

Date: February 4, 2011

To: All TSA Employees

From: John S. Pistole
Administrator

Subject: 100 – Administrator's Determination Regarding Collective Bargaining

Since I arrived at TSA, I have been giving careful thought to the question of collective bargaining for TSOs. I have looked at workforce data, sought out the experience of others in the security and law enforcement fields that have collective bargaining – including the New York Police Department and Customs and Border Protection and listened to many views on how this issue affects TSA's mission requirements and the security and confidence of the traveling public. I have heard from our TSOs in Town Halls, emails, in National Advisory Council meetings and through the IdeaFactory. I have talked to Federal Security Directors and field management and have met with the presidents of the two unions currently seeking to represent TSOs.

Based on this review and after much consideration, I have issued a Determination today, using my authority under the law that created TSA, to enable our TSO workforce to vote on whether or not they want to engage in collective bargaining under a unique framework that includes bargaining on limited, non-security issues relating to employment. This Determination sets forth a fair labor relations system unique to TSA that will protect TSA's capability and flexibility to respond to evolving threats, maximize the utilization of TSA resources, and improve performance, employee engagement and professional development. The full version of my Determination will be available [on iShare](#).

Specifically, I have determined that:

1. A union election for limited collective bargaining on non-security employment issues can be conducted consistent with security requirements.

I am exercising my discretion under the Aviation and Transportation Security Act (ATSA) to allow Transportation Security Officers to vote on whether they want representation for limited collective bargaining on non-security employment issues. The election will be conducted by the Federal Labor Relations Authority (FLRA) and likely take place this spring.

The safety of the traveling public is our top priority and we will not negotiate on security. But morale and employee engagement cannot be separated from achieving superior security. If security officers vote to move forward with collective bargaining, the framework I outlined in the Determination will ensure that TSA retains the capability and flexibility necessary to respond to evolving threats, and continues improving employee engagement, performance and professional development. Additionally, it would ensure

that a union's role would help to reinforce consistency and accountability across security operations at all airports.

2. TSA leadership will remain neutral during the election process.

TSA managers will refrain from comments or actions in favor of or opposed to selection of a representative for employees, or in favor of one union over another. TSA will continue existing engagement programs and forums that involve employees in improving TSA operations and working conditions.

3. Binding collective bargaining will be allowed under specified conditions that protect security.

In November 2010, the FLRA issued a decision directing a union election expressly for purposes *other than* collective bargaining. If a union is elected by the TSOs to represent them, the representation framework outlined in my Determination will go beyond the FLRA decision to include binding collective bargaining under specific conditions.

4. Collective Bargaining will cover specific employment issues but not security policies and procedures.

The scope of collective bargaining with a union, if elected, will cover the specific employment issues listed in the Determination, including:

- The performance management process
- Awards and recognition process
- Attendance management guidelines process
- Shift bids

The Determination prohibits bargaining on any topics that might affect security, such as:

- Security policies, procedures or the deployment of security personnel or equipment
- Pay, pensions and any form of compensation
- Proficiency testing
- Job qualifications
- Discipline standards

5. Collective Bargaining will occur only at the national level.

If a union is elected as the exclusive representative, collective bargaining will occur only at the national level, and the collective bargaining agreement will be national in scope and will cover all unit employees. Local level bargaining and local level agreements will be prohibited.

6. The bargaining unit will include personnel who perform screening.

Employees included in the national bargaining unit for a union election are full- and part-time non-supervisory personnel who perform screening functions. Supervisors and managers will not be included in the bargaining unit. Employees included in the bargaining unit are TSOs, LTSOs, Master Transportation Security Officers and Expert

Transportation Security Officers. The latter two groups include Behavior Detection Officers, Security Training Instructors, and Equipment Maintenance Technicians.

- 7. Employees have the freedom to choose whether or not to be represented by a union.**
All covered employees will have the right to vote in the union representation election and, without restraint or coercion, to join and support any union of their choosing or to refrain from joining or supporting any union. If a union is elected, employees may choose to join or not to join a union. If they do not join, they do not need to pay any dues or agency fees. In dealings with management, employees may choose to be represented by an elected union, by another person (though not another union) or may represent themselves.
- 8. Union representation will be structured to support the TSA mission.**
If a union is elected, the representation framework will be an arrangement unique to TSA. The framework will enable TSA to continue to evolve and to make changes swiftly in security procedures, practices, and technology. Collective bargaining and processes such as dispute resolution will be structured to meet these conditions and conserve time and resources.
- 9. A union election and collective bargaining will not affect day-to-day operations.**
Day-to-day operations will not be affected by a union election nor by collective bargaining activities should a union be chosen. Security personnel will continue to screen according to TSA policies and procedures as determined by TSA managers. TSA personnel will not engage in union activities while on duty. Strikes and work slowdowns of any kind are strictly prohibited.
- 10. If a union is chosen by employees, the Determination sets forth a framework for a constructive and results-oriented relationship between TSA and a union.**
The Determination sets forth a framework that will ensure mutually constructive and results-oriented interactions between TSA and a union. We will use interest-based processes to bargain, address workplace issues by involving those close to the concern, and resolve any disputes through a process that is rapid and brings closure. The goal is a relationship that is fair, transparent and includes checks and balances.

Today, and in the days ahead, you will be hearing more about the details, processes, and timelines related to this Determination. I look forward to working with all of you to ensure that we have an election that is free and fair and that continues to further TSA's mission. Whatever the outcome of the election, our agency will continue to grow as a global leader in counterterrorism.

Thank you for all you do for each other and the American people.

Jh. S. Pottle