

ADDITIONAL GUIDANCE ON BACKGROUND CHECKS, REDRESS AND IMMIGRATION STATUS

I. Introduction

In 2006, the Transportation Security Administration (TSA) and the Federal Transit Administration (FTA) issued [Security and Emergency Management Action Items](#) to entities operating mass transit and passenger rail systems recommending a number of practices to improve their security. Item 14 in the guidance recommended these operators conduct background investigations, such as criminal history and motor vehicle records, on all new frontline operations and maintenance employees and those employees and contractors with access to sensitive security information and security critical facilities and systems.

Also in 2006, TSA and FTA published [recommended protective measures](#) aligned with the color-coded threat levels under the Homeland Security Advisory System (HSAS). At threat level Green (Low), measure 2.16 recommends mass transit and passenger rail agencies “Perform background checks on all employees and on all contractors consistent with applicable law.”

This appendix contains additional guidance on the factors to consider on the recommended scope of and procedures for voluntarily conducted background checks. These recommended factors and procedures are consistent with guidance TSA has issued in regard to background checks in other transportation modes. They do not alter, limit, or conflict with State or Federal statutory protections, regulations, orders, and directives of the Department of Homeland Security (DHS), the Department of Transportation (DOT), or any other government agency.

II. Criminal History Checks

Mass transit and passenger rail operations sometimes use criminal background checks to assess the suitability of their employees and contractors for positions. To the extent that an operation chooses to do so for employees and contractors with unmonitored access to designated critical infrastructure, they should consider using the Federally-established list of disqualifying crimes applicable to hazardous material drivers and transportation workers at ports (see [49 CFR 1572.103](#)).

Mass transit and passenger rail operations may also consider using an appeal and waiver process similar to the system established for hazardous material drivers and transportation workers at ports ([see 49 CFR part 1515](#)). An internal redress process for individuals who are adversely impacted can help ensure both fairness and security. The process would provide an opportunity to correct mistakes in court records or prove mistaken identity. A redress process can also provide an opportunity to demonstrate rehabilitation or facts surrounding a conviction that mitigate security concerns. Examples of information that may be relevant include (1) circumstances of the disqualifying offense, (2) restitution made, (3) letters of reference from clergy, employers, probation/parole officers, and (4) other evidence that bears on a person's good character. The redress process might also be incorporated into the existing company disciplinary procedures.

III. Social Security Number Verification

Mass transit and passenger rail operations may consider using the Social Security Number Verification System (SSNVS) that the Social Security Administration (SSA) makes available to all employers. Employers can verify that current employee and contractor names and social security numbers match the SSA's records, which reduces the likelihood that an individual has adopted a false identity.

IV. Immigration Status

Mass transit and passenger rail operations might also consider using the Systematic Alien Verification for Entitlements (SAVE) database to determine a non-citizen's immigration status. SAVE is an intergovernmental information-sharing service for agencies and employers to use to ensure that an applicant has lawful presence in the United States. SAVE contains selected immigration status information on approximately 50 million individual non-citizens. For information on accessing SAVE, contact: Director, SAVE program, USCIS SAVE Program, Douglas Development Building, 2nd Floor, 20 Massachusetts Ave., NW, Washington, DC 20529.

V. Reinvestigation

Mass transit and passenger rail operations may consider conducting periodic reinvestigations of employees and contractors, particularly those with access to sensitive information or security critical facilities.