



## Transportation Security Administration

### **REGULATORY PROGRAM REQUEST SUBMISSIONS: BEST PRACTICES FOR AIR CARRIERS**

#### **Purpose**

This document is intended to assist air carriers regulated by the Transportation Security Administration (TSA) regarding submission of requests to amend, implement or renew alternate procedures in lieu of the requirements of TSA-approved or accepted Standard Security Programs (SSP), Security Directives (SD), and/or Emergency Amendments (EA). TSA is providing this information to promote consistency across all regulated air carriers; clarify what critical components and information TSA needs to review and evaluate a request or proposal; and identify the key evaluative criteria the agency may use to render its decision.

These best practices do not establish or interpret regulatory requirements, nor do they create or confer any right or benefit on any person or party, whether private or public. Furthermore, nothing in this document is intended to conflict with current law or regulation or the directives of TSA; if any term in this document is inconsistent with such law, regulation or directive, then that term shall be considered invalid.

#### **Terms**

In addition to the terms in 49 CFR §§ 1500.3 and 1540.5, the following terms are used in this document:

*Air carrier* means an aircraft operator regulated under 49 CFR part 1544 and a foreign air carrier regulated under 49 CFR part 1546.

*Alternate Procedure(s)* means a change to a specific provision(s) of a TSA-issued SD or EA.

*Amendment* means a change to a specific provision(s) of an air carrier's TSA-approved or accepted SSP.

#### **Types of Regulatory Request**

Generally, an air carrier may propose and submit two types of regulatory program requests to TSA for consideration: Amendments and Alternate Procedures. Such requests address specific regulatory requirements contained in either the air carrier's TSA-approved or accepted SSP or in a TSA-issued SD or EA. Requests for Amendments and Alternate Procedures, if approved, will become part of the air carrier's SSP.<sup>1</sup>

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<sup>1</sup> SDs are generally issued to U.S. aircraft operators, and EAs to a foreign air carrier.

## **Regulatory Requirements**

Proposals for both Amendments and Alternate Procedures must comport with Transportation Security Regulations, 49 CFR part 1500 *et seq.* Security program requirements for U.S. aircraft operators are provided under 49 CFR part 1544, and security program requirements for foreign air carriers are provided under 49 CFR part 1546.

The general regulatory provisions governing air carrier requests for Amendments and Alternate Procedures are as follows:

1. *Request for an Amendment*

Pursuant to 49 CFR §§ 1544.105(b)(1) and 1546.105(b)(1), an aircraft operator or foreign air carrier, respectively, may request an Amendment to its TSA-approved or accepted SSP. The request must be submitted at least 45 days before the Amendment is proposed to take effect.

2. *Request for an Alternate Procedure*

Pursuant to 49 CFR §§ 1544.305(d) and 1546.105(d), an aircraft operator or foreign air carrier that receives an SD or EA from TSA, but is unable to implement the measures contained therein, must submit a request for an Alternate Procedure to TSA within the timeframe prescribed in the SD or EA.

## **Standard of Review**

The standard of review for Amendments and Alternate Procedures is the same:

TSA must determine that safety and the public interest will allow it, and the proposed Amendment or Alternate Procedure provides the level of security required by the regulation, SSP and/or SD/EA. 49 CFR §§ 1544.105(b)(3) and 1546.105(b)(3).

## **Submitting a Request**

As provided in Chapter 1 of the Aircraft Operator SSP and Chapter I of the Foreign Air Carrier Model Security Program, all requests for an Amendment or Alternate Procedure must be submitted to the air carrier's TSA Principal Security Inspector (PSI) or International Industry Representative (IIR), as appropriate. Requests may be submitted either electronically (by email) or in hardcopy format (by mail or hand-delivery).

## **Elements of a Request**

Every request should be sufficiently detailed to enable TSA to make a determination that safety and the public interest will allow the requested change or alternative, and that the proposed Amendment or Alternate Procedure would provide the same level of security as TSA's existing security requirements. To the extent that the request does not provide sufficient information, then TSA will not be able to approve the request. To ensure that TSA receives, timely reviews, and responds to the

air carrier's request for an Amendment or Alternate Procedure, the air carrier should consider including the following elements in its proposal and submission:

1. *Form.* While there is no specific or mandatory form or format that is to be used for proposing an Amendment or Alternate Procedure, an official request to TSA should be:
  - a. Submitted on company letterhead;
  - b. Addressed to the air carrier's TSA PSI or IIR, as appropriate;
  - c. Dated; and
  - d. Include a statement that it is a formal request for either an Amendment or Alternate Procedure.
2. *Reference.* The submission should provide a reference to the specific SSP or SD/EA provision(s) that would be modified or replaced if the request for an Amendment or Alternate Procedure were to be granted.
3. *Proposal.* The submission should clearly identify and explain the proposed change, including:
  - a. A complete description of the proposed change, including how the proposal differs from the SSP or SD/EA provision(s);
  - b. The actual details of the change, to include specific information on how it will be operationally implemented (e.g. proposed processes, resources, equipment, and location(s));
  - c. The proposed/estimated timeline for implementation (including whether this would be a short-term or permanent measure, and the basis for the proposed timeframe); and
  - d. If the submission is proposing to renew an existing Amendment or Alternate Procedure, an explanation of the continuing security value of the Amendment or Alternative Procedure and the circumstances justifying renewal.
4. *Security Outcome Equivalency.* The submission should fully explain how the proposed Amendment or Alternate Procedure would provide an equivalent or greater level of security to that of the SSP or SD/EA requirement(s) it is seeking to change.
5. *Host Government or Airport Resources.* If the proposal relies on host government or airport operator resources, the submission should include:
  - a. The specific resources that either the host government or airport operator will provide;
  - b. Explanation, and documentation if available, of the extent to which the host government or airport operator has or will commit to carrying out the proposed measures (documentation of this commitment may be necessary before the request may be granted);
  - c. Explanation, and documentation if available, of the host government's or airport operator's capacity to carry out the proposed measures, and details of the host government's or airport operator's program or measures that may affect or relate to the air carrier's proposed Amendment or Alternate Procedure;
  - d. Description of the air carrier's ability to ensure the proposed measures would be implemented if the proposed Amendment or Alternate Procedure is approved;

- e. Confirmation of the air carrier's ability to make any associated records available for TSA inspection and allow TSA's access to locations covered by the Amendment or Alternate Procedure to verify and inspect operational implementation; and
  - f. If the air carrier believes there may be conflicting requirements from a host government or airport operator (or other facility), provide a copy of those requirements.
6. *Use of Authorized Representative.* If the air carrier intends to use an authorized representative (such as a security services contractor) to implement the proposed measures of its Amendment or Alternate Procedure, the submission should provide a statement of this fact, along with details of how the air carrier will ensure that the authorized representative implements the necessary measures.
7. *Impact to Operations.* The submission should provide an explanation of:
- a. The impact to the air carrier's operations presented by the SSP provision(s) to which it seeks an Amendment, and/or the SD/EA provision(s) to which it seeks an Alternate Procedure;
  - b. How/Why the air carrier is unable to implement the required TSA measures set forth in its SSP or the SD/EA; and
  - c. How/Why the proposed Amendment or Alternate Procedure would resolve those issues.

TSA encourages an air carrier to provide any additional material that it believes may be helpful to TSA in rendering a fully informed decision on its proposal, and expediting TSA's review and decision. Air carriers should also anticipate that TSA may need additional documentation from them to support the request before it can be granted. Approval of any Amendment or Alternate Procedure (including renewals) is also contingent on TSA's ability to access required records and locations, and to observe the operational implementation of any security measures and related processes, for compliance inspection purposes.

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