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September 26, 2012

VIA CERTIFIED MAIL

Transportation Security Administration, TSA-20, East Tower
FOIA Division
601 South 12th Street
Arlington, VA 20598-6020

Dear FOIA Officer,

This letter constitutes a request under the Freedom of Information Act, 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Transportation Security Administration (“TSA”).

EPIC seeks the TSA’s Functional Requirements Document for a Second Generation Advanced Imaging Technology System for Checkpoint Operations, dated January 17, 2012.

Background

Since 2008, the TSA has employed body scanner technology in American Airports.¹ The body-scanners used by the TSA employ two types of imaging technology – backscatter X-Ray and millimeter wave.² Currently, there are approximately 700 imaging technology units in use at more than 180 airports.³

The backscatter technology uses high energy x-rays that are more likely to scatter than the lower-energy x-rays used in medical applications, but can move through clothing.⁴ When a passenger is scanned using the backscatter technology, a highly graphic image of the surface of the person’s nude form is reconstructed.⁵

The TSA’s use of body scanner technology has raised a number of privacy and safety concerns regarding the technology’s ability to see through clothing and the x-ray

¹ *Advanced Imaging Technology*, TSA, <http://www.tsa.gov/approach/tech/ait/index.shtm> (last visited Sept. 22, 2012).

² *Id.*

³ *Id.*

⁴ *Whole Body Imaging Technology and Body Scanners*, EPIC.org, <http://epic.org/privacy/airtravel/backscatter/#3> (last visited Sept. 22, 2012).

⁵ *Id.*

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technology employed by the scanners. The high image resolution delivered by this technology raises privacy concerns for travel passengers.⁶ Furthermore, documents obtained by EPIC indicate that the machines have the potential to save the images to the system's hard disk for subsequent viewing and transfer images via USB.⁷

The TSA is changing its body scanner technology to include Automated Target Recognition, a new software that the agency claims will automatically alert TSA officers to potential threats located on a person.⁸ The updated technology of the "second-generation" body scanner program contracted for by the TSA elevates privacy concerns for civilian travelers, as it will have the increased capacity to alert "automatically" to non-metallic and plastic belongings.⁹ The TSA has previously stated that it plans to install second-generation body scanner technology on all currently deployed millimeter wave imaging technology units at U.S. airports nationwide.¹⁰

The TSA's call for proposals document references, on page 11, a document entitled "AIT-2 Functional Requirements Document" containing the TSA/Office of Security Capabilities Functional Requirements Document for a Second Generation Advanced Imaging Technology System for Checkpoint Operations, dated January 17, 2012 (Version 2.0). The TSA states that this document is available upon request.¹¹

Documents Requested

EPIC seeks the TSA's Functional Requirements Document for a Second Generation Advanced Imaging Technology System for Checkpoint Operations, dated January 17, 2012 (Version 2.0).

Request for "News Media" Fee Status

EPIC is a "representative of the news media" for fee waiver purposes.¹² Based on our status as a "news media" requester, we are entitled to receive the requested record with only duplication fees assessed. Further, because disclosure of the functional requirements document requested will contribute significantly to public understanding of new TSA traveler screening practices, any duplication fees should be waived.

⁶ *Id.*

⁷ *Id.*

⁸ *TSA Takes Next Steps to Further Enhance Passenger Privacy*, TSA, <http://www.tsa.gov/press/releases/2011/0720.shtm> (last visited Sept. 22, 2012).

⁹ *Id.*

¹⁰ ¹⁰ *TSA Takes Next Steps to Further Enhance Passenger Privacy*, TSA, <http://www.tsa.gov/press/releases/2011/0720.shtm> (last visited Sept. 22, 2012).

¹¹ TSA Document HSTS04-12-R-CT2011 (2011), available at: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=2f9f278efe70bde1687786d50070b6d0&_cvview=0

¹² *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

Expedited Processing

This request warrants expedited processing because it is made by “a person primarily engaged in disseminating information...” and it pertains to a matter about which there is an “urgency to inform the public about an actual or alleged federal government activity.”¹³

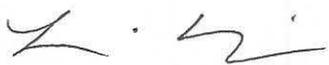
EPIC is “primarily engaged in disseminating information.”¹⁴

There is a particular urgency for the public to obtain information about changes in the body scanner technology currently in use at airports nationwide. The existing body scanner technology employed by the TSA has already incited considerable privacy concerns, and changes in the technology raise new questions regarding traveler privacy. The multi-million dollar advanced imaging technology contract with American Science & Engineering, Inc., with a maximum value of \$245 million, indicates that this new technology will soon be widespread.¹⁵ There is an urgent need for the public to understand how the new technology will change the way in which the TSA treats, stores, and transmits traveler images. For this reason we request expedited processing.

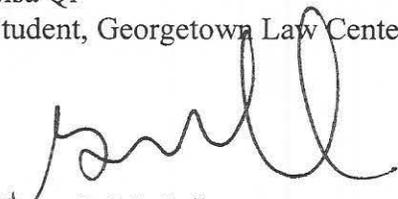
Conclusion

Thank you for your consideration of this request. As provided by 5 U.S.C. § 553(6)(e)(2), I will anticipate your determination on our request for expedited processing within 10 business days. For questions regarding this request, I can be reached at 202-483-1140 x 102, or FOIA@epic.org.

Respectfully Submitted,



Lisa Qi
Student, Georgetown Law Center



Ginger P. McCall
Director, EPIC Open Government Project

¹³ 5 U.S.C. § 552(a)(6)(E)(v)(II) (2008); *Al-Fayed v. CIA*, 254 F.3d 300, 306 (D.C. Cir. 2001).

¹⁴ *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.C.C. 2004).

¹⁵ *AS&E's advanced imaging technology contract from TSA could reach \$245 million*, Government Security News, http://www.gsnmagazine.com/node/27302?c=airport_aviation_security (last visited Sept. 19, 2012).