

United States Senate  
WASHINGTON, DC 20510-4105

January 31, 2024

The Honorable David Pekoske  
Administrator  
Transportation Security Administration  
6595 Springfield Center Dr.  
Springfield, VA 22150

Dear Administrator Pekoske:

We write regarding the future of the Transportation Security Administration's (TSA) PreCheck program and TSA's progress toward expanding enrollment in a secure manner, consistent with the TSA Modernization Act.<sup>1</sup> It is crucial that other transaction authority (OTA) agreements reached by TSA fully reflect congressional intent to expand PreCheck enrollment opportunities in new communities, particularly those in rural areas, through the use of innovative technologies and methods. We are concerned that entities operating under OTA agreements are instead duplicating services already provided under the Universal Enrollment Services (UES) program. We are also concerned about reports of serious security breaches by CLEAR and request more information regarding how TSA is ensuring that CLEAR and other OTA providers maintain the highest security standards before executing OTA agreements with TSA.

We recognize your strong commitment to expanding PreCheck given how essential the program is to improving aviation security and the efficiency of screening checkpoints. However, we are concerned with TSA's implementation of the TSA Modernization Act's language aimed at expanding enrollment opportunities in areas which – due to geographical or other circumstances – lack accessible enrollment options. As you know, Section 1937 of the TSA Modernization Act directs TSA to enter into OTA agreements to provide enrollment services in a way that is additive – not duplicative – of enrollment services provided under UES.<sup>2</sup>

Unfortunately, it appears that OTA agreements reached by TSA duplicate the enrollment services provided by UES. For example, many of the locations where these services are provided through OTA agreements appear to be in close geographic proximity to enrollment centers provided under UES. Additionally, the enrollment services provided through OTA do not appear to utilize novel approaches or technologies, such as mobile or remote enrollment, which could greatly expand access to TSA PreCheck for Americans.<sup>3</sup> Effectively, the enrollment services provided through the two existing OTA agreements still leave rural communities and other underserved areas without an accessible enrollment option, in contravention of the intent of the TSA Modernization Act.

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<sup>1</sup> P.L. 115-254

<sup>2</sup> 49 U.S.C. §44919(k)

<sup>3</sup> S.4577 (116)

We are also aware that CLEAR has been authorized to provide OTA enrollment services despite having recently undergone a TSA probe<sup>4</sup> due to numerous reports of security breaches at airports where CLEAR provides services under the RT program.<sup>5</sup> Based on the major security threats outlined in these reports, we have serious concerns about CLEAR's viability as a provider of enrollment services pursuant to their OTA agreement without a full TSA investigation of these reports or documentation of actions both CLEAR and TSA have taken to address these issues.

We believe that TSA should use the OTA agreements awarded in accordance with Section 1937 to focus solely on expanding PreCheck enrollment opportunities – especially through the use of new technologies – to communities who lack accessible enrollment options rather than duplicating enrollment services already provided under the UES program. We also believe entities providing services under OTA should be held to the highest security standards to keep the traveling public safe.

Accordingly, we respectfully request that you respond in writing to the following questions within 30 days:

1. What criteria does TSA use to review and approve proposed new enrollment centers under OTA agreements?
2. Has TSA considered other methods, including new technology, to expand enrollment in PreCheck, particularly to rural and other underserved areas, using OTA agreements? If so, can you describe those methods?
3. Has TSA made progress in working with the Federal Bureau of Investigation to develop secure methods of biometric identification for use in a remote PreCheck enrollment option?
4. Has TSA worked with other federal partners to consider leveraging additional security information, such as security clearance investigations, to inform or supplement other enrollment pathways?
5. How is TSA working to ensure that new enrollment centers established pursuant to OTA agreements are not duplicative – geographically or otherwise – with enrollment services provided under UES? What criteria does TSA use to establish new centers?
6. Can you describe how enrollment services provided through OTA agreements interact with such services provided under UES, specifically as they relate to online renewal enrollment services for PreCheck?
7. What actions has TSA taken in response to reports of serious security breaches by CLEAR?

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<sup>4</sup> Bloomberg News. Clear Led a Flyer Carrying Ammo Under a False Name to TSA, Sparking Probe. July 28, 2023. <https://www.bloomberg.com/news/articles/2023-07-28/man-carrying-ammo-sparks-probe-of-how-clear-cuts-airport-lines#xj4y7vzkg>

<sup>5</sup> Washington Post. TSA to require additional screening step for some travelers at airports. July 12, 2023. <https://www.washingtonpost.com/transportation/2023/07/12/tsa-airport-screening-clear-checkpoints/>

8. Has TSA taken the reported security breaches by CLEAR into account as part of its continued oversight of CLEAR as an OTA provider? If so, what actions has the agency taken in response, and what measures has CLEAR taken to remedy its vulnerabilities?

Thank you for your attention to these issues, and we look forward to working with you to keep the national aviation system secure. Should you have any questions, please do not hesitate to contact our staff.

Sincerely,

  
JOHN THUNE  
United States Senator

  
GARY C. PETERS  
United States Senator