

165411

BILLING CODE: 4910-62-P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR Part 1511

[Docket No. TSA-2002-11334]-19

RIN 2110-AA02

Aviation Security Infrastructure Fees

AGENCY: Transportation Security Administration, DOT.

ACTION: Guidance for the Aviation Security Infrastructure Fee: Completing and Submitting Appendix A on Costs Related to Passenger and Property Screening for Calendar Year 2000.

SUMMARY: The Transportation Security Administration issues this additional guidance for completing Appendix A of the Interim Final Rule regarding the Aviation Security Infrastructure Fee. That rule requires carriers to provide information on their costs related to passenger and property screening for 2000. This guidance does not impose any additional requirements.

DATES: This guidance does not alter the due date for Appendix A, which remains on or before May 18, 2002.

FOR FURTHER INFORMATION CONTACT: For further guidance involving technical matters you may contact Randall Fiertz, Department of Transportation, Office of the Assistant Secretary for Budget and Programs, 400 Seventh St., SW., Room 10101, Washington, DC 20590; telephone (202) 366-9192. For further guidance on other matters you may contact Steven Cohen, Department of Transportation, Transportation Security Administration, Office of the Chief Counsel (TSA-5), 400 Seventh Street, SW., Washington, DC, 20590; telephone (202) 493-1231. Office hours are from 9:00 a.m. to 5:30 p.m., e.t. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of the Guidance:

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Boards Service at (202) 512-1661. Internet users may reach the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov>.

Internet users can access this document and all comments received by DOT through the Department's docket management system web site, <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

**GUIDANCE FOR THE AVIATION SECURITY INFRASTRUCTURE FEE:
COMPLETING AND SUBMITTING APPENDIX A ON COSTS RELATED TO
PASSENGER AND PROPERTY SCREENING FOR CALENDAR YEAR 2000.**

The following guidance material is intended to assist air carriers and foreign air carriers (carriers) in submitting the information required by Appendix A of the Interim Final Rule on the Aviation Security Infrastructure Fee (IFR), as published on February 20, 2002 on page 7926 of volume 67 of the *Federal Register*. The information provided here is only intended as guidance. Carriers should not infer that it represents the only acceptable means of completing Appendix A. Please note that any comments related to the IFR that were received by the Transportation Security Administration (TSA) will be addressed separately and are not specifically addressed in this guidance. If TSA determines, either based on comments received or on its own analysis of the Appendix A forms received from carriers, that the applicable regulations or the guidance provided herein have been misunderstood or misapplied, TSA will contact the affected carriers individually and, if

based on comments received or on its own analysis of the Appendix A forms received from carriers, that the applicable regulations or the guidance provided herein have been misunderstood or misapplied, TSA will contact the affected carriers individually and, if necessary, will issue further clarification in the future.

1. What to do if a cost category identified in Appendix A is intermixed with costs not related to passenger and property screening in your accounting system:

The instructions in Appendix A of the IFR address this issue. The instructions state:

“Where actual costs of screening passengers and property cannot be directly identified through an air carrier’s accounting system, the air carrier shall use appropriate alternate cost assignment methodology.” This broad flexibility is qualified by the requirement that “[a]ll costs reported in Appendix A must be consistent with the air carrier’s financial accounting information reported in accordance with generally accepted accounting principles.” Further, carriers must provide to TSA, upon request, “[d]ocumentation that explains and supports the assignment methodology used, the applicable pool, and the allocation basis.”

In other words, where the costs of goods, services, etc., related to passenger and property screening were accounted for in calendar year 2000 (CY 2000) in a manner that commingled them with costs not related to passenger and property screening, then the carrier completing Appendix A may allocate a percentage of those total costs to passenger and property screening, as long as the allocation method is based on reasonable business practices. When assigning costs related to passenger and property screening, a carrier should use the best available information and must

document, explain, and support its basis for using and applying that cost assignment methodology.

Example for assigning labor costs: One possible method is to apply the ratio of total time (hours) that an employee spent on responsibilities related to passenger and property screening versus the time spent on all responsibilities (screening time/total time) to the annual cost of the employee (salary, benefits, etc.). For example, if an employee spent 30 hours on screening related activities out of a 40-hour work week, then 75 percent of the cost of that employee would be allocated to the labor costs reported in Appendix A. If an employee had responsibilities solely related to screening passengers or property during CY 2000, then 100 percent of the annual cost of that employee must be included in Appendix A.

Example for assigning equipment costs (expensed or depreciated): One possible method is to apply the ratio of the total time (hours) the equipment was used for functions related to passenger and property screening versus the time spent on all functions (screening time/total time) to the total cost of the equipment. For example, if a computer was used for 6 hours for screening related functions and for 2 hours on other functions in an 8-hour workday, 75 percent of the cost of the equipment would be allocated in Appendix A. However, under this allocations system, if a computer was used solely for screening related functions, then 100 percent of the cost of the equipment would be allocated in Appendix A, even if it was used for less than a whole work day.

Example for assigning property and facility costs: One possible method is to apply the ratio of square footage used for functions related to passenger and property screening

versus the total square footage of the property or facility (screening space/total space) to the annual costs of the property of facility. For example, if 4,000 square feet of a 16,000 square-foot building is used for screening, then 25 percent of the annual costs of that building should be captured in Appendix A. Such a cost allocation could only be made if the building was also being used for other activities. If the building was used solely for functions related to screening passenger or property during CY 2000, 100 percent of the costs must be included in Appendix A.

2. What to do if two or more cost categories from Appendix A are combined in your accounting system:

TSA recognizes that carrier accounting systems are likely to record two or more cost categories from Appendix A in a single category. For instance, the labor costs for “Checkpoint Screening Personnel” and “Exit Lane Monitors” may be recorded in a single account. Similarly, carriers that engaged in security partnerships or entered into security contracts with other carriers, airports, or private screening companies may have a single accounting category that encompasses two or more of the cost categories set forth in Appendix A.

The instructions for Appendix A address this issue. The instructions state that “[t]o the extent necessary, the reporting air carrier may aggregate those specific costs that have been incurred but cannot be stated in the detailed cost categories requested by the form. However, all of the costs identified by this form must be included in the total calculations. In addition, explanations regarding costs that have been aggregated need to be provided.”

The option to aggregate is only available “to the extent necessary,” and where

“specific costs ... cannot be stated.” Therefore, carriers should consult with appropriate parties, such as partner carriers, airports, and contractors to get information regarding individual costs before aggregating any cost categories in Appendix A. If the carrier is still unable to separate out individual costs, as set forth by Appendix A, the carrier may report those costs to TSA in an aggregated form. However, the carrier must specify in supporting documentation which costs have been aggregated and where the costs appear in the submitted Appendix A. For each cost category that is included in an aggregated amount, carriers should indicate where it is accounted for in the submitted Appendix A. In such a case, carriers should not leave the category blank or indicate that there were no costs.

3. What to do if your screening costs for CY 2000 involve contracting with a partner carrier, an airport, or a private screening company:

It is not sufficient to submit an Appendix A that includes only the cost paid by a carrier to partner carriers, airports, or private screening companies under a screening services contract or other agreement. Even if a carrier outsourced all of its screening functions, its Appendix A submission must still identify, for example, the administrative costs and other related costs incurred by the carrier in entering into and maintaining such contracts and agreements, including any amendments, modifications, claims settlements, and costs incurred for overseeing the contracts or agreements. It must also identify costs related to screening passengers and property incurred by the carrier but not covered by the terms of the contract or agreement. The fact that a carrier outsourced its screening functions does not relieve it of the duty to assign costs to specific categories in Appendix A before aggregating these costs.

This can be done by examining the relevant contracts and agreements and by seeking input from contractors and partners. In the case of contracts and partnerships involving multiple carriers, be careful to ensure that all screening costs are reported to TSA, but that each dollar of the cost is only reported to TSA once.

4. What to do if you did not incur any costs for a cost category in Appendix A:

The instructions to Appendix A in the IFR specify that carriers must indicate those cost categories in which the carrier did not have any costs for CY 2000. This is to be indicated on Appendix A by the use of an appropriately placed zero. Cost categories that are rolled into an aggregated total should be so identified, not listed as zero. For instance, for Item 34 in Appendix A, "Management Fees for Oversight of Consortium Contracts" is defined as "[a]ny costs incurred for fees charged by other organizations for the management of contracts for the screening of persons and property." If a carrier paid any other entity a fee for the management of security contracts, the amount paid should be included on this cost line. If an air carrier did not incur such costs, then the reporting carrier should so indicate with a zero in the appropriate cost category. If a carrier paid such a contract, but management fees were not segregated out, then this cost category may be aggregated in Appendix A, as described in Item 2.

5. What to do if the fiscal year recorded in your accounting system is not the same as the calendar year:

All cost information in Appendix A must be submitted to reflect calendar year 2000, not a carrier's fiscal year 2000. Therefore, if a carrier used a fiscal year different from the calendar year for 2000, it may be necessary to allocate costs over time and among

functions.

6. What to do if you are, or if you represent, a carrier that no longer provides air transportation or intrastate air transportation service, but did do so in CY 2000:

Carriers no longer providing air transportation or intrastate air transportation in or from the United States do not need to remit the Aviation Security Infrastructure Fee.

However, under the IFR, they are still required to complete and submit an Appendix

A. TSA needs to know the costs related to screening passengers and property incurred by all carriers in CY 2000, not just by those carriers still providing air transportation or intrastate air transportation today. Beginning in fiscal year 2005, TSA is authorized to re-determine the per-carrier limit for the Aviation Security Infrastructure Fee, so long as the aggregate amount collected from carriers operating at that point does not exceed the aggregate screening costs of all carriers providing air transportation or intrastate air transportation in or from the United States in CY 2000.

7. How to treat acquired, merged or reorganized carriers:

The IFR states that the successor entity must submit only one Appendix A with all amounts combined, but must specify the names of all carriers whose CY 2000 passenger and property screening costs are included in Appendix A. However, for ease of auditing, carriers may keep separate the internal working papers pertaining to predecessor carriers.

8. How payments are determined:

For fiscal years 2002-2004, the IFR requires each carrier to pay 8.333% of the total listed in its Appendix A on a monthly basis, except for the period of February 18 through April 30, 2002, for which payment of 19.939% is due by May 31, 2002.

Payments for each month following April 2002 are due by the last calendar day of the following month. If, at any time, the Under Secretary determines, on his own or upon petition by a carrier, that it is necessary to adjust the total amount of the Aviation Security Infrastructure Fee that a carrier must pay and/or should have been paying, TSA will contact the carrier. In addition, after September 2004, the Under Secretary may determine a different fee or schedule. However, unless the Under Secretary makes such a determination, carriers should continue paying 8.333% monthly.

9. When payments are due:

If the last calendar day of the month falls on a day on which the carrier cannot make payments, such as a holiday or weekend, then the payment must be received by TSA in advance of the last day of the month. TSA will provide payment instructions for the Aviation Security Infrastructure Fee on its web site, www.tsa.dot.gov. TSA will not be sending bills to carriers for this fee.

10. When to submit Appendix A:

As stated in the IFR, the deadline for submitting a completed Appendix A to TSA is by May 18, 2002. This means that TSA must receive the submission on or before that date.

11. How to submit Appendix A:

Appendix A is available electronically at www.tsa.dot.gov. It must be sent by certified mail to: Chief Financial Officer, Transportation Security Administration, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590. For electronic submissions, use a format readable by current versions of Microsoft Word and mail a computer disk to the above address or e-mail it to TSA-Fees@ost.dot.gov.

12. What the audit must cover:

Each air carrier must provide for an audit of Appendix A performed by an independent certified public accountant. The auditor must plan and perform an audit to obtain reasonable assurance as to whether the costs reported in Appendix A are “consistent with the air carrier’s financial accounting information reported in accordance with generally accepted accounting principles.” The auditor must provide a written letter of opinion on the accuracy of the costs and other information reported in Appendix A, based on the company's pre-existing financial statements and supporting documents, and in accordance with generally accepted auditing standards.

This opinion should include a statement as to whether the audited Appendix A is free of material misstatements. However, carriers need not provide for an audit of the process of remitting the fee.

TSA or other Federal entities may also audit Appendix A and the supporting information to ensure that the information provided in Appendix A is true and correct, as well as to ensure that the Appendix A submitted and fees paid are consistent with the requirements of the IFR. The decision to conduct a Federal audit does not relieve a carrier of its own audit burden.

13. When the audit is due:

As provided for in the IFR, the audit is due to be received by TSA no later than July 1, 2002. TSA will not enforce this deadline against a carrier that submits a timely and proper Appendix A, makes timely and proper fee payments, and submits the audit to TSA no later than August 1, 2002.

14. How to submit the audit:

As with Appendix A, submit the audit to: Chief Financial Officer, Transportation Security Administration, Department of Transportation, 400 Seventh Street SW, Washington, DC 20590.

15. What to do with the CPA's working papers for the audit:

The IFR indicates that the "accountant's working papers with respect to the audit must be included with this submission." This requirement may be satisfied by including in the audit submission the availability (location and time) of the accountant's working papers, so long as the working papers are retained and provided to TSA upon request.

Issued in Washington, DC, on April 29, 2002.



Stephen J. McHale
Deputy Under Secretary of Transportation for Security