



**NATIONAL BUSINESS  
TRAVEL ASSOCIATION**  
*Connecting the Business Travel World*

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Secure Flight Program

The National Business Travel Association (NBTA) submits the following comments in response to the Department of Homeland Security (DHS) Notice of Proposed Rulemaking (NPRM) concerning the implementation of the Transportation Security Administration's (TSA) Secure Flight Program.

NBTA is the authoritative voice of the business travel community, representing over 3,000 corporate travel managers and travel service providers who collectively manage and direct more than \$170 billion of expenditures within the business travel industry, primarily for Fortune 1000 companies. For nearly forty years, the association has been dedicated to the professional development of its members and the advancement of the business travel management community through advocacy, education and training, and networking opportunities.

Through the efforts of its member committees and professional staff, NBTA monitors developments in the business travel field and provides time-sensitive research and critical industry information. The association also takes the industry's story to the media and the public and represents the industry's interests on Capitol Hill. Committed to the advancement of the business travel profession, NBTA offers numerous education and training opportunities and holds an annual International Convention and Exposition.

NBTA recognizes that the business travel community is not limited to just one country or continent but to the entire globe, and therefore maintains international relationships with affiliates and partners across the globe. From the Americas to Europe to Asia, NBTA's international affiliates and partners provide quality education, research, networking opportunities, and counsel and advice to foreign governments. In addition to its own international operations, NBTA serves as the international secretariat of the Paragon Partnership, the global alliance of business travel associations that manage and



direct more than \$187 billion in expenditures and represent about 6,100 business travel buyers and suppliers. The Partners believe that they enhance their service to their constituencies by working together to achieve common goals.

### Previous NBTA Comments on Secure Flight

When TSA published its first NPRM in 2004 to allow for testing of the Secure Flight program, NBTA submitted comments based on analysis by the U.S. General Accounting Office (now U.S. Government Accountability Office) which included the following recommendations:

- Reduce the possibility of mistaken identity by verifying accuracy of the Secure Flight database;
- Develop procedures for immediate redress of errors that can take place at the airport;
- Perform stress testing to ensure that Secure Flight can meet the travel demands of today and tomorrow;
- Develop safeguards to protect Secure Flight systems from abuse and unauthorized access;
- Establish effective oversight by creating a position within DHS to improve the Department's communications with the travel industry; and
- Identify and address all privacy concerns.

Since the original testing phase in 2004, some progress has been made in addressing several of these recommendations. The comments below not only present NBTA's continued concerns in a number of these areas, but also analyze some of the specific proposals in the present NPRM.

NBTA has also testified before Congress regarding the Secure Flight program. On February 9, 2006, Bill Connors, Executive Director and Chief Operating Officer of NBTA, testified before the Senate Committee on Commerce, Science, and Transportation, restating several concerns with Secure Flight related to privacy and redress issues.

### General Comments

NBTA agrees with the Congressional mandate, now being implemented via the Secure Flight program, that comparing air passenger lists with relevant government watchlists



is a government responsibility and should be transferred from the commercial air carriers to TSA. The current system is neither effective in facilitating legitimate travelers nor in ensuring that dangerous individuals are kept off of aircraft. NBTA believes that a properly developed, tested, and implemented Secure Flight program will be a major improvement over the status quo.

We are disappointed that it has taken TSA three years to propose the legal framework for Secure Flight since the program originally was unveiled in 2004. The traveling public has suffered under a broken system for too long, and we encourage TSA to move as expeditiously as possible to deploy a program that improves the commercial aviation experience for millions of travelers.

However, NBTA continues to have significant concerns with important aspects of the proposed Secure Flight Program, as outlined below. Only when these concerns are fully satisfied does NBTA believe Secure Flight should be fully implemented to regulate the travel of millions of aviation passengers each year.

### Redress

The number of NBTA members and their employees traveling on airplanes are at record levels. Of course, the transformation of the aviation security process after 9/11 has led to significantly increased screening of passengers, both biographical and physical. NBTA recognizes the need to protect commercial air travel from terrorist attacks and other risks which would cause immense human and economic costs. However, the massive increases in the numbers of individuals placed on government watchlists, especially the No-Fly and Selectee lists operated by the Terrorist Screening Center (TSC) and the TSA, has led to an explosive increase in the number of employees at NBTA member companies who have found themselves confused with watchlist entries.

Thus, NBTA was pleased to see the launch of the DHS Traveler Redress Inquiry Program (DHS TRIP), which provides a central gateway for travelers to obtain information about screening and to apply for redress. This program partially meets one of the proposals made by NBTA in its 2004 comments. Unfortunately, the initial results for TRIP show that the problem has far from been solved. NBTA is hopeful this program will live up to the expectations of the American people and alleviate many of the hassles the business travel community is experiencing.

Between February 20, 2007, and October 26, 2007, DHS TRIP recorded approximately 15,900 requests for redress in its management system. Approximately 7,400 cases have been resolved, approximately 7,100 of which have been adjudicated successfully. The



majority of DHS TRIP requests that remain in processing are awaiting submission of supporting documentation by the applicant.

NBTA recently conducted a survey of its members to ascertain the level of awareness about DHS TRIP and gauge reaction to the program. In general, travel managers rate as “fair” the ability of security screening programs to effectively identify travelers for secondary screening.

However, where business travelers experience watchlist problems, the NBTA survey found little knowledge of DHS TRIP. Furthermore, corporate travel managers do not understand the program well enough to assist their employees. Sixty-four percent of travel managers surveyed were unaware of DHS TRIP, and only twenty percent have recommended DHS TRIP as a solution to their employees. Ninety-two percent of respondents stated their company did not include information on DHS TRIP in communications to their employees.

Among the small number of respondents who had used DHS TRIP and judged the program’s effectiveness, most had favorable results. Thus, it appears that the key to seeing DHS TRIP succeed is getting information about the program into the hands of industry stakeholders and the general public. One survey respondent concluded, “Now that I have read about the program I will disseminate the information to all of our travelers.”

Therefore, NBTA recommends that in order to make the redress program effective, DHS should embark on a public relations campaign to inform the travel industry community and members of the general public about the program. DHS should work with air carriers and airport authorities to post signage related to DHS TRIP and to distribute explanatory and enrollment materials directly to travelers. In addition, DHS should redouble efforts to utilize trade associations such as NBTA to distribute information to business travelers and corporate human resource and travel departments. For its part, NBTA has included a link to DHS TRIP in a daily newsletter which goes to all NBTA members. DHS could significantly increase awareness by conducting more aggressive stakeholder outreach, encouraging weblinks on travel sites and providing materials tailored for specific segments of the travel industry.

In addition, recent testimony delivered by the Department of Justice Inspector General Office revealed that applications for redress submitted to DHS TRIP take on average forty-four days to resolve. DHS testified that it was making efforts to reduce this figure to thirty days, and NBTA urges DHS to work expeditiously with the TSC to at least meet that promised standard. For business travelers who may travel frequently, even thirty days subjected to watchlist confusion may negatively impact their ability to travel



and fulfill their business responsibilities. One comment on the NBTA survey noted, "The process is too long and involved to get your name removed from the list. It has taken over six months for travelers to be removed and some of them are still fighting."

NBTA has urged Congress to provide DHS with resources to make DHS TRIP the effective program it was designed to be by (i) implementing an effective public relations campaign, (ii) reducing the frequency of secondary screening for those who have been cleared by DHS TRIP; and (iii) reducing processing time for redress complaints by increasing the number of examiners. In addition, greater transparency, such as annually reporting to appropriate Congressional oversight committees the aggregate number of adjudicated submissions and procedures for reviewing submissions, would give the business travel community greater confidence in DHS TRIP.

In addition to these recommendations, and with respect to Secure Flight specifically, NBTA expects that the standardization of names used to book tickets and conduct watch-list reviews, as required by this NPRM, will both minimize the number of people inaccurately confused with a terrorism suspect and make the DHS TRIP process more effective. Therefore, we congratulate DHS on including this requirement in the NPRM.

In conclusion, one person surveyed by NBTA concluded, "Some have given up and just get to the airport early." Until individuals who have sought redress feel that their travel experience has been entirely fixed, the program will not be considered a complete success. NBTA looks forward to working with DHS and the Congress to ensure a workable redress system and an effective communications plan are put in place so that these measures are implemented to the benefit of the American people and U.S. businesses.

### Secure Flight Passenger Data

In the NPRM, TSA proposes that while airlines would be required to ask passengers for their full name, date of birth, gender, and redress number (in the cases where redress has been sought), passengers would only be required to submit their full name. The NPRM indicates that passengers who refuse to provide those additional pieces of information may be more likely to be confused with watchlist entries. NBTA appreciates that the proposed rule does not require submission of these additional data elements but retains discretion for the traveler or the entity booking travel for a passenger to provide additional information. It is important to recognize that many companies maintain formal or informal policies discouraging employees from submitting birth dates to minimize the risk of age discrimination. Corporate human resource departments may develop a variety of policies reflective of the desires of their



particular workforce as to collection of additional personal information fields and provision of such information to TSA. Many business travelers are willing to provide such personal information if it results in an enhanced travel experience and is protected from improper disclosure. However, not imposing a universal mandate regarding submission of additional data fields will assist corporations in their efforts to respect the privacy rights of their traveling employees.

In addition, NBTA encourages TSA and DHS more broadly to develop, retain, and distribute information about the varied rates of watchlist hits for populations submitting different subsets of information to TSA under Secure Flight. Only by informing passengers about the benefits of submitting the additional information air carriers will be required to request can individuals make informed decisions about the impact of providing information to the government for security purposes.

NBTA also encourages TSA, and DHS more generally, to improve their information security protocols. The privacy record for the prior CAPPs II program and the present Secure Flight program has been troubling. Several air carriers and TSA itself have been discovered to violate their own privacy programs or federal laws during CAPPs II or Secure Flight testing. Numerous oversight entities such as the Government Accountability Office, the DHS Inspector General, and the DHS Chief Privacy Officer have found serious deficiencies in the privacy track record of this program. Data which may be legitimately acquired by TSA for legitimate purposes can still be used for nefarious means should a careless or misguided government employee fail to protect the security of systems, laptops and/or data storage devices. Therefore, we encourage TSA to make privacy protections a core part of the Secure Flight program and to instill robust audit and compliance mechanisms into the daily operations of the program. Adequate legal mechanisms can be undermined very quickly by government employees who fail to properly safeguard data entrusted to their care.

Finally, NBTA is encouraged by the recent steps by TSA to limit the privacy impact of the Secure Flight program and to build in privacy protections for submitted information. For instance, prior plans under CAPPs II to utilize commercial information sources to attempt to distinguish between real watchlist hits and false positives have been scrapped. Using the program to look for individuals wanted for non-terrorist criminal behavior has also been abandoned. Building a system that can vet millions of air travelers in seconds versus government watchlists is a difficult task, and we congratulate TSA for narrowing the scope of the mission and focusing on core counter-terrorism objectives.



### Known Traveler Number

TSA requests comments on a “known traveler” number that would be submitted with a passenger’s information. By taking this step, TSA would be leveraging DHS security reviews already underway or completed on an individual, more prudently utilizing government resources. Additionally, the Secure Flight system would then create an override against any watchlist hit due to a similar name.

NBTA agrees with this concept and suggests that the following populations should be issued a “known traveler” number: 1) participants enrolled in Registered Traveler, NEXUS, SENTRI, FAST, and US-PASS (when this program is finally deployed); 2) individuals approved for a Transportation Worker Identification Credential (TWIC); and 3) individuals with an active federal security clearance.

### Single Submission of Data

NBTA acknowledges that the NPRM envisions a second phase of Secure Flight under which TSA would assume responsibilities currently exercised by U.S. Customs and Border Protection (CBP) for comparing international flights versus appropriate watchlists. Until such time as more specific information is proposed on exactly which data elements will be required by TSA for this second phase, NBTA reserves judgment on the proposal. However, NBTA is supportive of efforts by DHS to harmonize and streamline data collection efforts across DHS agencies.

Additionally, such efforts should minimize the burden placed on air carriers and other parties required to submit data to DHS under Secure Flight. NBTA agrees with the long-standing request by air carriers to have DHS develop a single unified list of requests for information submission to the government. Modifying information technology systems to collect and transmit fields of personal and aircraft information is expensive, time-consuming, and disruptive to ongoing operations. NBTA encourages DHS and other federal agencies, such as the Centers for Disease Control and Prevention, to refrain from subsequent rulemakings in this area once the Secure Flight program is finalized.

### Timing of Submission of Data

TSA has proposed requiring air carriers to submit passenger information seventy-two hours before flight to allow time for the government to conduct watchlist reviews and for air carriers to allow advance check-in for flights. NBTA has no objection to this requirement so long as air carriers are afforded alternative and equally effective mechanisms to handle passengers who make or change reservations less than seventy-



two hours before travel. Obviously a significant percentage of business travelers make or change flight plans very close to the time of flight, and they must be afforded an ability to fly without undue interference.

### Change of Data

NBTA notes that many flights are purchased in bulk by business travel managers, with particular passenger information filled in closer to actual flight time. NBTA requests that TSA develop mechanisms to allow the booking of such flights with reasonable requirements for specific identities to be assigned to the ticket close to the time of travel. NBTA recommends that such tickets be treated as last-minute purchases, rather than tickets purchased without a full legal name attached to it.

### Boarding Passes

In an effort to reduce check-in time at the airport, minimize overall travel time, and derive potential security risks from less crowded terminals, nearly all airlines are offering passengers the ability to check in and receive boarding passes before arriving at the airport. In an increasing number of cases, the "boarding pass" may be an electronic message sent to the passenger that can be read by airline devices at the gate. NBTA recommends that Secure Flight should not be constructed to require either physical boarding passes or an actual check-in at the airport ticket counter, and NBTA would strongly oppose any DHS mandate which ignores the very beneficial use of technology to speed vetted travelers through the airport process.

### International Connections

NBTA is very concerned that the NPRM would forbid carriers from issuing a boarding pass to travelers with multiple-flight itineraries until TSA has performed a watchlist review. NBTA encourages TSA to develop a more complete factual record related to the impact of such a rule on international connections, focusing on whether the time between flights will permit the type of security review envisioned by TSA in this proposed rule.



### Electronic Travel Authorization

In an October 17, 2007, letter to DHS Secretary Michael Chertoff, NBTA recognized that securing Visa Waiver Program travel is a key priority for DHS and that authorizing the Electronic Travel Authorization (ETA) was a critical component of the recent strengthening of the VWP urged by DHS, supported by NBTA, and enacted by Congress. Facilitating more business and leisure travel from countries with strong economies who meet stringent counter-terrorism criteria is not only good for our economy and foreign diplomacy, but it is also a wise use of limited resources at the Department of State's Bureau of Consular Affairs.

Nonetheless, NBTA is quite concerned about comments attributed to DHS spokespersons indicating that VWP travelers may have to complete an ETA forty-eight hours before travel. Obviously, a significant portion of VWP travel, especially by business travelers, is scheduled with less than forty-eight hours notice. It would be unacceptable for DHS to impose an inflexible requirement that VWP travelers must submit an ETA forty-eight hours before takeoff.

Therefore, we urge DHS to quell the growing concern about the ETA now by announcing that while VWP travelers should submit an ETA as close to forty-eight hours in advance as possible, a mechanism for last-minute travelers to meet the ETA requirement will in fact be implemented.

NBTA will be following the development of the ETA closely and plans to submit comments once a public rule-making is announced.

At the same time, and consistent with our comments above on the need for harmonized and consistent data requirements, NBTA encourages DHS to explore mechanisms for reducing the need for international passengers to submit duplicative sets of information in advance of travel to the U.S. Passengers will no doubt ask why DHS has compelled airlines to collect both Passenger Name Record and Advanced Passenger Information System information which includes many of the same data fields as are expected to be required under the ETA. Further, we encourage DHS to work with all stakeholders to build synergies into these related and mutually reinforcing programs.

### Implementation Period

While Secure Flight and its predecessor programs have been under development for many years, a program of this complexity requires significant changes to existing business practices at airlines, reservation services, and other entities such as



corporations which assist people in booking air travel. Therefore, NBTA recommends that DHS adopt an implementation period of one hundred eighty days and scrap the current sixty-day requirement envisioned in the NRPM. Until these proposed rules are finalized, private sector entities and even individual travelers will not know exactly what new steps are required. Furthermore, a longer implementation period will allow DHS, TSA, and private sector entities to educate the public about the new mandates so that the program will operate more effectively and suffer from less public confusion and backlash.

### Registered Traveler

While not part of this specific NPRM, NBTA is concerned that DHS views Secure Flight as a competitor to the Registered Traveler (RT) program, which also has an important role in ensuring secure air travel. NBTA believes that Secure Flight and RT should be viewed as complimentary efforts and hopes that DHS leadership also will adopt this mindset instead of working against this public-private partnership. Numerous surveys have identified RT as a popular program with business travelers. Additionally, NBTA believes this program has great potential for conducting robust security checks on applicants, while also ensuring that only enrollees receive expedited security treatment at participating airports. Finally, the program's ability to protect applicants' privacy will allow TSA screeners to focus resources and attention on less known travelers and reduce wasted travel time for frequent business travelers enrolled in RT.

NBTA was disappointed to hear TSA Administrator Kip Hawley's comments at a recent hearing before the House of Representatives Committee on Homeland Security in which he stated that expanding RT was not a TSA priority. NBTA strongly supports RT as an appropriate risk management tool for TSA and as a means to deliver a consistently expedited security clearance process. NBTA encourages TSA to review its current practices related to security checkpoint procedures for RT enrollees and lay out its vision for the role that technology can or will play in enhancing security in RT lanes.

Additionally, NBTA hopes that TSA—and DHS—will think about the benefits the traveling public would receive from the government leveraging the RT infrastructure for other security missions. For example, NBTA hopes that DHS will assess the possibility of utilizing RT equipment to collect biometric and biographic information to verify the departure of international passengers as is expected to be required under the US-VISIT program in 2008.

Any questions contact Shane Downey, NBTA Government Relations (703) 236-1131