



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**  
**Washington, DC 20515**

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Chairman

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Ranking Member

June 22, 2012

James W. Coon II, Chief of Staff

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**MEMORANDUM**

**TO:** Members, Committee on Transportation & Infrastructure

**FROM:** Staff, Committee on Transportation & Infrastructure

**RE:** Hearing on “A Review of the Delays and Problems Associated with TSA’s Transportation Worker Identification Credential”

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**PURPOSE**

On Thursday, June 28, 2012, at 10:00 a.m., in room 2167 of the Rayburn House Office Building, the Committee on Transportation & Infrastructure will meet to review the status of the Transportation Security Administration’s (TSA) Transportation Worker Identification Credential (TWIC) program.

**BACKGROUND**

**The TWIC Program**

The Maritime Transportation Security Act (MTSA) of 2002 (P.L. 107-295) (section 70105 of title 46, United States Code) requires the Secretary of Homeland Security to prescribe regulations requiring individuals needing unescorted access to secure areas of certain vessels and maritime facilities to be issued a biometric identification. Accordingly, the TWIC program was designed to implement this requirement. The TWIC program aims to meet the following mission requirements:

- Positively identify authorized individuals who require unescorted access to secure areas of the nation’s transportation system.
- Determine the eligibility of individuals to be authorized unescorted access to secure areas of the transportation system by conducting a security threat assessment.

- Ensure that unauthorized individuals are not able to defeat or otherwise compromise the access system in order to be granted permissions that have been assigned to an authorized individual.
- Identify individuals who fail to maintain their eligibility requirements subsequent to being permitted unescorted access to secure areas of the nation's transportation system and immediately revoke the individual's permissions.

As of June 1, 2012, the Coast Guard has approved security plans for 2,834 facilities and 13,913 U.S.-flagged vessels which are required to submit such plans under section 70103 of title 46, United States Code. These facilities and vessels must require TWICs for employees needing access to secure areas designated in their security plans. The Security and Accountability for Every (SAFE) Port Act of 2006 (P.L. 109-347) established a deadline of July 1, 2007 for the deployment of TWICs to individuals employed at the 10 largest U.S. ports and then subsequent deadlines for the remaining U.S. ports. The Transportation Security Administration (TSA) began issuing TWICs in October 2007. Credentials have been issued to over 2.1 million workers required to have access to secure areas of MTSA regulated facilities and to all U.S. mariners. To obtain a TWIC, workers are required to undergo background checks and submit fingerprints, which form the credential's biometric identification component. Except for pilot programs of limited scope and duration, TWIC readers (fixed or hand held electronic scanners) have not been put in place to make use of the TWIC's biometric identification capability (see discussion below). TWICs are valid for five years, so the first set of renewals began this year.

### **Current TWIC Enrollment Statistics**

As of May 17, 2012:

- 2,176,274 individuals are enrolled in the TWIC program;
- 2,023,780 TWICs have been activated;
- 105,298 initial disqualification letters have been issued;
- 50,184 appeals requested;
- 48,957 appeals granted;
- 11,826 waivers requested;
- 10,238 waivers granted;
- 2,086 final disqualification letters issued;

Of the 2.1 million individuals enrolled in the TWIC program:

- 805,776 are truck drivers;
- 384,720 are rail workers;
- 316,417 are merchant mariners;
- 267,543 are port workers including terminal employees, longshoremen, and drayage truckers.

### **Roles of Federal Government Agencies**

The TSA and the Coast Guard both play a role in the TWIC program. TSA's responsibilities include enrolling TWIC applicants, conducting background checks to assess the individual's security threat, and issuing TWICs. The Coast Guard is responsible for developing

TWIC-related security regulations and ensuring that MTSA regulated facilities and vessels are in compliance with these regulations.

### **Cost**

The TWIC program is supported mostly through fees imposed on workers applying for a card. In March 2012, the TSA lowered the fee from \$132.50 to \$129.75 per credential. Workers that have previously gone through a federal background check for the purposes of receiving a different federal credential, such as a merchant mariner credential, are only charged \$105.50 for a TWIC. Based on the number of enrollments and the fee structure as it existed prior to March 2012, workers have spent approximately \$229 million to \$288 million to acquire TWICs since the program was implemented.

The Department of Homeland Security (DHS) had previously estimated the TWIC program could cost the federal government and the private sector a combined total of between \$694.3 million and \$3.2 billion over 10 years. This estimate does not include the costs of acquiring and deploying TWIC readers. To date, the Coast Guard has spent \$2 million to acquire and deploy handheld TWIC readers for use by its servicemembers when conducting MTSA enforcement activities at regulated facilities and aboard U.S.-flagged vessels. Congress has appropriated \$67.8 million to the TSA since fiscal year 2003 to implement the program. Total spending by the TSA has not been made available to the Committee. Finally, over \$111 million has been distributed by the Federal Emergency Management Agency to regulated facilities in the form of Port Security Grants to comply with TWIC requirements.

### **Major Issues Concerning the TWIC Program**

*TWIC Relief for Individuals Not Needing Unescorted Access to Secure Areas* – Section 104 of the SAFE Port Act authorized the Secretary of Homeland Security to process applications for Merchant Mariner Credential (MMC) and TWICs concurrently and to issue TWICs to “other individuals as determined appropriate.” The Coast Guard interpreted section 104 to require all credentialed mariners (those with MMCs) to also carry TWICs. Section 809 of the Coast Guard Authorization Act (CGAA) of 2010 (P.L. 11-281) clarified that the Coast Guard’s interpretation of section 104 was not the intent of Congress and removed the requirement for mariners to purchase and carry a TWIC if they do not need unescorted access to secure areas of vessels or facilities. The Coast Guard and the TSA are developing a regulation to implement this section. In the interim, the Coast Guard released guidance in December 2011 to provide relief to certain mariners. Under the guidance, the Coast Guard is no longer requiring mariners to purchase and carry a TWIC if they are renewing their MMC and do not need unescorted access to secure areas of vessels or facilities. However, such mariners applying for an MMC for the first time must still go through the process to enroll for a TWIC and pay the processing fee for a TWIC even though they are no longer required to carry a TWIC.

*Requirement to Appear Twice* – Under current policy, individuals applying for a TWIC must appear in person at a TWIC enrollment center twice: once to supply their biometric information and once to receive and activate the credential. The CGAA required the Government Accountability Office (GAO) to report on the possibility of reducing the number of required

visits to one. In April 2011, the GAO reported that in order for TWIC to remain compliant with federal security standards governing identity control, reducing the number of visits is not possible.

*TWIC Readers* – Section 104 of the SAFE Port Act required the Secretary of Homeland Security to conduct a pilot program to test technology to read TWIC and its biometric identification information and established a deadline of April 13, 2009 to issue final rules for the deployment of TWIC readers. The TSA did not complete the pilot program and issue its program report until February 27, 2012. Shortly thereafter, the Coast Guard began the process of developing a Notice of Proposed Rulemaking (NPRM) for the deployment of TWIC readers. The Coast Guard expects to publish the NPRM in the fall of 2012. The implementation of a final rule could take up to a year after the NPRM is published. A cost estimate of compliance with the reader requirement has not been prepared. Without the readers in place, TWICs are used as a flash pass as workers enter secure areas of facilities and vessels. The biometrics are not read and identities are not verified.

The delay in the implementation of the readers has led TSA to recently announce a program enabling TWIC holders to extend the duration of their TWICs for an additional three years at a reduced \$60 fee. Workers with expiring TWICs could also choose to renew their TWIC for an additional five years at the full \$129.75 fee.

*GAO Report* – On May 10, 2011, the GAO released a report entitled *TWIC: Internal Control Weaknesses Need to be Corrected to Help Achieve Security Directives* (GAO-11-657). GAO evaluated the extent to which TWIC processes for enrollment, background checking, and use are designed to provide reasonable assurance that access to regulated facilities is only done by qualified individuals. To test the effectiveness of the TWIC program, GAO reviewed program documentation, visited four TWIC enrollment centers, and conducted covert tests at several selected U.S. ports. GAO found the following:

- Internal controls in the enrollment and background check processes are not designed to provide reasonable assurance that (1) only qualified individuals can acquire TWICs; (2) adjudicators follow a uniform process to disqualify applicants found to have extensive criminal convictions; or (3) once issued a TWIC, TWIC-holders maintain their eligibility.
- These internal control weaknesses could have contributed to the breach of MTSA regulated facilities during covert tests conducted by GAO investigators. During covert tests of TWIC use at several selected ports, GAO investigators were successful in accessing ports using counterfeit TWICs, authentic TWICs acquired through fraudulent means, and false business cases.
- DHS has not assessed the TWIC program's effectiveness at enhancing security or reducing risk for MTSA-regulated facilities and vessels. Further, DHS has not demonstrated that TWIC, as currently implemented and planned, is more effective than prior approaches used to limit access to ports and facilities, such as using facility-specific identity credentials with business cases.

- DHS did not conduct a risk-informed cost benefit analysis that considered existing security risks, and it has not yet completed a regulatory analysis for the upcoming rule on using TWIC with card readers.

GAO recommended DHS assess TWIC program internal controls to identify needed corrective actions, assess TWIC's effectiveness at enhancing security, and use the information to identify effective and cost-efficient methods for meeting program objectives. DHS concurred with all of the recommendations.

### WITNESSES

Rear Admiral Joseph Servidio  
Assistant Commandant for Preparedness  
United States Coast Guard

Ms. Kelli Ann Walther  
Assistant Secretary  
Office of Policy  
U.S. Department of Homeland Security

Mr. Stephen Sadler  
Assistant Administrator  
Transportation Security Administration  
*Invited*

Mr. Joseph Lawless  
Director of Maritime Security  
Massachusetts Port Authority  
*Testifying on behalf of:*  
American Association of Port Authorities (AAPA)

Mr. Robert McEllrath  
President  
International Longshore and Warehouse Union