

TWIC Open Issues

2/9/06

The TWIC and its credentialing process is a fundamental and missing part of overall seaport security. Industry is required to check identification and control access to maritime facilities and vessels, and various federal agencies are required to validate that industry is doing so. Yet without the TWIC, there is no way to validate an individual's identity or determine whether an individual may be a threat to maritime security. MTSA recognized this vulnerability and directed TSA to develop TWIC. The failure of TSA to develop TWIC leaves us at greater risk of a serious transportation security incident.

Q: Most TWIC stakeholders believe TSA has been provided with more than sufficient time and resources to implement the TWIC program. Obviously, since it is not operational, and not likely to be so for at least another 12 months according to Mr. Mark Hatfield's recent public statement, there is a growing concern that TWIC is simply not a priority for DHS/TSA. Quite frankly, many maritime professionals have lost confidence that TSA will implement a viable program at all.

How does the Agency respond to those raising these concerns?

Q: In March of 2005, TSA informed the National Maritime Security Advisory Committee that its intentions were to publish a Notice of Proposed Rulemaking by the September, 2005. As of the date of this document, no NPR has been published, and we understand it is still under review.

What caused this latest delay, and when does TSA intend to publish the NPR? What steps are being taken to ensure further delays are avoided? When does TSA expect to publish a final rule?

Q: We are particularly concerned about several key components of the TWIC program which have been raised as questions but for which no answers or solutions have been forthcoming. These include:

- Will TSA manage the program or issue a standard for states, ports, or other entities to follow?
- What will the disqualifying background check criteria include?
- What will be the process for waivers and appeals if someone is denied a card?
- Does TSA intend that a TWIC applicant will be required to have an employer or other entity sponsor his or her application?
- Assuming TSA does not intend to process the enrollments itself, what training and security level will TWIC trusted agents

Q: On October 30, 2005, TSA informed the members of the Florida and Delaware River pilot program participants that it would sustain the existing pilot program on a limited basis for an additional four months. The end of the four-month period is drawing near.

What are TSA's intentions with regard to sustaining the pilot program between now and program deployment?

Q: During the course of the TWIC pilot program, TSA intended to test both various technologies as well as the host of business processes that must be developed in order to implement the program. Many of the business processes were not tested, including, but not limited to:

- **Communication with the central database.** The central database would allow facility operators to provide TSA with the names of individuals to whom they grant access. With this feature, if an individual's card were hotlisted, TSA could notify all facilities where the worker had been granted access.
- **Hotlisting.** Since no connection between a central database and the individual facilities was established, the card hotlisting process could not be tested.
- **Interoperability.** One of the original components of the TWIC vision included its ability to be used with legacy systems and across modes. This test was not completed.
- **Web portal.** While the pre-enrollment web portal – designed to minimize the amount of time spent at the TWIC enrollment center – was established and used throughout the pilot program, a great deal of the critical and optional functionality was never built in. Pilot program participants requested, for example, to use the web portal to request access to a particular facility or facilities – thereby reducing tie-ups at the terminal gates (which is of course paramount to successful implementation in the maritime sector). This feature was not included. While it would have been nice to have, it wasn't necessarily mission critical. On the other hand, employers/sponsors were never provided with functionality to delete former employees from their rolls through the TWIC portal. Without this capability, there is extreme risk and the program cannot operate without it.
- **Use of Biometrics** – The prototype did not test use of biometrics with workers at port facilities. This is a significant concern.

How and when does TSA plan to test these important components of the program?

Q: Port facilities and stevedores rely heavily on the ready availability of casual longshore labor. Similarly, many other sectors of maritime, such as passenger vessel operators, depend on seasonal labor, particularly students. Industry has briefed TSA on the processes and concerns surrounding the ability of these individuals to obtain appropriate credentials to allow them to gain access to vessels and maritime facilities when necessary and appropriate.

Given the challenge presented by nature of the TWIC card issuance process and the fact that it will not always be possible for these individuals to have constant escort during vessel or cargo operations, what solution has TSA developed through its experience during the TWIC prototype phase?

Q: Industry is concerned about the logistics of applying for and receiving/activating the TWIC. We applaud the pre-enrollment concept, which will allow applicants to provide data via a web portal thereby reducing the amount of time spent at enrollment centers.

However, since it will be necessary for an individual to present biometrics and have his documents validated to complete the enrollment process, it is important that there be sufficient enrollment centers in convenient locations. It would not be reasonable, for example, to require that an individual travel over long distances to apply for and/or to retrieve a TWIC. Where has TSA determined processing centers will be located?

Comment: Along those lines, it is our understanding that TSA did not test the issuance of TWIC to mariners, who may be away from their home regions for extended periods of time and who require access to vessels and various ports, ferry terminals and other secure facilities. This is a fairly significant portion of the population that was not included in the test.

Q: We are aware that TSA attempted to gauge the total potential TWIC population in an effort to determine the cost to apply for a TWIC. We are also aware that because there were several open questions about who might be required to/eligible for a TWIC, TSA was not meeting with immediate success in this effort. What has TSA learned about the potential population and what does the agency expect the cost to obtain a TWIC will be?

Q: Our understanding is that the decisions with regard to the card and reader technology were to have been finalized during the prototype phase. However technical information has not yet been shared with both private sector and public stakeholders.

Has the final determination been made? If so, when will TSA release technical specifications? If not, why not?

Comment: Because of the delays in implementing TWIC, many vessel and facility operators have been compelled to implement their own programs in order to comply with various security requirements and address internal needs. TSA needs to include a mechanism to “grandfather” these systems and phase in the use of TWIC so as to avoid the significant and redundant expenses associated with full replacement of legacy systems.

Q: Why is TSA withholding the results of the Prototype evaluation?

Comment: Because of the above, we are concerned about the validity of the prototype and therefore some of the decisions that may be made.

Q: It is our understanding that once TWIC is implemented, individuals who do not possess a TWIC will not have unescorted access to secure facilities. To date, TSA has not outlined its solution to including foreign drivers and seafarers in the program. In addition to the operational difficulties foreign nationals will present to facility operators if not included and the potential neglect of humanitarian aid to seamen, we are concerned about how this will reflect on U.S. mariners at ports overseas.

How will evolving international requirements of the ILO (particularly ILO 185) and the IMO affect the TWIC project? And if international requirements are not included, will TSA and/or

Coast Guard provide a mechanism for vessel/facility operators to grant unescorted access to foreign drivers and seafarers if they so choose?

Q: How long will the card be valid?

Q: Will TSA be able to guarantee that the agency can complete the background check and card issuance processes within a specified period of time? If so, how much time between enrollment and activation does the agency expect? If not, what are the processes that remain to be tested or questions to be answered before TSA can provide this information?

Q: What has TSA done to align the TWIC program with other federal card-issuing initiatives?