

OIG EXHIBITS

Biscayne Building
19 West Flagler Street, Suite 220
Miami, FL 33130
Phone (305) 375-1946
Fax (305) 579-2656



Memorandum

To: Mr. Steve Shiver, County Manager

Received by Date

Ms. Angela Gittens, Director
Miami-Dade Aviation Unit

Received by Date

From: Christopher Mazzella
Inspector General

Date: 4/25/03

Re: OIG Concerns About the Lack of Security Screening of Construction-Related
Personnel at MIA's North Terminal Development Project

[REDACTED]

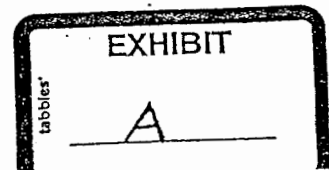
④

[REDACTED]

① ②

The OIG is bringing forth our concerns because in recent weeks, OIG representatives met with Miami-Dade Aviation Department (MDAD) Security officials to advise them of our concerns, and since then, no action has been taken. The OIG first raised these concerns to MDAD security personnel on April 9, 2003. They advised us that they would start performing random searches of the construction workers. As of this date, the OIG has not been copied on any such procedural changes as promised. As recently as last Monday, April 21, 2003, the OIG again requested to be copied on memoranda establishing a new security screening protocol.

OIG Memorandum
Security Screening of NTD Construction Personnel
4/25/03
Page 1 of 4



On one occasion, since the initial discussion of April 9, 2003, the OIG observed hundreds of construction workers entering the AOA

[REDACTED]

① ②

[REDACTED]

4

THE ROLE OF TSA

The Federal Transportation Security Administration (TSA) regulates and controls the security screening for personnel entering sterile areas (the portion of the airport that provides passengers access to boarding aircraft), but does not regulate and control security screening for entry into other areas of the airport such as the AOA.

MDAD, in conjunction with the Turner Austin Airport Team (the Construction Manager over the NTD project), controls the security for personnel and equipment entering the AOA to work on the NTD project.

TSA also provides minimum standards for unescorted access onto the AOA, which requires that workers go through a fingerprint check to ensure that they have not committed any disqualifying criminal offenses in the last ten (10) years.

[REDACTED]

①

THE NORTH TERMINAL DEVELOPMENT (NTD) PROJECT

The Turner Austin Airport Team (a joint venture of Turner Construction and Austin Commercial, hereafter "Turner Austin") is the Construction Manager for the North Terminal Development (NTD) Project.

The NTD is comprised of over 60 subprojects, which at present are all in various stages of construction. On a daily basis, there are several hundred construction-related workers from various contractors, subcontractors, and suppliers working at MIA on the NTD. Some of the

[REDACTED]

① ③

construction is taking place in existing airport terminals, new terminal building and structures, and on the AOA (airfield).²

[redacted]

On one morning, OIG Special Agents observed seven busloads of workers going through the security entrance. This amounts to approximately four hundred (400) workers entering the airfield that day.

[redacted]

(1)

[redacted]

(1)(2)

[redacted]

(1)

[redacted]

(1)

[redacted]

(1)(2)

² Most of the NTD construction sites are in the active AOA where aircraft are moving or loading/unloading, and other vehicles such as baggage carts, fuel and airline food trucks, etc. are stationed.

While the OIG understands that workers with temporary badges are required to be

[REDACTED]

①

On February 3, 2003, a former construction worker notified MDAD security and Miami-Dade Police of his concerns regarding airport security and drug use by other construction workers. As a result, on March 6, 2003, Miami-Dade Police conducted a drug sweep at the Turner Austin off-site construction parking lot, which resulted in the arrest of one of the construction workers for a felony warrant. The warrant was issued for a probation violation. The worker was on probation for a previous drug conviction.

In the course of this investigation, the OIG performed criminal history checks

[REDACTED]

①

②

MIA has a history of problems with theft of goods and materials. Several years ago, a group of ramp agents (the "Ramp Rats") were arrested for stealing personal items from airline passenger bags and cargo. The Miami Herald recently reported that a five-gallon bucket of gold dust worth approximately \$350,000 was stolen at MIA on March 5, 2003. There are also concerns about drug smuggling at the airport.

All of the above findings support the OIG's

[REDACTED]

4

- cc: The Honorable Mayor Alex Penelas
- Dr. Barbara Carey-Shuler, Chair, Board of County Commissioners
- Commissioner Dennis Moss, Chair, Transportation Committee
- The Hon. Katherine Fernandez Rundle, State Attorney, Eleventh Judicial Circuit
- Mr. Bill Johnson, Assistant County Manager
- Mr. Bruce Drum, Assistant Director, Aviation Department
- Mr. Mark Forare, MDAD Security
- Mr. Fernando Urioste, Turner Austin Airport Team

Clerk of the Board (copy filed)




MEMORANDUM

TO: Steve Shiver
County Manager

DATE: April 28, 2003

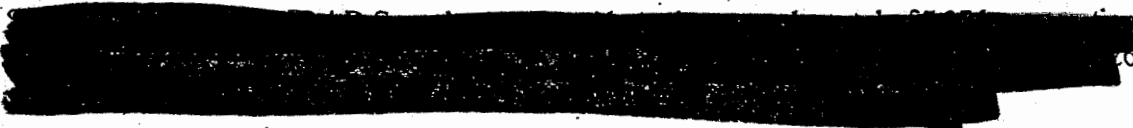
SUBJECT: Response to Inspector
General Report—
Security Issue

FROM: Angela Gittens 
Aviation Director

This memorandum responds to the Office of the Inspector General's (OIG) memorandum, *OIG Concerns About the Lack of Security Screening of Construction-Related Personnel at MIA's North Terminal Development Project*, regarding the screening and inspection of the North Terminal Development (NTD) construction workers entering the NTD Air Operations Area (AOA) access gate.

In its memorandum, the OIG states that copies of these procedural changes were requested both on April 9 and 21, 2003. After meeting with OIG representatives on April 9, Miami-Dade Aviation Department (MDAD) Security representatives took appropriate action to address the OIG's issues and concerns regarding the screening and inspection of construction personnel.

From the April 9 informal meeting, Mark Forare, Assistant Aviation Director for Security, understood that there was no need to respond in writing until the formal report was issued. On April 21, however, the Deputy Inspector General sent an e-mail reminder requesting a response, which the Assistant Aviation Director did not read until April 28, 2003; therefore no responding memo was sent. In any case, these procedures are security sensitive and should not be part of a public document. In fact, the OIG's entire report, distributed via a public forum, fully describes security sensitive procedures regarding access to the AOA. Sensitive Security Information (SSI) regarding airport security is subject to the provisions of 49 CFR Part 1520, which restricts release without the express written permission of the Undersecretary of Transportation for Security. Therefore we have officially advised and transmitted the OIG report to the Transportation Security Administration (TSA) Federal Security Director for Miami.



(2)

In its memorandum, the OIG states that there are loopholes in the ID issuance process. On the contrary, the MDAD ID System is in effect solely to meet TSA (formerly FAA) rules and regulations and the MDAD Security ID Section issues ID badges in full compliance with

tabbies
EXHIBIT
B

TSA regulations. For the same reason, contractors are issued non-photo badges and must comply with very specific procedures.



(1) (3)

- c: Christopher Mazzella, Inspector General
- The Honorable Alex Penelas, Mayor
- The Honorable Dr. Barbara Carey-Shuler, Chair, Board of County Commissioners
- The Honorable Dennis Moss, Chair, Transportation Committee
- The Honorable Katherine Fernandez-Rundle, State Attorney, Eleventh Judicial Circuit
- Bill Johnson, Assistant County Manager/Transportation Manager
- Clerk of the Board (file copy)



U.S. Department of
Transportation

Office of the Secretary
of Transportation

The Inspector General

Office of Inspector General
Washington, DC 20590

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Representative Oberstar:

In response to your March 13, 2002 letter, we are reviewing the Transportation Security Administration's (TSA) progress in implementing provisions of Sections 106 and 138 of the Aviation and Transportation Security Act (Act). This is an interim report on TSA's progress in implementing these provisions. We will continue to monitor TSA's progress and report out to you as appropriate.

As you know, the provisions of Sections 106 and 138 were incorporated into the Act to further protect secure areas of the Nation's airports. Section 106 mandates, among other things, that all individuals, vehicles and other equipment, goods, and property be screened or inspected before being allowed entry into secure areas of the airport and onboard aircraft. Section 138 mandates new background investigations, with more thorough criminal history checks, for all current employees with unescorted access to secure areas of the airport, security screeners and their supervisors, and for individuals who have *regularly escorted access* to secure areas of the airport. These provisions are not tied to any specific deadline, unlike other provisions of the Act such as the requirement to screen all checked baggage using explosives detection systems by December 31, 2002.

TSA efforts so far have mostly focused on meeting its 2002 deadlines to have a federalized passenger screener workforce in place by November 19th and to begin screening all checked baggage by December 31st. Nevertheless, there has been some measurable progress in implementing the provisions of Sections 106 and 138.

CC-2002-132

EXHIBIT

tabbler

C

Actions to address certain provisions of Section 106 were implemented following September 11, and prior to enactment of the Act in November 2001. Airport perimeter security was strengthened by mandatory directives issued by the Federal Aviation Administration (FAA) that limited the number of access points and required tighter controls over the remaining perimeter access points, such as random screening of individuals, vehicles, and property before entry into secure areas of the airport.¹

Actions to address certain provisions of Section 138 were implemented following enactment of the Act, when FAA issued a rule making criminal history checks mandatory for all current employees with access to secure areas of the airport. This requirement was expected to be completed by the end of December 2002, when criminal history checks should have been processed and adjudicated on an estimated 750,000 employees at airports nationwide.

Although we have seen some progress, much work remains before the provisions of Sections 106 and 138 are fully implemented. TSA needs to (1) issue a regulation addressing security requirements for airport vendors and tenants, and (2) move forward with implementing the countermeasures it has identified to strengthen airport perimeter access security, including identifying the associated costs and sources of funding. TSA also needs to issue its rulemaking requiring background investigations and criminal history checks for all individuals who have *regularly escorted access* to secure areas of the airport. In order to do so, TSA must first clarify the conditions it has put forth for exempting individuals from such a requirement. We have discussed these issues with TSA officials who have agreed that further corrective actions are necessary.

Further details of what we found are provided below.

Section 106: Improved Airport Perimeter Access Security. Immediately following September 11, 2001, FAA instituted a series of security directives to bolster airport and aircraft security. As part of its security directives, FAA mandated that airports limit the number of access points to secure areas of the airport and conduct random inspections of individuals and vehicles at airport perimeter access points. FAA also mandated that air carriers conduct random screening of their service personnel with access to aircraft before they enter the aircraft and monitor catering operations from the point of preparation to delivery to the aircraft.

Since September 11, there has been much improvement in controlling unauthorized access to secure areas of the airport, as indicated by the results of our undercover audits of airport and air carrier security at airports nationwide. In testing conducted from

¹ Subsequent to the enactment of the Aviation and Transportation Security Act (Act) in November 2001, TSA assumed the civil aviation security program responsibilities from the FAA, along with all of FAA's civil aviation security programs, plans, regulations, orders, and directives.

November 2001 to July 2002, we were denied unauthorized access to secure areas of the airport via airside perimeter² access points significantly more often than during our access control testing prior to September 11.³ Based on our testing, it is evident that protection against unauthorized access to secure areas of the airport via airport perimeter access points has improved; however, further improvements could be expected by executing more robust security policies and procedures, and by addition of advanced access control technologies.

To further address the provisions of Section 106, TSA established an Airside Working Group (Group) in early March 2002, tasked to assess the risk of terrorist acts via the airside perimeter and identify countermeasures to reduce those risks, such as screening or inspecting all individuals and vehicles before entry into secure areas of the airport and onboard aircraft. In one of the Group's early efforts, a pilot project was set up at Miami International Airport to review its employee screening process.⁴ According to TSA, Miami is currently the only airport screening all employees with authorized access to secure areas of the airport.

The results and countermeasures of the Group's assessment were reported to TSA on October 3, 2002. The report provides a detailed analysis of the relative risk associated with a number of threat scenarios, such as the threat of a bomb introduced via the catering system or a bomb placed aboard an aircraft by a non-passenger who gains airside access to the aircraft. For each threat scenario, the Group identified one or more countermeasures that could be implemented to reduce the relative risk, such as random physical checks or full screening of employees at access points before entrance into a secure area of the airport; manning all vehicle gates; and thorough vehicle searches. The report goes on to say that many of the countermeasures can be implemented in a short timeframe, while other countermeasures require further analysis.

However, absent from the report was an assessment of the Section 106 provision requiring vendors with direct access to the airfield and aircraft to develop security programs. These programs would prescribe security requirements on the vendors designed to prevent or deter a terrorist or criminal act against the airport or onboard aircraft. Such requirements could include providing employees with basic airport security awareness training such as airport identification display and challenge procedures; conducting employee background investigations and criminal history checks on all employees, not just those requiring unescorted access to secure areas of

² Airside perimeter is the airport boundary around air operations areas including secure areas of the airport and aircraft.

³ Our test results, which include security sensitive information, will be provided under separate cover.

⁴ Prior to September 11, 2001, Miami was screening all employees authorized access to secure areas of the airport as a result of a Department of Justice sting operation involving air carrier employees who were bribed to smuggle drugs, contraband and weapons onboard passenger aircraft.

the airport; accounting for and controlling use of employees' airport identification; and securing vehicles and equipment from unauthorized entry or use.

TSA informed us that it would soon issue regulations that greatly enhance security concerning airport vendors and tenants. Although no regulations have been issued, TSA has directed both aircraft and airport operators to conduct criminal history checks on all individuals who are employed or perform duties in the airport sterile area.⁵ However, to further strengthen airside perimeter security, TSA needs to move forward with developing and executing a standard security program for all airport tenants.

While we agree with the conclusions drawn by the Group in its assessment, along with most of its countermeasures, there is little new information in this assessment that has not been reported in risk assessments prior to September 11, 2001. TSA needs to move away from the study phase and into the implementation phase with its countermeasures expeditiously. However, before this can happen, TSA needs to identify the costs associated with implementing its countermeasures, who will bear these costs, and how the costs will be funded. TSA also needs to identify and prioritize those countermeasures that are near term (less than 1 year), intermediate term (1 to 3 years), and long term (3 to 5 years).

Section 138: Employment Investigations and Restrictions. In December 2001, TSA published a rule mandating that airport operators and air carriers conduct new background investigations on all current employees. As of December 23, 2002, airport operators and air carriers have processed 800,008 background investigations, including criminal history checks, for employees who have *unescorted* access to secure areas of the airport. TSA anticipated that the remaining background investigations for these individuals would be completed by the end of December 2002.

However, the requirement that background investigations and criminal history checks be completed for all individuals who have *regularly escorted access* to secure areas of the airport has not been implemented. Individuals who have regularly escorted access can include employees of companies under contract with the airlines that provide catering, fueling and aircraft parts delivery and repair services, and also employees of companies under contract with the airport for airside construction projects. TSA has prepared a draft Notice of Proposed Rulemaking (Rule) addressing this provision and is currently awaiting instructions from the Department on whether it is to be published or incorporated as part of another Rule under development addressing employee background investigations and criminal history checks.

We have reviewed a draft of the Rule and have made recommendations to strengthen it. First, the term *regularly escorted access* has not been defined. Instead, the proposed

⁵ Once a person passes through passenger screening he/she enters the sterile area. Airport concourses that include the boarding gates for airport departures and arrivals are sterile areas.

rule identifies four conditions under which individuals may be exempted from criminal history checks. One such condition would exempt criminal history checks when individuals undergo screening prior to access. However, it is not clear to what extent individuals and their property will be screened prior to access, or whether such screening will ensure at least the same level of protection as will result from screening of passengers and their baggage.

Second, the Act requires that an employment investigation, including a criminal history check, be conducted for individuals who regularly have escorted access to secure areas of the airport. The proposed Rule only requires a criminal history check. However, employment investigations are necessary to verify the individuals' whereabouts and employment history over the past 10 years. This is especially true for aliens and resident aliens who have only been in the United States for a few years and for whom little is known about their employment or other activities outside the United States.

Based on our review of the draft Rule, we have recommended that TSA (1) clarify each of the four conditions under which individuals may be exempted from background investigations, including criminal history checks; and (2) revise its Rule to require that an employment investigation, including a criminal history check, be conducted for individuals who regularly have escorted access to secure areas of the airport.

We are preparing a separate report to TSA on these matters. In that report, which contains security sensitive information, we will be making a series of recommendations to TSA for improving access to secure areas of the airport. We are available to brief you and your staff on specific security sensitive information related to these two sections of the law. If you have any additional questions or require further information, please call me at (202) 366-1959 or Todd J. Zinser, my Deputy, at (202) 366-6767.

Sincerely,



Kenneth M. Mead
Inspector General