

**GAO**

Testimony

Before the Committee on Commerce,  
Science, and Transportation,  
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# MARITIME SECURITY

## Progress Made in Implementing Maritime Transportation Security Act, but Concerns Remain

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**Highlights**

Highlights of GAO-03-1155T, a testimony before the Senate Committee on Commerce, Science, and Transportation

## Why GAO Did This Study

After the events of September 11, 2001, concerns were raised over the security of U.S. ports and waterways. In response to the concerns over port security, Congress passed the Maritime Transportation Security Act in November 2002. The act created a broad range of programs to improve the security conditions at the ports and along American waterways, such as identifying and tracking vessels, assessing security preparedness, and limiting access to sensitive areas. A number of executive agencies were delegated responsibilities to implement these programs and other provisions of the act.

The Senate Committee on Commerce, Science, and Transportation asked GAO to conduct a review of the status of the agencies' efforts to implement the security requirements of the act. This testimony reflects GAO's preliminary findings; much of GAO's work in the area is still under way.

[www.gao.gov/cgi-bin/getrpt?GAO-03-1155T](http://www.gao.gov/cgi-bin/getrpt?GAO-03-1155T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Margaret Wrightson, 415-904-2000, or [wrightsonm@gao.gov](mailto:wrightsonm@gao.gov).

## MARITIME SECURITY

# Progress Made in Implementing Maritime Transportation Security Act, but Concerns Remain

## What GAO Found

Agencies responsible for implementing the security provisions of the Maritime Transportation Security Act have made progress in meeting their requirements. Thus far, GAO has obtained information about 43 of 46 specific action areas, and efforts are under way in 42 of them. For example, the Coast Guard, the Department of Homeland Security agency with lead responsibility for most of the assignments, has published six interim rules covering responsibilities ranging from security of port facilities to vessel identification systems. Two other agencies within the new department—the Transportation Security Administration and the Bureau of Customs and Border Protection—have actions under way in such areas as establishing an identification system for millions of port workers and setting information requirements for cargo. The Maritime Administration, a Department of Transportation agency, has already completed or is well into implementing such responsibilities as developing training for security personnel.

While much has been accomplished, GAO's review found five areas of concern. Three relate primarily to security issues:

- Only a limited number of ports covered by vessel identification system,
- Questions about the scope and quality of port security assessments, and
- Concerns related to approving security plans for foreign vessels.

Two relate primarily to organizational and operational matters:

- Potential duplication of maritime intelligence efforts, and
- Inconsistency with Port Security Grant Program requirements.

### Coast Guard Vessels Enforcing a Security Zone Around a Cruise Ship



Source: U.S. Coast Guard.

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Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the implementation of the Maritime Transportation Security Act (MTSA) of 2002. This sweeping piece of legislation was enacted just 10 months ago, but it has already produced major changes in the nation's approach to maritime security. At your request, we have begun reviewing the implementation of security provisions of Title I of MTSA. I am here today to tell you about our preliminary findings and what agencies within the Department of Homeland Security (DHS) and other federal departments are doing to fulfill their many responsibilities under the act. I also want to advise you about specific matters that agency officials or others have brought to our attention thus far and other issues that may require further oversight. We will be continuing our efforts to more fully evaluate a number of the issues I will address today, and we plan to issue a report when this work is complete.

Our information is based on interviews with agency officials charged with implementing MTSA's provisions, as well as with officials and stakeholders from several ports.

Our preliminary findings are as follows:

- Progress has been made in implementing MTSA. MTSA called for actions in 46 key areas we identified, such as creating a maritime intelligence security system, assessing security conditions in port areas, creating and implementing a vessel tracking system, and creating identification systems for port workers and seafarers. So far, we have obtained information for 43 of these areas, and agency officials indicate that actions are complete or under way in 42 of them. For example, the Coast Guard, which had lead responsibility for most of the assignments, has six interim rules in place covering major areas of responsibility, such as security in and around the ports, aboard individual vessels, and at individual facilities. All six Coast Guard Maritime Safety and Security Teams included in the fiscal year 2003 budget are expected to be operational by the end of September 2003; these teams are designed to provide increased protection against terrorism in and around the nation's harbors. Also, the Transportation Security Administration (TSA) is testing new identification cards for controlling access to secure transportation facilities, including vessels and port facilities. The agency plans to start issuing the cards to millions of port workers in 2004. The Bureau of Customs and Border Protection (BCBP) and the Maritime Administration (MARAD), the two other agencies with the largest set of responsibilities under MTSA, also are making progress on

major projects. Agency officials told us that cooperation and coordination on MTSA implementation has been strong. Further work will be needed to determine the extent to which early progress will be sustained over the course of implementation efforts and whether the spirit of cooperation translates into efforts at the port level.

- These findings notwithstanding and bearing in mind our caveats as to the preliminary nature of these results, five areas have surfaced as potentially requiring further attention. (See table 1.)

**Table 1: Summary of Areas That Require Further Attention**

Area	Description
<b>Security-related matters</b>	
Vessel identification system	A system has been developed and is being implemented, but the shore-based infrastructure needed is not present at many U.S. ports. As a result, the system may not be in place at these ports for several years.
Port security assessments	Assessments being conducted by an outside contractor have been criticized for their scope and quality, and the contractor has attempted to move to the next phase of the work before evaluating lessons learned.
Vessel security plans	Concerns have been raised about the Coast Guard's plan to accept other countries' certification of vessel security plans.
<b>Operational and efficiency matters</b>	
Maritime intelligence system	Coast Guard and Transportation Security Administration may be duplicating efforts in collecting intelligence information about vessels and cargoes.
Grants program	A MTSA-required program of grants for assisting in security preparations is being folded into an existing grants program, affecting the application of MTSA grant requirements.

Source: GAO.

Three of these areas, as shown in table 1, primarily have security implications. For example, MTSA called for development of an automatic identification system. The Coast Guard developed a system that would allow port officials and personnel on other vessels to determine the identity and position of vessels entering or operating within the port. While the Coast Guard is implementing this system, more than half of the 25 busiest U.S. ports will not have it for the foreseeable future, because it

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requires extensive shore-based equipment and infrastructure that many ports do not have. The two remaining areas relate primarily to operational or efficiency matters, such as duplication of effort in collecting intelligence information. We are continuing to examine all five areas.

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## Background

MTSA was landmark legislation that mandated a quantum leap in security preparedness for America's maritime ports. Prior to the terrorist attacks of September 11, 2001, federal attention at ports tended to focus on navigation and safety issues, such as dredging channels and environmental protection. While the terrorist attacks initially focused the nation's attention on the vulnerability of its aviation system, it did not take long for attention to fall on the nation's ports as well. Besides being gateways through which dangerous materials could enter the country, ports represent attractive targets for other reasons: they are often large and sprawling, accessible by water and land, close to crowded metropolitan centers, and interwoven with highways, roads, factories, and businesses. Security is made more difficult by the many stakeholders, public and private, involved in port operations. These stakeholders include local, state, and federal agencies; multiple law enforcement jurisdictions; transportation and trade companies; and factories and other businesses.

Passed in November 2002, MTSA imposed an ambitious schedule of requirements on a number of federal agencies. MTSA called for a comprehensive security framework—one that included planning, personnel security, and careful monitoring of vessels and cargo. (See table 2 for examples of key MTSA activities.) MTSA tasked the Secretary of DHS, and the Secretary in turn has tasked the Coast Guard, with lead responsibility for the majority of its requirements. Timetables were often daunting. For example, one of the Coast Guard's responsibilities was to develop six interim final rules implementing MTSA's operational provisions in sufficient time to receive public comment and to issue a final rule by November 25, 2003.

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**Table 2: Examples of Key MTSA Activities**

Type of activity	Specific provision
<b>Planning</b>	
	Conduct vessel, facility, and port vulnerability assessments to determine potential risks.
	Develop transportation security plans for vessels, facilities, port areas, and the nation.
	Develop security incident response plans for vessels and facilities.
	Assess foreign ports for security risk.
<b>Identification of personnel</b>	
	Create security cards required of any person seeking to enter a secure area of a vessel or facility; cards would have biometric information (such as fingerprint data) to guard against theft or counterfeiting.
<b>Tracking of vessels</b>	
	Install automatic identification systems on numerous categories of vessels.
	Authorized to create and implement a long-range vessel tracking system.

Source: GAO.

Adding to the difficulty has been the need to implement MTSA against the backdrop of the most extensive federal reorganization in over a half-century. Most of the agencies with MTSA responsibilities were reorganized into the Department of Homeland Security in March 2003, less than 5 months after MTSA enactment. Among the 22 agencies in the new department were some relatively new organizations, such as TSA. Other more longstanding agencies, including the Coast Guard, U.S. Customs Service, and Immigration and Naturalization Service, were transferred from a variety of executive departments. This vast recombination of organizational cultures introduced new chains of command and reporting responsibilities. MTSA implementation also involved coordination with other executive agencies, including the Departments of State, Transportation, and Justice.

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## Progress Has Been Made in Implementing MTSA

Since the passage of MTSA in 2002 the responsible agencies—primarily the Coast Guard, TSA, and BCBP in DHS, along with MARAD in the Department of Transportation—have made strides in implementing the act’s security provisions. MTSA called for actions in 46 key areas we identified. Thus far, we have received information from the responsible

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agencies on 43 of these areas. Of the 43 areas, work is done in 2 (issuing interim rules and developing training for maritime security personnel), and under way in 40 others.<sup>1</sup> These agencies also reported that cooperation and coordination has been extensive throughout the course of their activities.

A major achievement has been the Coast Guard's publication on July 1, 2003, of six interim rules on the provisions where it had lead responsibility. The rules set requirements for many of the provisions delegated to the Coast Guard under MTSA. The rules, which included sections on national maritime security initiatives, area maritime security, vessel security, facility security, outer continental shelf facility security, and automatic identification systems, were published approximately 8 months after MTSA was enacted. Doing so kept the Coast Guard on schedule for meeting MTSA's requirement to receive public comment and issue the final rules by the end of November 2003. The rules provided a comprehensive description of industry-related maritime security requirements and the cost-benefit assessments of the entire set of rules. The Coast Guard plans to publish the final rules before November 25, 2003, after receiving and acting on comments to the interim rules.

Another Coast Guard accomplishment was the establishment of Maritime Safety and Security Teams called for under MTSA. These teams, which can be rapidly deployed where needed, are designed to provide antiterrorism protection for strategic shipping, high-interest vessels, and critical infrastructure. The Coast Guard has already deployed four teams—in Seattle and Galveston and near Norfolk and Los Angeles. The Coast Guard will deploy teams in New York City and near Jacksonville this year, and six more teams have been requested in the president's budget in 2004. These are to be located in San Diego, Honolulu, Boston, San Francisco, New Orleans, and Miami.

Other agencies in DHS have also made progress in their implementation of MTSA provisions. Responding to MTSA's requirement for the development of biometric<sup>2</sup> transportation security identification cards that would allow only authorized persons access to secure areas of vessels or facilities, TSA

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<sup>1</sup>Work has not yet begun on issuing a report to the Congress regarding MARAD's expenditure of funds for training—no funds were expended in fiscal year 2003.

<sup>2</sup>Biometric refers to technologies that can be used to verify a person's identity by characteristics such as fingerprints, eye retinas, and voice.

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is currently testing several different technology credentialing systems on sample cards. The agency will begin testing prototypes of the entire security card process, including conducting background checks, collecting biometric information on workers, verifying cardholders' identities, and issuing cards in early 2004. TSA plans to start issuing about 5 to 6 million new cards per year in the middle of 2004. Developing all of the policies and programs to make this system work is still under way and will continue to pose challenges to continued progress. Another DHS agency, BCBP, was delegated the responsibility for issuing regulations for electronic transmission of cargo information to BCBP by October 1, 2003; BCBP published its proposed rule on July 23, 2003. BCBP was waiting for comments on the proposed rule, and BCBP officials told us that they expect to publish the rule on time.

MARAD has also made progress in its requirements. Among the provisions for which MARAD is responsible are developing standards and curricula for the training of maritime security personnel. MARAD submitted a Report to Congress, dated May 2003, containing the standards and curriculum called for by MTSA in the form of model course frameworks for seven categories of maritime security professionals. As an extension of the MTSA project, MARAD also produced three model maritime security courses for the International Maritime Organization (IMO). An IMO validation team has reviewed drafts of these courses, which found little need for change.

Agency officials told us that cooperation and coordination on MTSA implementation has been strong. Coast Guard officials said that they had developed channels of communication with other relevant agencies, and they said these other agencies were supportive in implementing provisions for which they did not have primary responsibility. In the work we have conducted at ports since the September 11th attacks, we have noted an increasing level of cooperation and coordination at the port level. However, ensuring smooth coordination as the many aspects of MTSA implementation continue is a considerable challenge. Additional work will be needed to determine the extent to which this spirit of cooperation continues to be translated into effective actions at the level where programs must be implemented.



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## Issues Raised Include Both Security and Operational Concerns

While progress is being made, our preliminary work has identified five areas that merit attention and further oversight. Three relate primarily to security issues: (1) the limited number of ports that will be covered by the vessel identification system, (2) questions about the scope and quality of port security assessments, and (3) the Coast Guard's plans not to individually approve security plans for foreign vessels. The remaining two relate primarily to operational and efficiency matters: (1) potential duplication of maritime intelligence efforts and (2) inconsistency with Port Security Grant Program requirements.

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## Vessel Identification System Will Cover a Limited Number of Ports

The main security-related issue involves the implementation of a vessel identification system. MTSA called for the development of an automatic identification system. Coast Guard implementation calls for a system that would allow port officials and other vessels to determine the identity and position of vessels entering or operating within the harbor area. Such a system would provide an "early warning" of an unidentified vessel or a vessel that was in a location where it should not be. To implement the system effectively, however, requires considerable land-based equipment and other infrastructure that is not currently available in many ports. As a result, for the foreseeable future, the system will be available in less than half of the 25 busiest U.S. ports.

The identification system, called the Automatic Identification System (AIS), uses a device aboard a vessel to transmit a unique identifying signal to a receiver located at the port and to other ships in the area. This information gives port officials and other vessels nearly instantaneous information about a vessel's identity, position, speed, and course. MTSA requires that vessels in certain categories<sup>3</sup> install tracking equipment between January 1, 2003, and December 31, 2004, with the specific date dependent on the type of vessel and when it was built.

The only ports with the necessary infrastructure to use AIS are those that have waterways controlled by Vessel Traffic Service (VTS) systems. Similar to air traffic control systems, VTS uses radar, closed circuit television, radiophones, and other technology to allow monitoring and management of vessel traffic from a central shore-based location. The

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<sup>3</sup>All vessels of certain specifications on international voyages; self-propelled commercial vessels 65 feet or more in length; towing vessels 26 feet or more in length and more than 600 horsepower; vessels of 100 gross tons or more carrying one or more passengers for hire; and passenger vessels certificated to carry 50 or more passengers for hire.

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Coast Guard currently plans to install AIS receiving equipment at the 10 locations with VTS systems.<sup>4</sup> More than half of the 25 busiest ports, such as Philadelphia, Baltimore, Miami, Charleston, Tampa, and Honolulu, do not have VTS systems; hence, AIS will be inoperable at these locations for the foreseeable future. When AIS will be operable at these other ports depends heavily on how soon the Coast Guard can put an extensive amount of shore-based infrastructure in place. For the present, the Coast Guard is requiring AIS equipment only for (1) vessels on international voyages and (2) vessels navigating waterways under VTS control. Some of these international ships will be calling on ports that will not have AIS equipment. In such cases, the transmitters aboard the vessels will be of no use for the ports, because they will not have equipment to receive the signals.<sup>5</sup>

Cost is a major factor in the full implementation of AIS. Expanding coverage will require substantial additional investment, both public and private. The Coast Guard's budget request for fiscal year 2004 includes \$40 million for shore-based AIS equipment and related infrastructure—an amount that covers only current VTS areas. According to a Coast Guard official, wider-reaching national implementation of AIS would involve installation and training costs ranging from \$62 million to \$120 million. Also, the cost of installing AIS equipment aboard individual ships averages about \$10,000 per vessel, which is to be borne by the vessel owner or operator. Some owners and operators, particularly of domestic vessels, have complained about the cost of equipping their vessels.

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## Concerns about Port Security Assessments

Another security-related issue involves the Coast Guard's efforts to address MTSA's security planning requirements through a series of security assessments of individual ports. Security assessments are intended to be in-depth examinations of security threats, vulnerabilities, consequences, and conditions throughout a port, including not just transportation facilities, but also factories and other installations that pose potential security risks. The Coast Guard had begun these assessments

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<sup>4</sup>These locations are New York/New Jersey; the mouth of the Mississippi River; New Orleans; Houston/Galveston; Port Arthur, Texas; Los Angeles/Long Beach; San Francisco; Seattle/Tacoma; Alaska's Prince William Sound; and Sault Ste. Marie, Michigan.

<sup>5</sup>Under Coast Guard rules, all vessels arriving from foreign ports must inform a U.S. port, at least 96 hours in advance, of its intent to enter the harbor. Ports without AIS will still have this notice; what they will lack is the ability to verify ships' identities electronically when they arrive, or to quickly identify ships that are attempting to arrive unidentified.

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before MTSA was passed and decided to continue the process, changing it as needed to meet MTSA planning requirements, which include developing area security plans based on the evaluation of specific facilities throughout the port. At the request of the Subcommittee on Coast Guard and Maritime Transportation, House Committee on Transportation and Infrastructure, we have been examining these assessments, which are being conducted by an outside contractor. Our preliminary work has surfaced several potential concerns, which we are still in the process of reviewing.

One concern involves an apparent truncation of the review process for ensuring that the assessment methodology will deliver what MTSA requires. When MTSA took effect, the outside contractor already completed the first 10 of 55 planned assessments. The Coast Guard directed the contractor to modify the assessment methodology to take MTSA's planning requirements into account, and it decided that the next two assessments would be a pilot test of the revised methodology. The Coast Guard plans to use the pilot test to evaluate lessons learned, so that additional modifications can be made before any further contracts are signed.

Instead of waiting to see what changes might be needed as a result of the pilot projects, however, the contractor has apparently started the scoping phase for the next six port assessments. Scoping is a significant part of the new methodology, and as such, it is a major determinant in the nature and breadth of the issues to be addressed, as well as the assessment's cost. The contractor has also reportedly sought to negotiate and sign contracts to review the next six ports. Since the pilot projects will not be completed until at least October 2003, it seems premature to reach decisions about the scope of the assessments and sign contracts for them. The revised methodology needs to be reviewed so that any needed changes are reflected in the next contract.

A second concern that has surfaced involves the scope and quality of the assessments themselves. As part of our work, we have interviewed port stakeholders to obtain their views on the process. At one port, where the assessment has been completed and the report issued, stakeholders said they had not been given an opportunity to comment on the report, which contained factual errors and did not include an assessment of railroads and the local power generating plant. At the other port, where the assessment was still in process, local Coast Guard personnel and port stakeholders noted that a survey instrument referred to the wrong port, asked questions they regarded as not pertaining to security, and was

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conducted in ways that raised concerns about credibility. Many of these stakeholders saw little usefulness in the assessments, believing that they added little to what the stakeholders had already learned from conducting their own more extensive security reviews of individual facilities or installations. They said the assessments focused on the same systems that had already been reviewed and would have greater value if they were focused on matters that had not already been thoroughly studied, such as the potential for waterborne assault. Coast Guard officials at the two ports said, however, that in their view the assessments would provide such benefits as a more comprehensive perspective on port operations and vulnerabilities and validate their need for additional assets and people to provide adequate security. Ensuring that the assessments are of high quality is important not only for their effectiveness as security instruments, but also because of their cost. For the most part, assessments have been conducted only at medium-sized ports, and even there they are costing \$1 million or more per assessment.

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### Coast Guard Not Intending to Individually Approve Security Plans for Foreign Vessels

Concerns have been raised about the proposed approach for meeting MTSA's requirement that the Secretary of DHS approve vessel security plans for all vessels operating in U.S. waters. Vessel security plans include taking such steps as responding to assessed vulnerabilities, designating security officers, conducting training and drills, and ensuring that appropriate preventive measures will be taken against security incidents. To implement this MTSA requirement the Coast Guard has stated, in general, that it is not the Coast Guard's intent to individually approve vessel security plans for foreign vessels. Separate from MTSA, an international agreement requires vessels to carry on board a vessel security plan that is approved by the vessel's country of registry—its "flag" state—to ensure that an acceptable security plan is in place. The Coast Guard provides that it will deem a flag state approval of a vessel security plan to constitute the MTSA-required Secretary approval of MTSA vessel security plans. However, MTSA does not mention any role for foreign nations in the Secretary's required approval of vessel security plans, and some concerns have been raised about the advisability of allowing flag states—some with a history of lax regulation—to ensure the security of vessels traveling to the United States.

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The international requirement for a security plan is contained in the International Ship and Port Facility Security (ISPS) Code.<sup>6</sup> Under this requirement, which was adopted about the same time that MTSA was enacted and will go into effect on July 1, 2004, the vessel's flag state is responsible for reviewing and certifying the vessel's security plan. Prior to this time, the vessels' flag state had already been responsible for ensuring that its vessels met safety requirements. Critics of using this approach for MTSA-required security plans have pointed out that in the past, some flag states had a spotty record of enforcing safety requirements.

Rather than individually approving security plans for vessels overseen by foreign flag states, the Coast Guard plans an extensive monitoring effort as part of its oversight of vessels bound for U.S. waters. However, the Coast Guard's interim rule stated that, as part of an aggressive port state control program, the Coast Guard would verify that foreign vessels have an approved, fully implemented security plan, as well as tracking the performance of owners, operators, flag administrations, charters, and port facilities. Coast Guard officials have said that they are working from existing procedures, in that their security effort is modeled after their safety program. They also said, however, that they have no contingency plans in case stronger measures than those called for in their current plans are required.

The concerns are limited mainly to foreign flag vessels. Vessels registered in the United States will have their security plans reviewed and approved by the Coast Guard. It has been reported that the Coast Guard estimates that review and approval of security plans for domestic vessels and facilities will require 150 full-time personnel and cost \$70 million as part of its 2004 budget.

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## Potential Duplication of Maritime Intelligence Efforts

Turning to issues that are related more to program efficiency and management than to security concerns, one issue that has arisen involves potential duplication in the area of maritime intelligence. MTSA required the Secretary of Homeland Security to implement a system to collect, integrate, and analyze information on vessels operating on or bound for U.S. waters. The Secretary of DHS in turn delegated responsibilities to TSA

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<sup>6</sup>This code was ratified by the International Maritime Organization, to which the United States is a party.

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and the Coast Guard. There appears to be potential for duplication by TSA and the Coast Guard in these efforts.

The duplication concerns center on the new Integrated Maritime Information System (IMIS) required under the Secretary's delegations. The Secretary of DHS delegated primary responsibility for this system to TSA, and TSA was appropriated \$25 million to develop it. Coast Guard officials have voiced concerns that TSA's efforts in developing the overall system are duplicating existing Coast Guard efforts that are more extensive and better funded. According to these officials, IMIS is very similar to the Coast Guard's Intelligence Coordination Center (ICC) Coastwatch program, an effort that has 10 times the amount of funding appropriated for IMIS, involves 100 more staff members, and has staff already in place with considerable intelligence analysis capability. Coast Guard officials questioned whether TSA's smaller effort could yield information of similar quality.

Coast Guard officials also expressed concerns about potential duplication of effort at the port level. TSA's tests of the system would place TSA personnel at the port level. Coast Guard personnel noted that these efforts seemed similar to the Coast Guard's Field Intelligence Support Teams, as well as teams from the legacy agencies, the Customs Service and the Immigration and Naturalization Service, that also operate at the port level. Coast Guard officials said that they saw little sharing of the intelligence at that level.

While we have not yet had the opportunity to observe the intelligence arms of TSA and the Coast Guard in action to more fully evaluate the potential for duplication of effort, it does appear that some potential duplication exists. From conversations with TSA and Coast Guard officials, we could discern little difference in a number of their information and integration efforts. Aside from potential inefficient use of resources, this possible duplication may also limit either agency from obtaining a complete intelligence picture and detecting potential threats.

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## Differences between Current TSA Grant Program and MTSA Grant Requirements

The final issue involves TSA's implementation of MTSA's grant program. MTSA required the Secretary of Transportation to establish a program of grants to ports and other entities to implement area and facility-specific security plans. Prior to the enactment of MTSA, TSA, in partnership with MARAD and the Coast Guard, already had begun a port security grant program in February 2002. This program was originally intended to fund security assessments and enhanced operational security at ports and

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facilities, and two rounds of grants were funded before MTSA was enacted in November 2002. TSA officials told us that, rather than creating a new grant program to specifically respond to MTSA, they are adapting the existing program to meet MTSA requirements. Under this approach, some time will elapse before all of the grant requirements specified under MTSA are in place.

The existing grant program differs from MTSA requirements in several respects. Most significantly, the existing grant program does not require cost-sharing, while MTSA does. MTSA grant provisions state that for projects costing more than \$25,000, federal funds for any eligible project shall not exceed 75 percent of the total cost. A TSA official said that, in starting to fold MTSA grants into the existing program for the third round of grants, TSA was still disbursing moneys from a prior appropriation, and the language of that legislation limited its ability to make changes that would meet MTSA requirements. As a result, TSA encouraged cost-sharing but did not require it. While TSA limited its changes for the first three rounds of grants, in the future continued deviation from MTSA cost-sharing requirements would keep federal dollars from reaching as many projects as possible. By not requiring a grantee to share in the financial burden, TSA does not take into account the applicant's ability to participate in the funding. If applicants have such ability, the result is that available federal dollars are not effectively leveraging as many projects as possible.<sup>7</sup>

There are two additional areas where TSA's current grant program differs from MTSA provisions. First, the current grant program does not specifically correspond to the stated purpose of MTSA's grant funding, which is to implement area and facility-specific security plans. TSA officials told us that in round three, they would give preference to regulated facilities and vessels that were already required to have security assessments and plans in place. As a result, the grants would likely be for mitigating identified vulnerabilities rather than developing plans. Second, in the application instructions for the current program, TSA said that recurring costs for personnel and operations and maintenance costs were not eligible for funding. MTSA specifically includes these costs.

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<sup>7</sup>MTSA contains provisions for waiving the cost-sharing requirement if a higher level of federal funding is required.

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TSA officials said that for later rounds of grants during fiscal year 2004, they would discuss potential changes in the Port Security Grant Program with the Coast Guard and MARAD. These potential changes would include requiring that all grant proposals be designed to meet MTSA port security grant requirements. The officials said, however, that before making any changes, they would look for specific directions accompanying currently pending appropriations for fiscal year 2004.

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Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or other members of the committee may have.

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## Contacts and Acknowledgments

For information about this testimony, please contact Margaret Wrightson, Director, Homeland Security and Justice Issues, at (415) 904-2000. Individuals making key contributions to this testimony include Jonathan Bachman, Jason Berman, Steven Calvo, Matthew Coco, Rebecca Gambler, Geoffrey Hamilton, Christopher Hatscher, Lori Kmetz, Stan Stenersen, and Randall Williamson.



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