

June 22, 2006

Docket Management Facility
U.S. Department of Transportation
Room Plaza 401
400 Seventh Street SW
Washington, DC 20590-0001

RE: Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector Notice of Proposed Rulemaking Docket: TSA-2006-24191; Coast Guard 2006-24196

Gentlemen:

The Alabama State Port Authority (ASPA) was created to promote, maintain and operate the harbors, seaports and inland waterways system within the State. The Authority is self-supporting and it functions generally in the manner of an enterprise operation. ASPA revenues are not paid into the State treasury, and the port receives no appropriations from the State to pay for maintenance or operating costs.

The Port of Mobile was ranked as the 12th largest port, by cargo volume, in the most recent US Army Corps of Engineers survey. ASPA's principal facilities at the port are:

- Twenty seven general cargo berths with 4.8 million square feet of warehouse and open storage space
- The largest coal import/export terminal in the U.S.
- An export grain elevator
- A dry bulk materials handling plant
- A container handling facility
- A terminal railroad system
- A liquid bulk terminal
- A cold storage facility

ASPA strongly supports the implementation of TWIC for maritime workers and believes it will be an important enhancement to our current security system. Providing a federal card that includes a terrorist background check of workers will provide an added layer of security for our access control system. ASPA supports the comments submitted by the American Association of Port Authorities and we will confine our comments to the sections of the rule which we believe will pose the most significant challenge to ASPA and many of the nation's ports:

- The failure of the proposed rule to take into account the large number of casual employees who work at ports.
- The requirement to escort all persons who have not been granted a TWIC and the record-keeping necessary to document compliance.
- The requirement that the Owner ensure that someone on the facility know who is on the facility at all times.

ASPA Comments Re TWIC NPRM
June 22, 2006

ASPA has very diverse operations and must deal with many different aspects of security. Even before the events of September 11, 2001, we had begun to tighten security at our port by restricting vehicle access to piers and warehouses, tightening requirements for obtaining vehicle decals, developing designated parking areas and converting from a security guard force to a sworn officer police force.

Since September 11, our challenge has been to balance facilitation of trade with the need to increase security. We have developed a formal Access Policy (which can be viewed at www.asdd.com) incorporating a digital fingerprint-based credentialing process and restricted access to persons with verifiable business at the port, created new designated off-pier parking areas for vehicles, fenced the perimeter of the main-docks complex, commissioned installation of a CCTV system and supporting lighting improvements, and developed training programs to meet the requirements of Coast Guard regulations.

Since the implementation of our credentialing program in August 2002, which incorporated the Florida background check model, we have issued 10,462 credentials, of which 6503 are currently valid. During the issuing process we arrested 45 applicants based on outstanding wants and warrants and denied credentials to 110 applicants based on the results of the criminal background check. Ten credentials have been revoked for Access Policy violations during the four years the policy has been in place.

ASPA processes approximately 700-800 port and tenant employees and 400 trucks per day through its Access Control system. On an average day, 350-400 employees are casual laborers, which is approximately 50% of the workforce. More than 2200 of the 6503 valid ASPA IDs have been issued to employees of companies that supply part-time and temporary workers. Additionally, on an average day, temporary IDs are issued to 25 employees who have forgotten their credentials and 35 visitors are issued Visitor's IDs. Approximately 20 replacement badges are issued each month to persons who have lost or damaged their credential.

The requirement to deny access to casual employees of port tenants until they have submitted to a 30-60 day vetting process will fundamentally alter the business model of many of these employers, and may cause some of them to cease operations all together. The two most recent hurricane seasons have created a well-documented labor shortage across the U.S. Gulf Coast, and it is not reasonable to assume that the Port of Mobile's 2200 casual workers will invest the time and money required to obtain a TWIC, when other well-paying alternatives are available to them. We believe this problem could be mitigated, to a large extent, by revising the proposed regulations to allow individual MTSA-regulated facilities, who have established a credible access control system, which incorporates a background check acceptable to TSA and Coast Guard, to issue temporary credentials during the TSA vetting process. We would further propose that such facilities be allowed to issue temporary credentials to individuals who have received TWICs but do not have them in their possession when requesting access or who have lost their TWIC and are waiting for a replacement credential from TSA.

The changes proposed in 33 CFR 105.225, wherein *“Coast Guard proposes adding a new record-keeping requirement, mandating that owners/operators maintain records for two years of all persons who are granted access to the facility”* will dramatically increase the record-keeping requirements placed on MTSR-regulated facilities. Coast Guard states that *“The requirement does not distinguish between those who were granted unescorted access because they carried a TWIC and those who were granted escorted access”*, requiring retention of records of access granted to persons who have been fully vetted by TSA, and for which Coast Guard offers no explanation or justification. ASPA requests that this proposal be deleted from the final rulemaking.

The requirement in 33 CFR 105.225 wherein, *“For individuals who were granted escorted access, the owners/operators would be required to record each date that the individual is escorted, and identify his escort”* will place significant burdens on ASPA and other ports that retain control of their facility security. As we have previously stated, approximately 35 visitors seek access to our facilities each day and the majority of these visitors are calling on port tenants. ASPA would either have to rely upon tenants, who have no direct responsibility for compliance with Coast Guard regulations, to provide much of the required information, or dedicate its own police officers to escort duties. ASPA requests that Coast Guard further consider the impact of this proposal.

The requirement that the Owner ensure someone on the facility know who is on the facility at all times will place a tremendous strain on many ports. Even if card readers are installed at each entry and exit point, and all TWIC holders utilize them, provisions will still have to be made to capture data from visitors, passengers in cargo trucks and vessel crew members. Additionally, in the case of ASPA, seven to ten vessels are working on the average day. Most, if not all, of the crew members on these vessels will not have TWICs. Therefore, in order to know if they are on the facility, ports, which do not have CCTV systems with DVA capability, would have to post guards at each vessel to control facility access. Since access control for vessels would be required around the clock, as many as 30 security guards could be required for a facility similar to ASPA.

Even ports with CCTV systems would have to budget for additional security personnel to intercept crew members attempting to disembark from vessels and to escort crew members and visitors while they transit port property, since current Coast Guard regulations require such access be granted. ASPA does not believe Coast Guard has fully considered the impact of its requirement to grant access to foreign nationals who have not been vetted by TSA, while at the same time, they propose that the Owner insure someone on the facility know their whereabouts at all times.

TSA and Coast Guard have stated in the NPRM that the proposed rule *“Imposes no significant barriers to international trade.”* And that it *“Does not impose an unfunded mandate on State, local or tribal governments...”* ASPA estimates the cost of compliance with this NPRM to be at least \$400,000.00 for the infrastructure improvements and software needed to meet the proposed regulations and \$90,000.00 to cover the cost of the TWIC for our employees. The cost of the additional personnel that

ASPA Comments Re TWIC NPRM
June 22, 2006

would be required to satisfy the proposed escort and control provisions, could easily add another \$6-700,000.00 in annual payroll costs at many ports. The costs associated with lost production time caused by bottlenecks at entry and exit points are not easily estimated, but could potentially add hundreds of thousands of dollars to the total, and place added strain on a logistics system many predict is near the breaking point. ASPA believes the proposed rule does, in fact, pose a potentially significant barrier to international trade and, further, that it imposes an unfunded mandate on ASPA, which is an agency of the State of Alabama, and other port authorities owned and operated by state and local governments.

If persons requesting access are properly screened during the entry process, it seems there is little value in knowing precisely how many persons are on the facility at all times or in requiring them to use a TWIC to exit. ASPA does not believe TSA has fully considered the impact of the monitoring and exit screening provisions, or has explained or justified the benefits of the proposed requirement that the Owner ensure someone on the facility know who is on the facility at all times, and requests that it be deleted from the final rulemaking.

Finally, TSA has stated that it plans to implement the TWIC through a phased enrollment process, using fixed and mobile enrollment centers at 125 locations. TSA does not address post-enrollment utilization of the facilities in its NPRM. In addition to the 20 replacement badges issued each month, ASPA issues approximately 50 new badges each week. ASPA considers post-enrollment maintenance of the enrollment centers to be critical to the on-going success of the program and requests that TSA address this issue in the final rulemaking.

ASPA appreciates this opportunity to comment on the proposed rule and looks forward to working with TSA, Coast Guard and the port community to implement reasonable, cost-effective regulations to help enhance the security of our nation's ports. If TSA or Coast Guard has any questions regarding these comments, I can be reached at 251-441-7237 or by email at hhudgins@asdd.com.

Sincerely yours,

Hal Hudgins
Vice President, Planning and Security
Alabama State Port Authority