

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY

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July 17, 2008

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Washington, D.C. 20528

Dear Secretary Chertoff:

On June 6, 2008, I wrote to you questioning why foreign graduate students enrolled in a joint program of oceanography and applied oceanographic science and engineering that the Massachusetts Institute of Technology runs with the Woods Hole Oceanographic Institute (WHOI) were determined to pose a "security threat" to the United States because they mistakenly applied for a transportation workers identification credential (TWIC).

That determination by the Transportation Security Administration (TSA) was based simply on the fact that the students did not possess one of the visas deemed eligible for the TWIC. TSA publicly stated that the students did not pose a security risk but initially refused to withdraw or revise the determination letters. Not surprisingly, the students were fearful of the effect of such a determination on their future travel, work and visa activities.

Recently, my staff received a communication from the Department indicating that the initial letters would be withdrawn and replaced with letters stating that the students were denied a TWIC simply because they were ineligible (copy attached). I appreciate of this action by the Department, and I am sure that the students do as well.

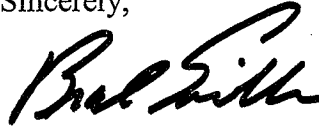
However, it appears that the students need access to secure areas of U.S. ports to carry out their research effectively. WHOI supports one of the largest research fleets in the United States, including *Atlantis*, one of the nation's newest research vessels, and *Alvin*, a deep sea submersible. The joint program is one of the nation's premier graduate programs and attracts outstanding students from all over the world. As part of their research, the students are frequently work on these ships and in designated secure areas to access and load the ships with necessary instruments and tools at both Woods Hole and other ports. Foreign students at other universities with similar programs have the same needs.

As you know, this privilege is extended to foreign students enrolled at the U.S. Merchant Marine Academy or comparable state maritime academies. 49 CFR 1572.105(a)(5) Another provision in the regulations allows aliens with "lawful nonimmigrant status" similar to that of the other categories to obtain a TWIC. 49 CFR 1572.105(a)(8)(xi) It appears that these graduate students in oceanography should qualify for the TWIC under that provision.

I would strongly suggest that TSA work with the relevant universities to implement this provision. As I stated earlier, federal officials, business leaders and others frequently discuss the importance of educating the top foreign students in the United States. The actions by the TSA have the effect of telling oceanographic students that perhaps it would be best to do their graduate studies in another country. That would be most unfortunate.

Your attention to this matter is greatly appreciated.

Sincerely,



BRAD MILLER
Chairman
Investigations and Oversight Subcommittee

Enclosure

Cc: F. James Sensenbrenner Jr.
Ranking Member
Investigations and Oversight Subcommittee

Holleman, Edith

From: Beck, Carol [REDACTED]
Sent: Friday, June 27, 2008 4:21 PM
To: Holleman, Edith
Subject: New TWIC Letters
Attachments: TWIC - Reissued FDTA.doc; TWIC - Reissued IDTA.doc

Hi Edith,
I wanted to let you know that TSA is reissuing letters to the affected MIT students to further clarify that their determination only affects their ability to have unescorted access to secure areas of port facilities. The letters are attached. Please let me know if you have any questions.

Thanks,
Carol

Carol Beck
U.S. Department of Homeland Security
Transportation Security Administration
Office of Legislative Affairs
601 South 12th Street, E11-320N
Arlington, VA 22202
Office: [REDACTED]
Cell: [REDACTED]
Fax: [REDACTED]

U.S. Department of Homeland
Security

Office of Transportation Threat
Assessment and Credentialing
Arlington, VA 22202



Transportation
Security
Administration

May 1, 2008

xxx

Re: TSA Final Determination of Your TWIC Application

Dear xxx:

On April 4, 2008, the Transportation Security Administration (TSA) sent you its initial determination that, based upon the information you provided in your application for a Transportation Worker Identification Credential (TWIC) and/or the results of various portions of the eligibility assessment, you may not be eligible for a TWIC.

I have personally reviewed the Initial Determination of TWIC Ineligibility, your reply, accompanying information, and all other information and materials available to TSA. Based upon this review, I have determined that you are not eligible to hold a TWIC.

Accordingly, you may not hold or exercise the privileges of a TWIC. For purposes of judicial review, this letter constitutes a final TSA order pursuant to Title 49 U.S.C. section 46110.

Sincerely,

John M. Busch, Deputy Director
Security Threat Assessment
Operations
Office of Transportation Threat
Assessment and Credentialing



Transportation
Security
Administration

April 4, 2008

xxx

Re: Initial Determination of Your TWIC Application

Dear xxx:

The Transportation Security Administration (TSA) has received your application for a Transportation Worker Identification Credential (TWIC). Based on the information you provided in your application and the results of various portions of the eligibility assessment, TSA has determined that you **may not** be eligible for a TWIC. This letter is **not** a final decision. Instructions for preparing a response to this letter are included. TSA must **receive your response within 60 calendar days of the date of this letter, unless you request and TSA grants an extension of time to respond. If you do not provide a response to TSA within 60 calendar days from the date of this letter or request an extension, TSA's decision regarding your eligibility assessment will automatically become final and you will be disqualified from holding a TWIC.**

RESULTS OF TSA'S INITIAL ELIGIBILITY ASSESSMENT:

After conducting the assessment, TSA has made an initial decision that you **may not** be eligible for a TWIC. TSA has determined the following:

Individuals applying for a TWIC must be a U.S. citizen, lawful permanent resident, or meet the immigration eligibility standards, as set forth in Title 49, Code of Federal Regulations (C.F.R.), 1572.105. On your application, you indicated you were born in xxx; however, TSA has been unable to verify your U.S. citizenship or immigration eligibility to hold a TWIC.

On your application, you indicate that you meet the immigration eligibility requirements to hold a TWIC, which are listed in the enclosure. However, TSA has not received documents that confirm that you meet the immigration eligibility requirements. As a result, TSA has been unable to verify your U.S. citizenship or immigration eligibility to hold a TWIC.

TSA must verify that you meet the immigration eligibility requirements established to hold a TWIC, which are listed in the enclosure. Failure to provide sufficient citizenship and/or immigration documentation to verify your eligibility may preclude you from holding a TWIC. You should provide TSA with all documentation or information regarding your U.S. citizenship and/or immigration eligibility that you believe should be considered in reviewing your

application. If you do not provide TSA with such information, it is unlikely that TSA can approve your application.

You have **not yet** been disqualified from holding a TWIC. This letter is an Initial Eligibility Assessment which notifies you of the decision made by TSA. The enclosure provided with this letter explains all options available to you when responding to TSA. You have the option to file an appeal or waiver, request a copy of the materials TSA used as the basis for making its initial decision, or request an extension of time so that you may gather additional materials for your response. This letter is issued in accordance with 49 C.F.R. 1515.5.

INSTRUCTIONS TO SEND INFORMATION TO TSA

The TSA TWIC Request Cover Sheet **must be** attached to the front of all documentation and information being submitted to TSA. This cover sheet can be found at the end of the enclosed attachment and includes your full name, mailing address, daytime telephone number, and case number. Please change any information on the cover sheet that is incorrect and indicate the type of request you are submitting to TSA by selecting the appropriate request option(s).

Correspondence **must** be mailed to:

Transportation Security Administration
TSA TWIC Processing Center
P.O. Box 8118
Fredericksburg, VA 22404-8118

Use of the enclosed cover sheet and mailing correspondence to the above address is the fastest means of communicating with TSA. Use of overnight services (other than the U.S. Postal Service) will delay your correspondence.

You are not required to obtain an attorney. The enclosed attachment provides information on how to request releasable documents from TSA, submit an appeal or waiver request, and/or request an extension of time.

For your information, the TWIC program is a vital security measure to help ensure that individuals who pose a threat do not gain unescorted access to secure areas of the nation's maritime transportation system. TWIC was established by Congress through the Maritime Transportation Security Act of 2002 (MTSA) and is implemented by regulations administered by TSA and the U.S. Coast Guard. Applicable MTSA regulations regarding assessments may be found at 49 C.F.R. Parts 1515 and 1572, which are available on TSA's website, www.tsa.gov. A TWIC will not be issued if TSA determines that an individual does not meet the standards described in 49 C.F.R. 1572.5.

Again, this letter is intended to notify you that TSA requires more information in order to complete your application. **TSA must receive your response within 60 calendar days of the date of this letter, unless you request and TSA grants an extension of time to respond. If you do not provide a response to TSA within 60 calendar days from the date of this letter**

or request an extension, TSA's decision regarding your eligibility will automatically become final and you will be disqualified from holding a TWIC. Please review the enclosure which provides detailed instructions on how to submit information to TSA. If you have any questions, please correspond in writing to the address provided.

Sincerely,

Robert Freeman
Director, Adjudication Center
Office of Transportation Threat Assessment and
Credentialing

Enclosure

Reissued Letter