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SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

HEARING ON
TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS

July 12, 2007

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John Groundwater, Executive Director

Mr. Chairman and Members of the Committee:

Thank you for the invitation to address you today about my concerns as a small business person regarding the implementation of the Transportation Worker Identification Credential, or TWIC. I am Debbie Gosselin, President of Watermark Cruises. I am here today to ask your assistance in modifying the TWIC requirements so that they do not cripple my small company and many other small companies like mine.

Watermark has been in operation since March of 1972. We are based in Annapolis, Maryland, on a tributary of the Chesapeake Bay. We currently have 11 Coast Guard-inspected, U.S.-flagged passenger vessels, with capacities ranging from 17 to 297 passengers.

I am also a member of the Passenger Vessel Association (PVA), serving on its Legislative Committee. PVA is the national trade association for U.S.-flagged passenger vessels of all types. It represents the interests of owners and operators of dinner cruise vessels, sightseeing and excursion vessels, passenger and vehicular ferries, private charter vessels, whalewatching and eco-tour operators, windjammers, gaming vessels, amphibious vessels, water taxis, and overnight cruise ships. PVA has been in operation for 36 years and currently has nearly 600 vessel and associate members. Its vessel-operating members range from small family businesses with a single boat to companies with several large vessels in different locations to governmental agencies operating ferries. Its associate members are key suppliers to the passenger vessel industry, including marine architects, vessel builders and decorators, insurance companies, publishers, food supply companies, computer software vendors, marine equipment suppliers, engine manufacturers, and others.

Watermark and PVA understand and support rational security measures. Our vessels operate in compliance with an approved security plan, as required by the Maritime

Transportation Security Act. Yet, this implementation has been very expensive for our small company. I have hired a Company Security Officer, a new position for us, who assisted in the completion of our risk-based threat assessment, identified our vulnerabilities and established procedures to control access to the restricted areas of our vessels. We have led the industry in our area with our extensive security training and crew drills, and we know that we still have the costs of TWIC cards and a vessel-tracking Automatic Identification System (AIS) to pay for soon.

We at Watermark believe that a small company does not need an electronic TWIC card or a reader for that card to know that Sam and Karly or Bill are who they say they are when they show up to work each day. They are the same Sam and Karly and Bill that we interviewed, hired and trained. I believe that there are other methods (such as traditional background checks, company ID cards, and simple recognition-by-sight) that in combination can be used to verify the status of employees that present little or no cost to the small employer.

We are a 100% domestic operation, located 120 miles from the Atlantic Ocean. We do not carry overnight passengers. The longest trip we offer is an 8-hour tour on the Chesapeake Bay. Most trips are 40 minute or less. All of our captains and crew are U.S. citizens.

The intent of TWIC was to focus on large ships that operate at commercial port facilities where the flow of cargo depends on numerous non-vessel, non-facility employees going in and out of the port. I do not believe that a small passenger operation such as mine was ever envisioned by Congress to be included in the security concerns of America's ports.

We Need to Put Individuals to Work Promptly

We are a seasonal operation with a pool of 30 to 35 captains, 20 deckhands and 10 concessionaires/bartenders. In 2006, we hired a total of 80 *seasonal* employees many of

whom, under the regulations, must have a TWIC next year. Nearly a third of those seasonal workers were hired just days before the season started or even after it was well underway. For every one that was hired and showed up for work, there were at least four potential candidates and a number of job offers extended that were not accepted. Given these realities, I can reasonably expect that I will be paying for TWICs for a considerable number of people who don't actually come to work for me or who leave in mid-season.

We compete aggressively with many other businesses for good seasonal employees. Our competitors for employees are hotels, marinas and restaurants, not subject to the TWIC requirement. Most of our seasonal employees are college or high school students who need a job when school gets out to make the money they need for the next school year. This generally means they are available to the employer for approximately 90 – 100 days, sometimes even less. They cannot apply for summer employment and then wait 30 days for an ID card. They cannot even wait two weeks. Neither can my company; I cannot afford a waiting time of 30 days for TWIC processing between hiring and working.

We Need to Reduce the Direct and Indirect Costs of the TWIC

Most of my applicants and employees cannot afford to pay $137 for a TWIC card. So, as their employer, I will be forced to pay the application fee for these potential employees, as we now pay for their pre-employment drug test, first-aid training and security training, all currently required for our employees, but not required of the waterfront restaurant or the marina up the street.

There are also other, unaccounted for costs of this rule. One such cost is transportation for our prospective employee to travel to the enrollment center in Baltimore for an in-person application. That means two, two-hour round trips, costing gas, parking, and time away from the job. Not once, but twice. The small employer will have to provide this

transportation for most employees when they either don't drive or don't have transportation. Many would have to have Mom or Dad drive them. This is a roadblock to hiring good seasonal employees. If asked to make this trip, no matter who pays for it, most will simply chose to work elsewhere. It's just too much trouble for a summer job. And I am lucky to have an enrollment center only two hours away. Employees of some PVA members will have to make two separate overnight trips to an enrollment center, because they are located far away for the traditional "port areas" that the federal government had in mind when implementing the TWIC rule.

How many TWIC cards will be requested by applicants who change their mind and go to work at the restaurant down the street when they find out that the restaurant will put them to work right away? How many TWIC cards will be issued, and the applicant never picks up the card, because Mom decided the family was going on vacation instead? How many new hires will quit after the first day? How many cards might not function correctly, requiring yet another trip to the enrollment center? These are the unintended costs for the small employer that we are concerned about.

In its recently-issued implementation guidance, the Coast Guard says that an employee can be put to work for an interim period based on the applicant's preliminary background check while the TWIC application is being processed. For an employer such as me who does not need sophisticated card biometrics to recognize their employees, why can't this background check be sufficient, thereby avoiding the issuance of the expensive unnecessary card? If each employee on my boat with unescorted access to secure areas could be checked by the FBI and TSA, wouldn't that accomplish Congress' goal of knowing who is in our ports?

We also object to the provision in a future proposed rule to require each employer to keep detailed records for two years, which show every occasion of which an employee enters a secure area. This does nothing to prevent security incidents, but does impose a huge

paperwork burden on a small business. Why add a new redundant record keeping requirement, on top of the payroll records and vessel log books that we already maintain? This idea was dropped from the original proposed rule, but I understand that the Coast Guard may resurrect it soon when it proposes the second part of the TWIC rulemaking.

Allow Employers to Define the Correct Secure Areas

The premise of the rule is that an individual must possess a valid TWIC to enter a secure area of a transportation conveyance or facility. A rational determination of risk will ensure that the marine employer is guarding against terrorism in the right locations without indiscriminately applying a TWIC requirement to locations where it is not justified. Adhering to this concept will make the TWIC rule more manageable for small businesses.

PVA acknowledges that the final rule recognizes that many vessel employees work primarily in passenger areas or service areas of the vessel that have no bearing on security (galleys, storerooms, etc.). These employees never need unescorted access to secure areas and so they will not need TWICs. These provisions will make the TWIC requirement more manageable than contemplated in the original proposed rule, but they still leave an unacceptable burden on a small employer with a large seasonal workforce.

Many of our seasonal employees will not have unescorted access to sensitive security information and will not access the restricted areas of the vessels. But there will be occasions when my captain will have to remain in the wheelhouse and send the sole seasonal deckhand down to check things in the unattended engine room. Under the rule as currently written, that seasonal employee will have to get a TWIC.

Test Readers Before Requiring Them

In the Safe Port Act, Congress told TSA and the Coast Guard not to proceed with a TWIC reader requirement until the technology was tested in several places in real-life maritime environments. Our company was asked to participate in a test of readers. We obtained a grant of $14,000 to finance the test. The cost of a reader has been described as about $2,500, but we have discovered one cannot simply plug in a reader and start using it. For our small business, we will have to buy a new computer to be the server to communicate with the reader and install the support equipment for the reader to "talk" to the new server and for the server to "talk" to Homeland Security. To ensure that a working reader will always be available, our grant proposal included the costs of a duplicate machine, in case the main machine failed during the work day. We look forward to participating in this important prototype test, because we believe that the test will prove that the reader is an unnecessary expense for a company such as ours and that it does not contribute significantly to our company's security.

We want to know where we will put a reader. Do we have to have a separate reader on each vessel with a security plan? It has been suggested that we have a single reader dockside, but our vessels depart from the Annapolis City Dock where there is no shelter and where the public has free and open access.

How will a reader stand up to a maritime environment? We have enough trouble now with our credit card machines malfunctioning because of moisture, exposure to weather, etc. I will be surprised if a reader's durability is any better.

Conclusion

Thank you for your assistance in assuring that this rule is modified to address the concerns of small businesses such as mine. It is my belief that an appropriate level of security can be achieved without unnecessarily harming American small businesses, but changes in the TWIC requirement are essential to accomplish this.