at all checkpoints regardless of the technology. It is also my understanding that TSA has done modeling on wait times as a result of the introduction of the Advanced Imaging Technology (AIT) units at airports, and that pilot results show no significant impact on wait times as a result of the new technology. If confirmed, I will work to ensure that TSA closely monitors effectiveness and efficiency of the AIT as it is rolled out nationally.

Additionally, I understand that TSA is already looking at technologies to automatically calculate wait times. If confirmed, I will continue to assess the

effectiveness of automatic wait time technology for use in all airports, including those with AIT.

- b. *Deployment of these machines requires TSA to work with airports to reconfigure checkpoints and make additional space available for the remote viewing locations. Please explain the steps that you would take to ensure deployment plans are developed and executed as quickly and effectively as possible, and appropriately account for the level of risk associated with each airport.*

**Response:** I understand that TSA already has a national deployment schedule that is based on risk, airport readiness, and operational suitability. I understand that TSA has made preliminary estimates of the required space needed for several checkpoint configurations that would include AIT, and has a process to work with airports on finalizing designs. I believe engagement with the airports is critical to success, and if confirmed, I would ensure TSA continues that engagement.

- c. *An October 2009 GAO (GAO-10-128) report found that TSA's rushed deployment of explosives trace portal (ETP) technology, the so-called "puffer" machines, had to be halted in June 2006 because of performance problems. GAO found that TSA had conducted operational capabilities testing on earlier ETP models, but had not demonstrated adequate performance by those models in an airport environment. TSA also failed to test the newer model ETPs that were actually deployed. What steps would you take to ensure that the appropriate operational testing is successfully completed prior to deployment of all models of AIT machines that TSA intends to install in U.S. airports in FY2010 and FY2011?*

**Response:** I understand that AIT has already undergone extensive laboratory and field tests which have demonstrated that it successfully meets TSA's security requirements.

29. *On February 18, 2010, Joseph Andrew Stack flew a small plane into an Austin, TX, office building where almost 200 IRS employees worked, confirming that general aviation planes are capable of damaging targets. Some experts have suggested that general aviation security is under-resourced and warrants increased attention. Do you believe TSA has done enough to secure general aviation? What resources would you advocate be dedicated to improving general aviation security?*

**Response:** I believe that TSA has made great strides since 9/11 in securing general aviation (GA). I understand that TSA has worked closely with industry stakeholders to identify security guidelines and best practices, using a risk based approach to reduce the threat of a GA aircraft being used in an act of terrorism. Additionally, I understand that TSA is in the process of developing regulations for large GA aircraft and expects to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) later this year. With respect to the recent incident in Austin, TX, TSA sent a team to review findings of on-site investigating officials. If confirmed, I would direct TSA to continue to work with the GA industry to assess immediate and future needs to strengthen GA security.

30. *DHS proposed a Large Aircraft Security Program (LASP) rule which would subject general aviation passengers and crew to a prescreening process similar to the one used for commercial aviation. The general aviation community has argued that the implementation of such a rule could require significant investments from the general aviation community, which includes many small businesses.*

- a. *Do you support a requirement for prescreening general aviation passengers and crew?*

**Response:** If confirmed, I would like the opportunity to more extensively study the proposals from the TSA regarding enhancing security on large general aviation (GA) aircraft and to consult further with stakeholders on this issue. I understand that TSA already vets all Federal Aviation Administration (FAA) certificate holders against the consolidated watch-list, as well as passengers under certain security programs, and this is an important aspect of risk management for GA.

- b. *As TSA assumes responsibility for reviewing passenger records for commercial flights, do you believe it would be appropriate for TSA to require general aviation operators be responsible for checking passenger and crew lists against the watchlists?*

**Response:** It is my understanding that TSA currently requires vetting of crewmembers and passengers based on type of operation and designated airspace. If confirmed I will consider this issue as part of a larger review of general aviation security as I discussed above.

- c. *Do you think DHS should consider helping the general aviation community implement such a rule in some manner? If so, how?*

**Response:** Yes, if such a rule is issued, I think DHS should work with the GA community to implement it. I understand that TSA conducted several public meetings and comment sessions last fall regarding the proposed Large Aircraft Security Program. I understand that these meetings were intended to be the beginning of improved communications between TSA and the GA industry. I am informed that TSA has taken the feedback from those meetings into account while drafting the Supplemental Notice of Proposed Rulemaking (SNPRM). Additionally, I understand that, during the week of March 8-12, TSA hosted a two-day meeting with the General Aviation Working Group, which is part of the Aviation Security Advisory Committee, to examine ways to improve GA security methods, equipment, and procedures. If confirmed, I would continue to support this working group and any actions to strengthen TSA's relationship with the GA community.

- d. *Would you support a review of the efficacy and scope of the LASP in light of the February 18, 2010 attack in Austin, TX?*

**Response:** If confirmed, I plan to work with TSA senior leadership to ensure that all rulemaking efforts provide an effective increase in security, are risk based, and are reasonable for the regulated parties to implement. In light of the Austin, TX, incident, I understand that TSA is working with the investigating agencies to conduct an analysis of the damage and to compare the findings against previous studies that were conducted. If confirmed, I would support the continuation of these efforts and ensure that any results are factored into decisions on future security programs.

31. *TSA, through its Crewmember Security Training Program, requires and certifies that all training provided by aircraft operators to its crewmembers include security and anti-hijack subject areas. TSA also offers the Crewmember Self Defense Training Program, and although it is not required, TSA is supposed to make it available to any crewmember who requests it. Some crewmembers have expressed concern that TSA doesn't require this training that the locations and times for such classes are too limited, and that airlines sometimes make it difficult for crewmembers to take time off for this training.*

- a. *Do you believe TSA's Crewmember Security Training Program provides sufficient information and training to crewmembers? Do you believe TSA's self defense training program for flight crew should be mandatory?*

**Response:** It is my understanding that the Crewmember Self Defense Training (CMSDT) Program offers both classroom and hands-on training to properly address in-flight disturbances, including physical altercations. I also understand that CMSDT is currently offered in over 25 locations throughout the country, near major metropolitan airports and that crew members can attend the class as often as they like at no cost. If confirmed, I will work with the TSA and DHS HQ leadership and stakeholders to consider whether these programs will be made mandatory.

- b. *As Assistant Secretary, how would you work with airlines and flight crews to ensure that all crewmembers who wish to receive self defense training are able to do so?*

**Response:** It is my understanding that TSA is currently expanding CMSDT to additional locations and working with airlines to offer classes at locations convenient to airline personnel where the training is not typically available to ensure that everyone who would like to receive the training is able to do so.

- c. *Should TSA work with airlines and flight crews to test wireless emergency communication systems onboard aircraft, to improve flight crew security and aviation security generally?*

**Response:** It is my understanding that the wireless communications systems on-board aircraft are owned and operated by the airlines and commercial service providers. The use of these systems for emergency communications by government personnel, particularly those in law enforcement, is sensitive and should not be discussed in an open forum. If confirmed, I would refer this issue to the TSA-chaired inter-agency, public-private sector working group for air-to-ground communications.

This Working Group includes relevant government agencies, the airlines, and the flight and cabin crew union representatives.

32. *The Federal Air Marshal Service (FAMS) is an important layer in our nation's approach to aviation security. In the past, however, their policies and procedures have come under intense public scrutiny and internal debate.*

- a. *What is your view of the FAMS role within TSA?*

**Response:** It is my understanding that among the TSA's many layers of security, the Federal Air Marshal Service (FAMS) serves a key role as intelligence-driven, risk-based, and rapidly deployable law enforcement. TSA can utilize FAMS for such diverse requirements as natural disaster response, the movement of citizens in need, and changing requirements to meet evolving and adaptive terrorist threats to transportation. The FAMS gives TSA the capacity for an appropriate law enforcement response into any transportation environment.

- b. *How will you work to properly support and integrate FAMS operations, while maintaining a proper balance between the vital layers they provide and the other layers of aviation security?*

**Response:** I understand TSA's Office of Law Enforcement/Federal Air Marshal Service is fully integrated within TSA and with many external security partners. FAMS represents TSA at 56 Federal Bureau of Investigation Field Office Joint Terrorism Task Forces and other intelligence organizations and maintains strong relationships with State and Local law enforcement organizations through the Visible Intermodal Prevention and Response (VIPR) program. VIPR teams collaborate on exercises with organizations all over the country, providing timely cooperation during events as they occur. If confirmed, I will work to continue these programs, seeking additional opportunities to integrate all TSA operations to increase security and protect the traveling public.

- c. *The practice of allowing armed federal law enforcement officials on aircraft, in addition to FAMS, is another potential layer of aviation security. How do you propose working with other federal law enforcement services, the airlines, airports, and other stakeholders to better coordinating policies, trainings, and operational procedures with regards to this security practice?*

**Response:** It is my understanding that TSA relies upon Law Enforcement Officers (LEOs) flying armed as one of its many layers of security. All Federal Agents flying armed must comply with the FAMS administered Law Enforcement Flying Armed (LEOFA) program which establishes operational protocols for this practice.

Additionally, I understand that the FAMS maintains a strong liaison role with a supervisory presence at major airports to facilitate cooperation on these issues, and a dedicated Liaison Division at the headquarters level to proactively engage air carriers

and other law enforcement agencies. If confirmed, I will work with FAMS and TSA leadership to strengthen these liaison and outreach efforts.

33. *The Federal Flight Deck Officers Program, which was established in 2002, allows commercial airline pilots to be trained to carry firearms and use force to defend the flight deck against criminal and terrorist threats. How can TSA evaluate this program to determine if it should be altered, enhanced or expanded?*

**Response:** I understand that since its inception in 2002, the Federal Flight Deck Officer (FFDO) Program has been an important piece of the TSA's layered security approach. Thousands of pilots have been trained and are protecting U.S. aircraft every day. I understand that TSA works with stakeholders, including airlines, industry associations and its law enforcement counterparts to evaluate the program's effectiveness and make improvements as recommended. If confirmed, I will work with the FFDO community to ensure that the program has the highest quality of instruction.

#### *Traveler Redress*

34. *A recent DHS Office of Inspector General (OIG) report entitled, Effectiveness of the Department of Homeland Security Traveler Redress Inquiry Program (OIG-09-103), cited numerous concerns with DHS's Traveler Redress Inquiry Program (TRIP). TSA concurred with most of the recommendations, but many of the projects required for implementing the recommendations will not be complete until the end of FY2010.*
- a. *If confirmed, will you ensure that TSA continues to place sufficient emphasis on the Traveler Redress Inquiry Program and completes the tasks laid out in the report in a timely manner?*

**Response:** If confirmed, I will encourage TSA leadership to work closely with Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and DHS HQ in implementing the Office of the Inspector General's (OIG's) recommendations. It is my understanding that of the 24 recommendations cited by the OIG, seven (7) have already been closed. I understand that TSA has made progress in rolling out Secure Flight and implementing a new case management system – two of the other OIG recommendations. If confirmed, I look forward to completing these tasks as quickly as possible.

- b. *The OIG reports that Customs and Border Protection (CBP) and TSA share related information about redress results, but do not use the information effectively, leading to increased screening difficulties that could be prevented for misidentified travelers. The OIG recommended that TSA utilize CBP's Primary Lookout Over-Rides to help rule out possible No Fly and Selectee list matches identified through Secure Flight. While DHS concurred with this recommendation, it is still open. If confirmed, how will you ensure that TSA is adequately using CBP information on misidentified travelers?*

**Response:** If confirmed, I will work with CBP and the Terrorist Screening Center (TSC) to explore how to share information about the results of screening encounters as reflected in the Primary Lookout Over-rides and Cleared List. It is my understanding that discussions have already occurred among program and information technology subject matter experts to identify and rectify barriers to information sharing as appropriate.

- c. *Another security concern that was raised in the OIG report was that TSA does not check its cleared list against the No Fly or Selectee list frequently enough to ensure that individuals on the cleared list have not been subsequently added to one of the watch lists. DHS concurred with the OIG's recommendation to automatically compare the cleared list with the watch lists when changes are made to the lists, but it was unclear how TSA would implement the recommendation. How will you work to ensure that the cleared list does not have names on it that are added to the watch list?*

**Response:** It is my understanding that the TSA has implemented a manual comparison process to check the TSA Cleared List against the No Fly and Selectee lists on a daily basis, and that an automated system is in the process of being implemented. If confirmed, I will work with agency leadership to implement the automated process to ensure the Cleared List remains accurate.

#### *Air Cargo*

35. *The Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Commission Recommendations Act) (P.L. 110-53) required that TSA establish a system to enable the screening of all air cargo transported by passenger aircraft, and mandated that 50% be screened by February 1, 2009 and 100% be screened by August 2010. However, the legislation gave TSA some flexibility in determining who screens the cargo. To meet the deadlines, TSA has established a Certified Cargo Screening Program, which has already certified more than 100 facilities, and continues to certify more. Do you consider TSA's oversight mechanisms to verify that facilities stay in compliance with the program sufficient?*

**Response:** Based on my initial briefings, I believe that this oversight is sufficient, however, if confirmed I will undertake a more in depth review of the compliance program.

I understand that Congress provided funds for 50 additional Transportation Security Inspectors-Cargo (TSI-Cs) in this year's appropriations act, bringing the total to 500. I am told that TSA is committed to placing these TSI-Cs at airports with the greatest cargo oversight needs emphasizing those locations with expanding regulated populations based on new Certified Cargo Screening Facilities.

If confirmed I will ensure that TSA continues to review staffing levels to ensure that the budget submissions reflect the necessary personnel needed to develop and implement air cargo policies and procedures.

*Registered Traveler Program and U.S. Visit-Exit*

36. *The Registered Traveler Program allows passengers who voluntarily submit themselves to a more thorough background check to utilize faster screening checkpoints at the airport.*

a. *Do you believe the Registered Traveler Program places sufficient emphasis on ensuring individual participants do not present a risk to aviation security?*

**Response:** If confirmed, I plan on reviewing Registered Traveler.

b. *In June 2009, one of TSA's authorized service providers under the Registered Traveler Program abruptly ceased operations. Participants in this particular provider's program expressed concern that personally identifiable information may not have been adequately protected as a result of the abrupt end of the program. Would you support a requirement under the Registered Traveler Program for authorized service providers to prearrange and pay for the secure disposal of personally identifiable information?*

**Response:** When the three vendors ceased operations in July 2009, TSA took immediate steps to ensure the appropriate handling of participant information that Registered Traveler (RT) vendors had collected and stored. Accordingly, TSA instructed sponsoring airports and airlines -- the regulated parties with which TSA has a direct RT relationship -- to ensure that RT equipment and customer information storage and retention complied with the security and privacy requirements set forth in the TSA RT standards for security, privacy, and compliance guidelines.

37. *In a 2008 notice of proposed rulemaking (NPRM), DHS proposed that the airlines be responsible for collecting biometrics from passengers as part of a US-VISIT exit solution. However, Congress subsequently required that DHS conduct pilot programs designed to test potential biometric exit solutions for the US-VISIT program, prior to the issuance of a final rule. TSA's pilot was conducted in Atlanta's Hartsfield Jackson International Airport, and required TSA staff to collect biometric information with handheld devices from foreign travelers subject to the US-VISIT requirement. A final decision about where the US-VISIT biometric exit system will be deployed in the airport environment is still pending; however, concerns already have been raised about the TSA version's feasibility. For example, once a traveler enters the secure part of an airport after a TSA screening, that traveler may connect through a number of airports before ultimately boarding an international flight without being screened again. This likely means that, should TSA be required to collect the US-VISIT exit data, it would have to do so at every airport in the nation. This also likely means that there is no way to verify that the individual who was screened by TSA actually exited the country. Requiring TSA to conduct biometric screening of foreign travelers could also adversely impact checkpoint wait times at airports throughout the country.*



- a. *Do you believe that TSA should have a role in collecting biometric data for the US-VISIT exit component?*

**Response:** As a component agency of DHS, there is a place for TSA in achieving the Department's overall goals and meeting its requirements. If confirmed, I will work with Secretary Napolitano to ensure that TSA is contributing to the Department's overall goals and mission.

- b. *Given your long experience working in the intelligence arena, what in your opinion would be the intelligence and law enforcement value to being able to biometrically verify that an individual has left the country?*

**Response:** Collecting biometrics has been widely recognized as the most effective method to establish and confirm an individual's identity. If collected at the appropriate location, with appropriate controls in place, and given sufficient resources to execute the program successfully, I believe that biometrics could provide an effective means to ensure an individual has left the country.

#### *Privacy and Civil Liberties*

38. *Actions to increase transportation security may have the potential to implicate privacy and civil liberties concerns. As Assistant Secretary, you will frequently be required to evaluate programs to determine how best to protect the homeland while at the same time protecting individuals' privacy, civil rights, and civil liberties. What basic principles do you believe should guide such evaluations?*

**Response:** I have long sworn to uphold and defend the Constitution of the United States. I believe its principles, and other legal protections of individual privacy, civil rights and civil liberties, must be followed when implementing effective security programs. In addition, it is my understanding that the Fair Information Practice Principles serve as foundational principles for privacy evaluations of many DHS programs. An integrated approach is the key to implementing effective security programs while ensuring the civil rights and civil liberties of the traveling public. Every security program must be viewed in light of its impact on the traveling public, the security needs of the country, and individual freedoms. The key to maintaining an integrated approach is to ensure that all members of the traveling public are treated with dignity and respect. Complaints of possible abuses of civil rights and civil liberties should be investigated fully, professionally, and impartially.

39. *Secure Flight is one example of an initiative that has had to be substantially restructured when a privacy assessment revealed significant privacy and civil liberties concerns. Early and active involvement by the DHS Privacy Office in the development of such initiatives might have avoided costly mistakes by building privacy protections into the program from the ground up. How will you ensure that privacy and civil liberties concerns are considered early on and throughout the development of new programs and policies?*

**Response:** If confirmed, I expect to emphasize the important role that privacy and civil liberties play in the development of TSA programs and policies. It is my understanding that TSA recognizes the importance of those considerations and includes senior managers and executives with privacy and civil liberties oversight functions on the formal TSA Senior Leadership Team.

40. *TSA has begun the deployment of AIT equipment at primary checkpoints, to improve the agency's ability to detect both metallic and non-metallic threats. Some privacy advocates have expressed concerns about the privacy implications of using such equipment, leading TSA and the equipment manufacturers to adopt a number of safeguards to protect a traveler's privacy.*

- a. *Do you support the use of AIT equipment, provided current safeguards remain in place? Do you have experience with this equipment?*

**Response:** I have seen both types of AIT equipment – backscatter and millimeter wave – that the TSA has approved on its qualified products list. I understand that TSA has engaged in efforts to ensure the privacy of the traveling public; TSA ensures that the TSO viewing the image is in a walled-off location where he/she never comes into contact with the passenger being screened and is not visible to the public. I also understand that the imaging technology cannot store, export, print, or transmit images -- and facial features are blurred for privacy -- and that all images are deleted after being reviewed. No cameras, cellular telephones, or any device capable of capturing an image is permitted in the resolution room and the use of such a device is a firing offense.

- b. *Do you believe TSA has a sufficient process in place to regularly review the privacy implications of this equipment, or any other screening technologies which may affect a traveler's privacy? What safeguards do you believe are necessary, at a minimum?*

**Response:** Based on the initial briefings that I have received, I believe that TSA has a sufficient process in place to regularly review the privacy implications of its screening technology, especially AIT. It is my understanding that TSA thoroughly reviewed the privacy implications of AIT, and published its first Privacy Impact Assessment in January 2008 prior to operating the equipment in any airport. That Privacy Impact assessment has been twice updated in the intervening years to reflect possible changes in operational practices. As a result, I believe TSA has demonstrated a commitment to regular review of the privacy implications of its programs and, if confirmed, I will ensure that it will continue to do so.

- c. *How can TSA ensure that the public is aware of the privacy protections in place without jeopardizing the efficacy of the technology?*

**Response:** It is my understanding that TSA has conducted extensive outreach to the public on the privacy protections for AIT, including outreach through the media,

publishing Privacy Impact Assessments specifying the privacy protections that are in place, providing information on its public website and posting signage at the airports using AIT.

*Research and Development*

41. *Harnessing the nation's research and development prowess is essential to strengthening our domestic defenses against a variety of threats. DHS's Science and Technology Directorate (S&T) has been given the responsibility for directing research and development efforts and priorities in support of the Department's mission.*

- a. *What is your vision of how S&T and TSA should work together to develop and deploy advanced technologies to address challenging homeland security missions?*

**Response:** If confirmed, I will work closely with the Department's Science and Technology Directorate (DHS S&T) and industry to identify emerging technologies, advance detection capabilities, and ensure operational suitability of a wide variety of screening technologies. Over the long term, I believe that TSA should continue to support the development of emerging technologies that offer advanced screening capabilities while minimizing impact to the traveling public. If confirmed, I intend to set a 5-7 year vision that will drive the next generation of checkpoint technology and encourage industry to develop technologies to meet the capability requirements of the next generation checkpoint screening.

- b. *How can S&T and TSA better use technology goals and transparent standards as a means of challenging industry to be more innovative?*

**Response:** As the threat landscape evolves, I will work with DHS S&T, industry, and global partners to ensure that there is a portfolio of screening technologies in place to address the widest array of current and emerging threats. TSA needs to communicate specific capability gaps to research partners and vendors to enable their overall research and development efforts.

42. *S&T funds several Centers of Excellence, whose purpose is to bring together experts and researchers to conduct research and education into particular homeland security portfolios. In response to a concern that DHS was not doing enough to improve the security of surface transportation, Congress mandated the creation of a National Transportation Security Center of Excellence. However, the Center has only received a fraction of the funding authorized for it. Do you believe TSA and S&T are sufficiently investing in transportation security research and development?*

**Response:** If confirmed, I will work closely with DHS's Science and Technology Directorate and industry to identify emerging technologies, advance detection capabilities, and ensure operational suitability of a wide variety of screening technologies. As stated above, over the long term, I believe that TSA should continue to

support the development of emerging technologies that offer advanced screening capabilities while minimizing impact to the traveling public.

43. *TSA has been working with S&T on a program to determine how much threat material, stored in various places within a commercial aircraft, could take down an airplane. TSA and DHS could then use this information to develop an updated standard for explosives detection equipment used at airports. It is currently using a standard based on (and modified as additional data has become available) data from the Lockerbie bombing, more than 20 years ago. To date, the Department has accumulated data from testing on one, older airframe. S&T advised DHS to acquire data from tests and modeling of additional airframes in order to accumulate more comprehensive data.*

a. *Do you agree that DHS should pursue a more aggressive study?*

**Response:** I understand that the TSA and DHS's Science and Technology Directorate have been working on aircraft vulnerability assessments. This work will be invaluable as we identify new technologies to address emerging threats. If confirmed, I hope to review the results of the existing studies in detail to determine the best path forward.

- b. *DHS received \$1 billion for new explosive detection equipment for airports, as part of the stimulus bill passed earlier this year. The equipment purchased with stimulus funding will have improved capabilities over existing equipment, but it will still be measured against the explosives detection standard developed almost two decades ago. Do you believe the development of an updated standard should be a priority for the Department?*

**Response:** I understand that TSA has recently initiated a new acquisition effort for next generation explosives detection systems that are based on an updated standard.

44. *In recent years, TSA has conducted a number of pilot programs to identify new technologies and new ways of using technology. Some of these pilots have expanded or developed into long-term programs. Is there a process for evaluating pilots and determining if they should become permanent programs? Should there be? Do you believe TSA is doing enough to facilitate the transfer of information or technologies, developed under its various pilot programs, to the system operators and law enforcement authorities that, more often than not, are primarily responsible for the safety and security of a system?*

**Response:** I understand that DHS HQ, TSA, and the DHS's Science and Technology Directorate have established processes for conducting and assessing technology pilots. If confirmed, I will continue to support the use of pilots to collect valuable information about promising new technologies that may be able to address emerging threats. I also understand that DHS recently established the Aviation Security Enhancement Partnership with the Department of Energy and the National Labs that will help promote identification of new technologies and pilots. If confirmed I would look forward to

working more closely with this group to make sure the government is doing all it could to bring the best technologies to bear to address the threat of terrorism.

*Transportation Security Grants*

45. *Although the Federal Emergency Management Agency (FEMA) awards transit and rail security grants, TSA provides the subject matter expertise for the Department when helping to evaluate the merits of proposed projects. Several years ago the Department began awarding transit security grants on a regional basis, reflecting the fact that a single transit system may run through more than one state. However, regional cooperation and the process for allocating awards among jurisdictions within a single region remains a concern, and local officials have expressed a concern that TSA still lacks a viable process for coordinating and mediating regional working groups. If confirmed, would you review TSA's involvement in rail and transit security grant programs, and look for ways for TSA to ensure regional cooperation within these programs is improved?*

**Response:** It is my understanding that TSA developed a cooperative process within the highest-risk regions to ensure that each system in that region was not only implementing security measures with their grant funds, but also implementing complementary measures and collaborating on measures where appropriate. If confirmed, I will work with TSA senior leadership to examine the current process, including why the process was developed and what has or has not worked, and I will discuss with TSA leadership and other security stakeholders, as appropriate, how the process should be improved in order to secure our Nation's highest-risk systems.

*Surface Transportation Security*

46. *Since 9/11, there have been several terrorist attacks around the world on rail and mass transit systems, such as the attacks in Spain (2004), London (2005), Mumbai (2006), and more recently in China (2008). These attacks suggest that mass transit systems could be a target of future terrorist action. In addition, freight rail is the primary mode by which hazardous materials are transported throughout the nation, with railroads typically carrying about 1.8 million carloads of hazardous materials annually. These materials also serve as a potential target for terrorists.*
- a. *What experiences, if any, do you have with protecting surface transportation systems, such as mass transit and passenger and freight rail?*

**Response:** While I have not been directly involved with surface transportation security, effective transportation security involves protecting our citizens from constantly evolving threats while facilitating legal travel and trade around the country and throughout the world. If confirmed I will be able to use my national security knowledge and extensive experience in the intelligence community and U.S. Army, combined with my private sector experience, to lead the transportation professionals at TSA and effectively manage risk in all facets of the transportation system.

- b. *What changes, if any, do you envision making in TSA's current organizational approach for addressing the security needs of the surface transportation and aviation modes in a limited resource environment?*

**Response:** If confirmed one of my top priorities will be ensuring that the security needs of the aviation and surface modes are fully evaluated so that TSA and the Department HQ can determine whether current programs and activities are effective and what changes should and can be made. Each transportation mode presents both distinct and common challenges and I understand that TSA's current approach considers these differing environments, the state of screening technology, and the need to balance security measures with a reasonable flow of people and cargo when developing, evaluating and implementing security programs.

- c. *What additional capabilities, if any, should TSA develop to better support mass transit, passenger, and freight rail operations?*

**Response:** I understand that the TSA has developed numerous programs and operational assets to support mass transit, passenger, and freight rail operations. I believe that these programs and assets, applied in conjunction with transit agencies' and freight rail companies' own security measures, provide a comprehensive and effective capability. Identifying and implementing capabilities that would further reduce the risk of terrorism for our security partners is and should continue to be a key goal of TSA. I understand that TSA is currently working to improve stakeholder relations, information sharing, and the application of new technologies and if confirmed I would continue these practices. Additionally, stronger ties with our international partners might allow timelier access to the specific details gathered from terrorist attacks such as those cited in your initial question. Improved information sharing would also allow TSA to more efficiently disseminate critical information in real-time to security partners during emergency situations. Advances in technology have produced equipment that provides a level of information not previously available, reduces the number of personnel needed and minimizes human errors. I believe that current efforts must continue and these developments need to expand.

47. *Historically, DHS has adopted a different approach to rail and mass transit security than it has adopted for aviation security, in large part because of the obvious operational role the TSA has in protecting the aviation sector. In the past, the agency more often embraced a regulatory role, rather than an operational one, when it came to rail and mass transit security. With the Administration's recent proposals to expand the Visible Intermodal Protection and Response (VIPR) teams, and the hiring of additional Surface Transportation Security Inspectors, TSA appears to be embracing a greater operational role, though it necessarily assists local officials who retain the primary operational responsibility. Another area where DHS might be able to do more to protect local transit systems is in fostering or certifying security technologies that local operators could then purchase and deploy. What do you consider the highest priority gaps in mass transit*

*protection, and what do you think TSA and DHS can do to address these gaps expeditiously?*

**Response:** If confirmed I would certainly welcome the opportunity for a more in-depth review of mass transit security needs. From my initial assessment and from my experience as a senior Army officer, I believe that training, funding flexibility for operational deterrence, critical infrastructure target hardening, robust information sharing, and extensive use of drills and exercises are of the utmost priority.

48. *In June 2009, GAO released a report regarding mass transit and passenger rail security programs (GAO-09-678), which highlighted a number of unmet requirements of the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53). If confirmed, how will you work with stakeholders and others to ensure these requirements are expeditiously met?*

**Response:** While I understand that the implementation of some 9/11 Act requirements has been delayed, I have been told that TSA is working diligently to meet these requirements. I understand that TSA will meet some of these requirement through rulemaking, including in areas of security training, security plans, and background checks in mass transit. I further understand that TSA has developed a draft proposed rule for security training programs and continues its engagement and consultations with stakeholder groups, including the Mass Transit Sector Coordinating Council and the Transit Policing and Security Peer Advisory Group, and TSA is following a similar approach in developing security plan and threat assessment regulations. If confirmed, I will ensure that TSA continues to move forward on implementing 9/11 Act requirements.

49. *TSA's Surface Transportation Security Inspection Program faces several key challenges. GAO has reported that the Surface Transportation Security Inspection Program is at risk of being unable to meet its expanding responsibilities because TSA does not have a workforce plan for the program. A recent report by the DHS OIG found that TSA's complement of Transportation Security Inspectors – Surface (TSIs) is woefully inadequate for the responsibilities they are expected to fulfill. In fact, it found that TSIs have only been able to profile about half of the mass transit stations in the United States, and this workforce will be further strained when TSA begins using more inspectors to oversee pipeline security matters. By comparison, the Department of Transportation employs more than 1,350 surface safety inspectors for the same infrastructure that TSA must help protect. This year the President proposed increasing the number of TSIs, though even with the increase included in the FY2010 appropriations bill, TSA will still have approximately 1,000 fewer inspectors than the Transportation Department.*

- a. *If confirmed, will you prioritize the development of a workforce plan?*

**Response:** It is my understanding that TSA has authorized 404 Surface Transportation Security Inspectors (TSIs) for FY 2010 almost doubling the current workforce that was authorized in FY 2009. It is also my understanding that the TSA currently develops a Compliance Work Plan each fiscal year. This plan identifies the entire spectrum of baseline work requirements, including new initiatives and security

programs, for all of TSA's inspection workforces, to include surface, and is developed based upon available resources. If confirmed and if further examination reveals that additional surface specific workforce planning is necessary, I will ensure that it occurs in a timely manner.

- b. *Do you support further increasing the number of TSI's, to strengthen TSA's role in surface transportation security?*

**Response:** If confirmed, I plan on working with the TSA and DHS HQ senior leadership to identify the entire scope of the agency's responsibilities in surface transportation security and I will review the staffing levels of surface TSIs as they relate to current and future work requirements.

*Establishing a Backup to GPS*

50. *The Administration has proposed terminating the LORAN-C program because it is costly, rarely used, and, by itself, cannot be a backup to GPS since it has no timing element to its signal. However, prior to this proposal, the federal government invested \$160 million over the last 10 years to modernize LORAN-C infrastructure in an effort to facilitate the deployment of eLORAN as a national Position, Navigation, and Timing (PNT) back-up to GPS. GPS, because it uses a low-power satellite signal, is vulnerable to atmospheric interference and jamming. DHS is currently reviewing the needs of the federal government, private sector, and critical infrastructure for a backup to GPS, and has sought guidance from these stakeholders.*

- a. *If confirmed as Assistant Secretary of Homeland Security, how would you assist the Department's efforts to collect information from the transportation sector and analyze that information?*

**Response:** If confirmed, I would utilize the existing framework that TSA has established to communicate and coordinate with both our government and private sector partners. I would also direct the appropriate office or offices to coordinate with our partners throughout the Department and federal government such as the Coast Guard, and the Department of Transportation to ensure that all of the appropriate stakeholders are engaged in providing meaningful input as to the needs of the transportation sector.

- b. *TSA has worked with the trucking and rail industry to test monitoring systems for the transportation of hazardous materials. These systems typically rely on GPS to provide visibility into the movement and location of hazardous materials. Do you believe TSA has a large stake in the determination of a need for a backup to GPS?*

**Response:** While TSA continues to work with shippers and carriers of security-sensitive materials to better understand how the electronic tracking of shipments of these materials can be best utilized in the context of transportation security, I understand that TSA is not a primary user of these systems. If confirmed I believe



that TSA would defer to the expertise of those agencies with the responsibility of ensuring the resiliency of national navigation and communication systems.

- c. *Do you believe that DHS should refrain from disposing of federal property, or otherwise dismantle infrastructure, that could be used for the deployment of eLORAN or some other system to back up GPS, until a final determination has been made on a backup to GPS?*

**Response:** I would respectfully defer to the expertise of the Coast Guard which had primary responsibility for the oversight and operation of the LORAN system.

#### *Intelligence and Information Sharing*

51. *The National Infrastructure Protection Plan and TSA's Transportation Systems Sector-Specific Plan emphasize the importance of working with private sector partners to coordinate protection activities and share information. However, the transportation sector has had difficulty establishing an overarching Sector Coordinating Council (SCC) – an entity called for in these plans to coordinate these efforts. Do you think it is important for TSA to establish an SCC or are there better ways for the agency to coordinate with its private sector partners?*

**Response:** Although TSA has been unable to establish an effective and well-balanced Sector Coordinating Council (SCC) at the transportation sector-level, SCCs have formed based on the modes of transportation (i.e. aviation, highway, pipeline, freight rail, and mass transit, and maritime). I understand that these groups have successfully collaborated and coordinated on transportation security policy and plans. I understand that TSA continues to work with the private sector to create an overarching transportation-level coordination group within the current structure.

52. *What do you believe are TSA's top intelligence priorities today, and how can TSA improve its efforts to address them?*

**Response:** I believe the TSA's top intelligence priority is developing insight into terrorist plans for attacks against our nation's transportation systems. If confirmed, I will work with TSA leadership and the members of the Intelligence Community to improve TSA's access to timely intelligence in a format that can be shared with TSA's operational workforce, stakeholders and foreign partners.

53. *The TSA Office of Intelligence is considered an intelligence component of the DHS under Sec. 207 of the Homeland Security Act (P.L. 107-296), and under the requirements of that section, the head of that office is responsible for supporting and integrating into the broader intelligence mission of DHS as led by the Under Secretary for Intelligence and Analysis. If confirmed, how would you ensure that the TSA Office of Intelligence is integrated into the DHS intelligence enterprise, and that TSA cooperates fully with the DHS Office of Intelligence and Analysis?*

**Response:** It is my understanding that the TSA's Assistant Administrator for Intelligence and Analysis is a full member of the Department's Homeland Security Intelligence Council, a steering committee for the DHS intelligence effort. Furthermore, I understand that TSA participates in DHS joint duty, liaison, and task force initiatives. If confirmed, I will work with TSA leadership to continue supporting these efforts and I will personally collaborate with Under Secretary for Intelligence and Analysis, Caryn Wagner on intelligence issues in which TSA should be involved.

*Human Capital Management*

54. *What do you consider to be the principal challenges in the area of human capital management at TSA? If confirmed, how do you intend to address these challenges?*

**Response:** It is my understanding that the current challenge in the area of human capital management at the TSA is the surge hiring and training necessary to support the incorporation of new security equipment and processes required in the aftermath of the attempted terrorist attack on Christmas day. Related to this is the ongoing challenge of ensuring a flexible, engaged, and fully trained frontline workforce. If confirmed, I intend to work closely with TSA's human capital staff to assess current programs and to determine how these programs can be broadened or enhanced, including creating new programs, to support the security mission and the vital goal of having a well trained, well equipped, and well motivated workforce.

55. *As Assistant Secretary, how will you balance the interests of both labor and management, while improving the overall state of labor-management relations within TSA?*

**Response:** If confirmed, I plan to continue ongoing communications with the unions that have substantial membership within the TSO workforce to discuss common interests and matters of mutual concern affecting the TSO workforce. I would also consider, as part of my thorough review of all aspects of security operations at TSA, how best to achieve the fully engaged, high performing workforce that is necessary for top notch security. At a minimum, all employees must be treated fairly, consistently, and with respect. The TSO's role on the frontlines, their ability to solve problems and think critically, and their input and ideas are critical to our security.

56. *The 2009 Best Places to Work in the Federal Government survey, conducted by the Partnership for Public Service, ranked TSA 213 out of the 216 agency subcomponents, even though it increased its score from 40.6 in 2007, to 49.7 in 2009. If confirmed, how would you assess the nature and causes of such a low ranking at TSA and how would you determine what steps are needed to address them so that TSA could rise to a higher ranking?*

**Response:** Surveys such as the 2009 Best Places to Work in the Federal Government survey show that challenges still remain at TSA but also help to benchmark progress. Although TSA is ranked 213 out of 216, it was the 7<sup>th</sup> most improved agency overall.

TSA was also the largest, most improved subcomponent. Across categories, TSA ranked similarly to DHS overall, as well as other agencies within DHS.

As one of the youngest agencies in the federal government, the fact that TSA is improving rapidly is very significant. It is my understanding that many of the current improvements have come from direct dialogue between senior leadership and all segments of the workforce and, if confirmed, I would continue to build on these efforts. I would also continue to use these and other survey results to identify areas for improvement, while challenging employees to contribute to the effort through avenues like the IdeaFactory and employee councils. If confirmed, I would look to prioritize organizational challenges that still need to be addressed, and take an active role in following through on survey findings, as they are critical to building employee trust and morale, improving job satisfaction, and creating a productive and model workplace.

57. *The human resource system applicable to Transportation Security Officers (TSOs), who perform security screening at airports for the TSA, does not allow collective bargaining, but does include certain employee rights and protections, similar but not identical to those generally available to federal employees. TSA also has established a pay-for-performance system for TSOs. If confirmed, will you reconsider TSA's current workforce system and, in so doing, what criteria will you apply?*

**Response:** The human resource systems in place must be consistent with the mission of the TSA, its core values and the capabilities critical for mission success. If confirmed, I intend to review TSA's current system as it applies to TSOs and other employees as part of my overall review of security performance and requirements.

#### *Contract Management*

58. *GAO found in its report, Department of Homeland Security: Billions Invested in Major Programs Lack Appropriate Oversight (GAO-09-29), that major investments that were not subject to appropriate milestone reviews experienced cost, schedule, and performance problems and, therefore increased program risk. For example, between FY2007 and the second quarter of FY2008, TSA's Electronic Baggage Screening Program experienced 10 percent cost growth. What will you do to ensure that major TSA investments receive appropriate oversight and that actions are taken to mitigate cost, schedule, and performance risks?*

**Response:** It is my understanding that the TSA and DHS HQ have both recently finalized new policies related to acquisition program management, which provides for significant improvements to the process used to document, approve, manage, and oversee acquisition investments. If confirmed, I would work with TSA senior leadership to implement and build upon these new policies to ensure all TSA investments receive appropriate oversight and are executed in a manner that reduces overall risk.

59. *TSA is responsible for a number of major investments, that is, programs with estimated acquisition costs of at least \$50 million, such as the Electronic Baggage Screening*

*Program and the Secure Flight Program. How will your past experience enable you to successfully oversee the management of such large acquisition programs?*

**Response:** For 33 years, I served in the United States Army where I was frequently responsible for the oversight and management of large acquisition programs. For example, while I was the Director of Operations at the Defense Intelligence Agency, I successfully managed over \$1 billion in intelligence collection program requirements. If confirmed, I would apply this experience to my work at TSA and work with TSA senior leadership to provide the necessary oversight required to ensure that large acquisition programs are adequately executed in a way that maximizes taxpayer resources.

60. *Last month, DHS estimated that over 200,000 contractors worked at the Department. This astonishing number exceeds the 188,000 civilian employees at DHS (not including the uniformed personnel in the U.S. Coast Guard) and heightens concerns that contractors may be performing "inherently governmental functions," from which they are prohibited, work closely supporting "inherently governmental functions," or other core functions. While the Committee, GAO, and many outside observers recognized the need for DHS's heavy reliance on contractors during its early days, more than six years later, many offices remain heavily staffed by contractors who perform a variety of tasks at the core of DHS's operations, including policy planning, the drafting of regulations, intelligence analysis, preparation of budget requests, and even the drafting of an IG report.*

- a. *What will you do to strengthen TSA's own ability to perform those tasks at the core of its operations, whether inherently governmental, closely supportive of "inherently governmental functions," or other core functions?*

**Response:** It is my understanding that the TSA, as part of a DHS initiative, is engaged in identifying and converting to Federal employees those positions currently held by contractors that are nearly inherently governmental, closely supportive of inherently governmental functions, or other core functions. If confirmed, I would support this effort and would work with TSA senior leadership to ensure that the tasks at the core of TSA's mission are performed by the appropriate staff.

- b. *Given the government's extensive reliance on contractors, what would you suggest are the key considerations in determining the appropriate role for contractors in supporting government operations (particularly, in the areas that border on "inherently governmental functions," such as rulemaking and awarding contracts)?*

**Response:** There are a wide range of factors to consider for such situations. It is always important to consider real or perceived conflicts of interests, as well as the potential for future conflicts. It is also important to consider the Federal Government's ability to function in times of crisis and the importance of establishing long term capability and institutional knowledge. If confirmed, I would work with TSA senior leadership to ensure that contractors are used appropriately across TSA.

- c. *Government contractor employees often work side-by-side with federal employees, and also perform the same or similar functions as their federal employee counterparts. Please discuss any experiences that you have had managing such augmented workforce and your views on ensuring that government agencies establish appropriate safeguards to prevent conflicts of interest by contractor employees.*

**Response:** Throughout my 33 years in the Army, I directly managed organizations in which Federal employees worked side-by-side with contractors. While in private industry, I, in turn, have worked very closely with Federal employees. It is vital in such situations that both Federal and contract employees fully understand the limitations and responsibilities of contractor and the roles and functions that must be performed and supervised by federal employees.

- d. *Do you believe that contracting out of work, even if not "inherently governmental," can reduce essential staff expertise or otherwise diminish the institutional strength of agencies? If so, how should such considerations be taken into account in determining whether work should be contracted out or done in-house?*

**Response:** Most government agencies contract for a wide array of support services, some of which, even if not considered an inherently government effort, are closely related to their ability to achieve mission success. If confirmed, I would work closely with TSA senior leadership to implement long term human capital and acquisition strategies that will preserve the institutional strength that is vital to long term success.

61. *In July 2008, TSA awarded a contract to Lockheed Martin for human resource services. The total value of the contract for services to TSA is approximately \$1.2 billion, and the contract also provides flexibilities for DHS headquarters use of Lockheed Martin human resource services, creating a possible contract worth \$3 billion. Given the enormity of the contract, there is a risk that work will be transferred from federal employees to the contractor without DHS going through the required competition requirements under OMB Circular A-76. Will you commit to reviewing whether any A-76 requirements are violated by the terms of the contract itself, and whether precautions are in place to prevent work of TSA employees from being shifted to the contractor in circumvention of A-76 requirements in the future?*

**Response:** If confirmed, I would work closely with TSA senior leadership to ensure that A-76 and all other policies in this area are accurately and consistently implemented.

62. *Contractors are prohibited by law from performing so-called "inherently governmental functions." However various sources define inherently governmental differently and in any event, it is not unusual for contractors to provide services that, even if they do not technically meet the definition, closely support inherently governmental functions. What will you do to strengthen TSA's own ability to perform those tasks at the core of its operations, whether inherently governmental or closely supportive of inherently governmental functions?*

**Response:** As stated above, if confirmed, I would work closely with TSA senior leadership to ensure that TSA implements human capital and acquisition strategies that preserve the institutional strength to establish mission objectives and enable long term success.

63. *Based on your experience and given TSA's extensive reliance on contractors, what would you suggest are the key considerations in determining the appropriate role for contractors in supporting the agency (particularly, in the areas that border on inherently governmental functions, such as policy making or human resources management)?*

**Response:** As stated above, there are a wide range of factors to consider in such situations. It is always important to consider real or perceived conflicts of interests, as well as the potential for future conflicts. It is also important to consider the government's ability to function in times of crisis and the importance of establishing long term capability. If confirmed, I would work with TSA senior leadership to ensure that contractors are used appropriately throughout the agency.

64. *Contractor employees often work side-by-side with TSA employees, and also perform the same or similar functions as their government counterparts. Have you had any experiences managing an intermingled workforce?*

**Response:** As stated above, throughout my 33 years in the Army, I directly managed organizations in which Federal employees worked side-by-side with contractors. While in private industry, I, in turn, have worked very closely with federal employees. It is vital in such situations that both Federal and contract employees fully understand the limitations and responsibilities of contractor employees and the roles and functions that must be performed or supervised by federal employees.

65. *If confirmed, what safeguards would you ensure were in place, to prevent conflicts of interest by contractor employees?*

**Response:** Safeguards to prevent conflicts of interest include contractor disclosure and mitigation of actual, potential, and perceived conflicts of interest and rigorous oversight of what activities and roles contractors are permitted to undertake. It is my understanding that TSA uses these safeguards and, in some cases, contractors are actually barred by TSA from working on certain efforts where a conflict of interest cannot be adequately mitigated. If confirmed, I would work closely with TSA senior leadership to continue and strengthen these safeguards.

#### **IV. Relations with Congress**

66. *Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?*

**Response:** Yes.

67. Do you agree, without reservation, to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

**Response:** Yes.

**V. Assistance**

68. Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate which entities.

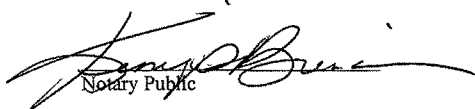
**Response:** These answers are my own. I have consulted with senior staff within the DHS and TSA on preparing these answers. I have also had standard pre-confirmation discussions with staff at DHS, the Office of Government Ethics, and the White House Personnel Office.

**AFFIDAVIT**

I, ROBERT A. HARDING, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



Subscribed and sworn before me this 19th day of March, 2010.



NOTARY PUBLIC  
DISTRICT OF COLUMBIA

My Commission Expires April 14, 2014

**Senator Carl Levin**  
**Questions for the Record**  
**Pre-Hearing Questions for Robert Harding**  
**Assistant Secretary, Department of Homeland Security (Transportation Security**  
**Administration)**  
**March 12, 2010**

1. We have heard from some airlines that passengers and airlines were frustrated by Security Directives TSA issued in the hours immediately following NW flight 253. I understand their frustration was driven by a lack of coordination between TSA and carriers about the content of those directives. However, over the course of the following weeks, carriers have been pleased with the level of dialogue between TSA and carriers in refining the measures taken after flight 253 and developing future measures. If you are confirmed will you commit to ensure that an open and frank dialogue and working relationship between TSA and carriers will continue and expand so that security measures can strike the balance of meeting developing threats effectively while minimizing any unintended negative impact on passengers?

**Response:** I am fully committed to a strong working relationship between TSA and air carriers continuing the direction set by Secretary Janet Napolitano. I understand that following the attempted terrorist attack on NW flight 253, both TSA leadership and the Secretary were in close and frequent contact with the airline industry, representatives of airports and airport executives. If confirmed, stakeholder outreach and involvement will be an important priority at TSA.

2. An issue of concern to carriers serving Michigan regards the requirement that checked bags originating in Canada be re-screened using US-certified EDS machines upon arrival in the U.S. This is despite the fact that passengers and their carry-on luggage have been pre-screened both for security and CBP purposes before they board their inbound flights? I understand that U.S. law requires this rescreening, but it creates challenges for passengers connecting to other U.S.-bound flights. Will you give this issue some consideration in looking for ways to resolve this problem?

**Response:** Under the Aviation and Transportation Security Act of 2001, TSA is required to screen all checked baggage within the U.S. commercial aviation system. If confirmed I would work with Congress, Canada and other stakeholders to look into this matter.

