

Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure

2008-06-26

United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT)

The National Business Travel Association (NBTA) submits the following comments in response to the Department of Homeland Security's (DHS) proposed rule concerning the collection of biometric data for international travelers departing through air and sea ports-of-entry. NBTA developed the submitted comments in coordination with the Travel Industry Association.

NBTA is the world's premier business travel and corporate meetings organization. NBTA and its regional affiliates - NBTA Asia Pacific, NBTA Canada, NBTA Mexico and NBTA USA - serve a network of more than 13,000 business travel professionals around the globe with industry-leading events, networking, education & professional development, research, news & information, and advocacy. NBTA members, numbering more than 4,000 in 30 nations, are corporate and government travel and meetings managers, as well as travel service providers. They collectively manage and direct more than U.S \$170 billion of global business travel and meetings expenditures annually on behalf of more than 10 million business travelers within their organizations.

NBTA and the entire travel community have for several years supported the creation of a comprehensive entry-exit system that records the arrival and departure of international travelers for the purpose of enforcing U.S. immigration laws and keeping the nation safe from individuals who might seek to do us harm.

These formal comments outline NBTA's key principles or recommendations to the creation of a biometric exit capability at U.S. air and sea ports-of-entry:

Key Principles/Recommendations

An air/sea exit system is important to America's security, critical to an improved immigration system and a requisite for a secure and expanded Visa Waiver Program.

The success of the entry portion of US-VISIT since 2004 is important to consider when determining how to build the exit segments of the system. By utilizing biometrics to verify identity, DHS and its operating agencies have been able to identify inadmissible individuals at the time of the visa application and at the point of arrival in the United States. A biometric check at entry is the best opportunity for the U.S. government to identify individuals attempting to enter the country from Visa Waiver Program countries under a false identity or whose biometrics have been collected by our intelligence or military operations. Over 100 million travelers have been enrolled in US-VISIT entry. The fact that DHS can make biometric comparisons in real time has given U.S. border inspectors, and the public at large, confidence that international travelers are entering the U.S. for legitimate business, education or leisure tourism reasons. Biometric collection at entry helps travelers avoid being erroneously detained for further inspection because their names may be similar to names of those who are inadmissible for reasons connected to terrorism, criminal behavior or prior immigration violations.

DHS is currently collecting biographic information to make determinations about whether an individual has complied with the terms of his or her admission to the U.S. The construction of a biometric exit system will allow DHS to increase the reliability of the biographic data that is already being collected.

The creation of a biometric exit capability is a pre-requisite for the expansion of the Visa Waiver Program beyond June 2009. The strengthening and expansion of this critical program to key travel markets is a priority for the travel community. NBTA is pleased that DHS has moved aggressively to negotiate bilateral VWP agreements with a group of 10 new countries and is optimistic that these countries will be admitted into the program this year. NBTA strongly believes that the benefits of visa-free travel should be expanded beyond the 10 aspiring VWP countries to additional countries that also meet the new criteria for admission into the VWP. Thus, key markets such as Brazil, Argentina and Chile, for example, should be evaluated for admission in 2009.

The primary purpose of an air exit system - to enforce compliance with U.S. immigration laws - is an inherently governmental responsibility.

The U.S. travel community does not support the DHS plan to require air carriers and cruise lines to collect biometric identifiers (finger scans) from international travelers as they depart the U.S. through an air or sea port. Just as the original capture of this biometric information, and the use of biometrics in inspecting an international traveler upon arrival in the United States, are carried out by either the Department of State (DOS) or DHS, we believe that recording the departure of this same traveler is an inherently governmental responsibility that should be carried out by some unit of DHS. Whether that is assigned to the Transportation Security Administration (TSA) or U.S. Customs and Border Protection (CBP) is a decision of the Department, working in concert with the relevant committees of Congress.

While we are in agreement with the airline community that the collection of biometric identifiers is not the responsibility of the airline industry, we wish to go a step further and suggest specific alternatives.

Our preferred solution would designate TSA to carry out the biometric exit collection within the TSA operating environment as the most practical and consistent way for the federal government to carry out this responsibility. Depending on the physical layout of the particular airport, it may make more sense to collect these biometric identifiers at the TSA document checker location, the physical checkpoint or in secondary screening. As TSA already screens each traveler, controls the physical screening environment, and has appropriate connections to law enforcement information databases and response capabilities, layering biometric air exit collection into TSA's responsibilities is a logical step for DHS.

It may also make sense for DHS to enter into agreements with a particular airport authority to allow a private sector entity (e.g. registered traveler vendor) to collect the biometric identifiers if DHS certifies that such a private entity can securely operate the program in a more effective and efficient manner. DHS should not be precluded from exercising this option of contracting out this work so long security and privacy is rigorously maintained.

NBTA recognizes that placing exit at the TSA checkpoint means that all U.S. airports will need to have an exit capability. Should DHS decide to narrow the locations where exit is deployed, NBTA believes that an effective exit system could be deployed within the sterile areas of airports with international departures. Depending on the terminal configuration, the sterile area solution might be best deployed at the gate or via stand-alone kiosks.

An air exit system must be convenient and easily understood by the passenger and flexible enough to fit into the unique work flow of each airport or seaport.

To achieve success and a high rate of compliance with a biometric exit system from international travelers departing from an air or sea port-of-entry, it is critical that such an exit system be convenient for travelers. It also cannot be a 'one-size fits all' approach since each airport and seaport is a uniquely designed space with its own work flows and individual considerations.

Consistency of process and location within each individual airport and seaport environment is of the utmost importance to a successful air exit system in order to avoid traveler confusion about the location and process involved in complying with the new exit requirement. Biometric collection must be convenient and easily grasped by foreign travelers who may not speak English and who are often focused on other matters such as reaching their departure gate on time and keeping a family or group together. NBTA would have serious concerns about an exit program that placed differing requirements on travelers within the same airport or seaport.

An efficient exit system that maximizes traveler convenience and compliance is the ideal that government and industry should be working toward. The program must be communicated within the airport environment via prominent and multilingual signage, and airport and airline personnel must be trained to answer inquiries from travelers.

Significant compliance costs borne by private sector participants should be paid by the federal government.

Should DHS choose to enter into agreements with airport operators to allow private companies (such as registered traveler companies) to collect biometric identifiers, then the federal government must reimburse such a private entity for carrying out this work.

The suggestion to allow the private sector to contract with DHS carry out its responsibility is borne out of the fact that registered traveler companies are now operating at or near the TSA checkpoint in a growing number of airports and have developed expertise in processing travelers. It may simply be in the federal government's interest in some locations to contract out this work to such entities so long as it can be certified that such biometric data can be stored and transmitted to the federal government in a timely and secure fashion.

DHS should exempt 'closed loop' cruises from the exit requirement.

Cruise ships that depart and return to a U.S. port of entry carry passengers that are not using the cruise ship to exit the United States. DHS should exempt these 'closed loop' cruises from the biometric exit requirement for their passengers since there appears to be no immigration benefit to such a system. There is precedent for taking this action, as DHS chose to exempt closed-loop cruises from the U.S. passport requirement under the Western Hemisphere Travel Initiative.

Conclusion

NBTA supports the creation of a biometric exit system at air and sea ports-of-entry, and we believe this is an inherently governmental responsibility, with the TSA screening environment as the preferred choice to carry out this mission. We stand ready to work with DHS and other private sector interests in the aviation and travel communities to create a workable system for collecting such biometric identifiers.

We reiterate that a successful exit system must be efficient and convenient for the traveler and requires a significant financial investment in an aggressive outreach campaign to the international community. Creation of an air and sea exit system is in the interest of both government and the business travel community.

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