

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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Meeting Date: June 20, 2017  Consent  Regular  
 Workshop  Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

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**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to approve:** Memorandum of Understanding with the Transportation Security Administration (TSA) for participation in the Rap Back Program at the Palm Beach International Airport (PBI).

**Summary:** Participation in the Rap Back Program reduces vulnerability and risk to transportation and national security by providing current and timely criminal history information and law enforcement encounters. The Rap Back Program is a service by the FBI that enables authorized entities the ability to receive ongoing status notification of any identity history change reported on individuals holding position of trust such as those required by TSA. This program will enable PBI to receive ongoing status notifications of any identity history change reported on an individual holding an airport ID badge.  
**Countywide (AH)**

**Background and Justification:** PBI currently performs a criminal history records check every two years on approximately 4,300 individuals holding airport ID badges. Participation in the Rap Back Program will provide continuous monitoring of those individuals instead of reviewing criminal history records every two (2) years. The Rap Back Program is no cost to PBI.

**Attachments:**

- 1. Memorandum of Understanding (1)

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Recommended By: Janice Bube for Bruce Kelly 6/8/17  
Department Director Date

Approved By: [Signature] 6/13/17  
County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT *</b>	<u>0</u>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ RSource \_\_\_\_\_  
 Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

\*There is no fiscal impact.

**C. Departmental Fiscal Review:** CM Sumner

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

[Signature] 5/25/17  
 OFMB ET 5/24

[Signature] 6/10/17  
 Contract Dev. and Control  
 4/5/17

**B. Legal Sufficiency:**

Anne Delgant 6-6-17  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
AIRPORT OPERATOR  
AND  
TRANSPORTATION SECURITY ADMINISTRATION  
FOR  
PARTICIPATION IN THE TSA AVIATION RAP BACK PROGRAM**

**I. PARTIES**

The Palm Beach County, Board of County Commissioners for Palm Beach International Airport (Airport Operator) and the Transportation Security Administration (TSA) hereby enter into this Memorandum of Understanding (MOU). The U.S. Department of Justice Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Division is an interested party to this MOU.

**II. PURPOSE**

The purpose of this MOU is to document the agreed upon responsibilities, functions and participation of the parties with respect to the TSA Aviation FBI Rap Back Program to implement recurrent criminal history records checks. This effort will implement FBI Rap Back functionality in the TSA Aviation environment. Forecasted outcomes are as follows:

- Reduced vulnerability and risk to transportation and national security via Rap Back with current and timely criminal history information and law enforcement encounters;

**III. AUTHORITIES**

This MOU is authorized under the Aviation and Transportation Security Act (ATSA), 49 U.S.C. §§ 114 et seq., including 49 U.S.C. § 114(m)(1), which adopts 49 U.S.C. § 106(l)(6).

**IV. SCOPE**

The scope of this MOU includes:

1. The **Airport Operator**, subject to TSA regulations, which is currently required to adjudicate the results of a fingerprint-based criminal history records check (CHRC) of certain individuals, and has chosen to subscribe to FBI Rap Back; and
2. TSA, which receives and processes the Personally Identifiable Information (PII) from the Designated Aviation Channelers (DAC) and transmits it to the FBI.

V. **DEFINITIONS**

**Airport Operator:** Palm Beach County, Board of County Commissioners for Palm Beach International Airport.

**Biometric Data:** Information used to identify individuals, including but not limited to fingerprints, palm prints, DNA, iris, and face.

**Channeling Services:** Services provided by a TSA-contracted DAC that involve the collection and transmission of PII from authorized regulated stakeholders to TSA for vetting purposes. These services are not the same as FBI Direct Channeling services and associated definitions.

**Criminal History Records Check (CHRC):** A search for an individual's criminal history by submitting the individual's fingerprints and biographic information to the FBI Criminal Justice Information Services (CJIS) Division, and review of any criminal history records that CJIS returns.

**Criminal History Record Information (CHRI):** See "Identity History Summary."

**Designated Aviation Channeler (DAC):** A TSA contractor who is under Agreement with TSA to provide channeling services to the nation's airport and aircraft operators. There are currently three DACs: American Association of Airport Executives (AAAE), Morpho Trust USA, and Telos ID.

**Electronic Biometric Transmission Specification (EBTS):** Requirements to which agencies must adhere when electronically communicating with the FBI as they relate to the electronic encoding and transmission of biometric image, identification, and arrest data. The most current requirements are posted on the FBI website.

**Identity History Summary (IdHS) (also known as a "rap sheet"):** The report of all identification, demographic, and event information, criminal and/or civil, within an FBI Next Generation Identification (NGI) Identity record that may be disseminated to an authorized recipient.

**Next Generation Identification (NGI) Program:** Replacement for the FBI's Integrated Automated Fingerprint Identification System (IAFIS) that provides new functionality and improves upon existing capabilities, in particular for criminal history records functions.

**Personally Identifiable Information (PII):** Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

**FBI Rap Back:** Functionality provided by the FBI that enables authorized entities the ability to receive ongoing status notifications of any identity history changes reported on individuals holding positions of trust, such as those required by TSA to complete a CHRC.

**Rap Back Activity Notification (RBN):** Notification received from the FBI that there has been activity on a person's IdHS; the preferred format of the notifications will be defined by TSA and FBI.

**Sensitive Security Information (SSI):** SSI is information obtained in the conduct of security activities whose public disclosure would be detrimental to transportation security, be an unwarranted invasion of privacy, or reveal trade secrets or privileged or confidential information.

**Submitting Entity:** An authorized Federal agency who submits fingerprints to the FBI for background searches and Rap Back subscriptions.

## Rap Back Program MOU: TSA and Airport Operator

**Subscribing Entity:** Entities (such as TSA, an aircraft operator, and/or an airport operator) authorized under statute, executive order, or regulation to receive IdHS and who are subscribing to the FBI identities through the FBI's Rap Back Service.

**Subscription:** Term used to describe the agreement between the FBI and an entity in which the FBI provides any future criminal data received on an individual for whom the entity submitted fingerprints.

**Subscription Management Plan:** An FBI required plan to define how the Submitting Entity will manage the subscriptions they submit to NGL.

### VI. ROLES AND RESPONSIBILITIES

#### A. Airport Operator or Aircraft Operator will:

- 1) Collect and/or transmit biometrics (fingerprints) that meet the most recent FBI EBTS specifications, minimum version 10.0, supported by DAC;
- 2) Provide an updated Privacy Act Statement (issued as attachment to the 1542-04-08 series Security Directives), to each applicant when he or she provides fingerprints for the required CHRC;
- 3) Review all information returned, determine if a disqualifying arrest or offense has occurred, take appropriate action based on that determination, and annotate TSA's system with the action taken, as applicable;
- 4) Ensure that resources are available to support the timely adjudication of IdHS resulting from the RBN and all subscription maintenance tasks;
- 5) Review or confirm validation of subscription expiration date(s) to badge expiration dates, and provide updates to TSA including expired or canceled records on monthly basis as needed for Rap Back subscriptions, supported by DAC;
- 6) Review initial data transmission to ensure all desired individual subscriptions are captured in the FBI system and the system used by the Participant, supported by DAC;
- 7) Provide an automated method to process subscriptions to TSA for transmission to FBI for each individual enrolled in Rap Back via TSA approved method(s), supported by DAC;
- 8) Send a transaction to TSA to update the applicant's record of change in credential/benefit status (e.g., revoked, not issued, issued, etc.) for an applicant, supported by DAC;
- 9) Send a transaction to TSA to update the applicant's record, upon confirmation by the applicant of an alias, if the IdHS reflects an undisclosed alias, supported by DAC;
- 10) Provide timely notification of entry, modification, cancellation, or termination of subscriptions, supported by DAC;
- 11) Send timely messages to TSA for transmission to the FBI to remove the record from Rap Back Service, supported by DAC;
- 12) Send Rap Back subscription updates to TSA, supported by DAC;
- 13) Assume all costs to support additional RBN review and airport operator/aircraft operator adjudication workflow, and other FBI requirements that are necessary;
- 14) Maintain and update applicant credential/benefit status through their DAC as required by the most current applicable TSA Security Directive, supported by DAC;

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- 15) Follow the work flow established by TSA for setting up FBI subscriptions, supported by DAC;
- 16) Follow maintenance procedures defined by the FBI and TSA, supported by DAC; and
- 17) Address all errors received from the FBI and take the necessary actions to correct submissions, supported by DAC.

### **B. TSA will:**

- 1) Serve as the single point of contact between the FBI and airport/aircraft operators for Rap Back Activity Notifications;
- 2) Receive and transmit biometrics (fingerprints) meeting the most recent FBI EBTS specifications minimum version 10.0 to FBI;
- 3) Establish written maintenance procedures to support the Rap Back subscription process in accordance with FBI guidance;
- 4) Provide training to Participants to meet FBI set-up requirements;
- 5) Provide training to Participants on updated privacy statement, authority, maintenance transactions, and expiration dates;
- 6) Develop a Privacy Risk Mitigation Strategy according to FBI requirements, and provide to Participants;
- 7) Provide Participant training to ensure enrollment packages meet TSA requirements (Full package (FP) vs Fingerprint Only (FPO) and Previously Fingerprinted (PFP));
- 8) Facilitate the Rap Back effort between Participants and the FBI;
- 9) Transmit conforming biometrics (fingerprints) received from Participants to the FBI;
- 10) Develop and provide Subscription Management Plan (include set-up, modify, extend, delete, and synchronize subscriptions) for Participants;
- 11) Receive subscription updates from Participants and transmit this information to the FBI;
- 12) Accept a RBN subsequent to an initial response;
- 13) Determine which triggering events will be set for a RBN;
- 14) Select the format of future RBNs;
- 15) Receive a Rap Back subscription renewals list from Participants and transmit this information to the FBI;
- 16) Receive a transaction from Participants to update the applicant's record of change in credential/benefit status (e.g., revoked, not issued, issued, etc.) for an applicant;
- 17) Send transactions to and from Participants through a mutually agreed method;
- 18) Follow the designated work flow for setting up FBI subscriptions;
- 19) Choose an appropriate Privacy Risk Mitigation Strategy in accordance with FBI requirements for the subscriptions;
- 20) Process and provide monthly validation/expiration for each individual subscribed in Rap Back Service to Participants; and
- 21) Notify FBI of records that should be removed from the Rap Back subscription at the expiration of the badge or end of subscription term, as provided from Participants.

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**VII. FUNDING**

1. No funds are required to be obligated under the terms of this MOU. Entering into this MOU does not create or imply the existence of a funding or lending obligation on the part of the United States government. Each party shall bear the cost of its own performance under the MOU.
2. The Parties expressly acknowledge that this MOU does not constitute any obligation or payment of funds in violation of the provisions of the Anti-Deficiency Act (31 U.S.C. § 1341) or Purpose Statute (31 U.S.C. § 1301(a)).

**VIII. TREATMENT OF INFORMATION**

1. The Parties agree that subsequent uses and treatment of information shared under this MOU shall be afforded protection from disclosure to third parties to the extent permissible under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, subject to disclosure restrictions contained in the Privacy Act (PA), 5 U.S.C. § 552a, and any other applicable laws.
2. The Parties to this MOU acknowledge that all records and data will be handled in accordance with the requirements for handling Sensitive Security Information (SSI) under 49 U.S.C. § 114(r) and 49 C.F.R. part 1520. All Parties will have access to the current guidelines for handling SSI and to any updates made in the future.
3. The Parties agree that they shall take appropriate measures to protect proprietary, privileged, Classified, and Sensitive but Unclassified information that may come into their possession as a result or in furtherance of this MOU. Nothing shall limit TSA's ability to share information within DHS to those components/employees that have a 'need to know' the information in the performance of their official duties.
4. Information provided pursuant to this MOU shall not be used or disclosed except for the purposes enumerated herein, or as otherwise agreed to by the Parties to this MOU.
5. To prevent the unauthorized disclosure, copying, use, or modification of information provided under this MOU, the Parties are to restrict access to such information on a need to know basis and are to use recognized security mechanisms such as passwords, encryption, or other reasonable safeguards to prevent unauthorized access.
6. Prior to releasing any information to the media regarding any prosecution, investigation, or other enforcement action based on information developed under this MOU, the Parties are to confer in order to ensure that the information to be released is accurate and may otherwise be properly disclosed. The release of any PII to the media must be in compliance with the applicable PA System of Records.
7. The sharing of information between the Parties will be conducted under applicable law. The Parties shall appropriately safeguard information shared in accordance with the Privacy Act, applicable laws, regulations, executive orders, policies and procedures; the Attorney General guidelines; and the policies and procedures of TSA, and the Department of Homeland Security.

## Rap Back Program MOU: TSA and Airport Operator

### **IX. EFFECTIVE DATE**

This MOU becomes effective upon the date of the last approving signature.

### **X. MODIFICATION**

This MOU may be amended or modified only by written agreement between, and only by duly authorized representative of, each Party. The amendment or modification shall take effect on the date of the last signature.

### **XI. TERMINATION**

Either Party may terminate its participation in this MOU at any given time after giving 60 days written notice of its intent to terminate.

### **XII. RIGHTS, BENEFITS AND OTHER PROVISIONS**

1. Neither the Parties to this MOU, nor any of their respective employees, will be construed to be the agent, employer, or representative of the other, nor will they have an expressed or implied right of authority to assume or create any obligation or responsibility on behalf of, or in the name of, the other Party.
2. Commitments, promises, or guarantees not included in this MOU are invalid.
3. In the event of an emergency, this MOU will remain in force and the agreed upon services will continue to be provided to the degree possible. Each Party to this MOU will retain all required resources to participate in the Phase One and to fulfill its responsibilities in this MOU.
4. Nothing in this MOU is intended to conflict with current law or regulation or the directives of the TSA. If any term of this MOU is inconsistent with such law, regulation or directive, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

### **XIII. ADMINISTRATION**

1. Administration and compliance with the provisions of this MOU are the responsibility of TSA and the Participant. Each will appoint a representative to act as the Point of Contact (POC) for routine administration, management, operational, and other matters associated with this MOU.
2. The TSA administrative and operational POC for this MOU is Richard Conrad 571-227-2082, [rapback@tsa.dhs.gov](mailto:rapback@tsa.dhs.gov).
3. The Participant POCs:

For routine administrative matters related to this MOU is:  
Name: Peter E. Labbe  
Email: [plabbe@pbia.org](mailto:plabbe@pbia.org)  
Phone: 561-471-7440



## Rap Back Program MOU: TSA and Airport Operator

For operational matters:  
Name: Estelle Mastrogiovanni  
Email: emastrog@pbia.org  
Phone: 561-656-5965

4. Direct coordination between operational elements of the parties is authorized and encouraged for implementation of the MOU.

### **XIV. DISPUTE RESOLUTION**

Any disagreement between the parties that may arise in connection with this MOU will be resolved solely by consultation and discussions between the parties. Should any serious disagreement arise as to the interpretation or implementation of this understanding, and such disagreement cannot be resolved by subordinate officials, the dispute shall be reduced to writing by each party and presented to senior officials within each party's organizational structure. If the disagreement cannot be settled at that level, the dispute may give rise to termination of the MOU subject to the notification requirement of Article XI.

### **XV. PROTECTION OF INFORMATION**

The parties agree that they shall take appropriate measures to protect proprietary, privileged, confidential, or otherwise Sensitive Security Information (SSI) that it may observe, control, or possess as a result of this MOU. No information, oral or written, concerning the scope of this MOU, shall be published or released to the public without prior written approval of the Contracting Officer. All media releases and other contact with or by media related to this MOU and in accordance with the terms of this MOU shall be referred to the Contracting Officer.

1. **RELEASE OF TECHNICAL INFORMATION**

No SSI, oral or written, concerning the scope of this MOU, shall be published or released to the public, without prior written approval of the TSA Administrator or his designee.

2. **RECORDS AND RELEASE OF INFORMATION**

All SSI, as defined in 49 CFR part 1520, shall be handled in accordance with TSA policies and regulations. All members assigned to work under this MOU are subject to the provisions of 49 CFR part 1520, Protection of Sensitive Security Information, because they act for, or carry out duties for, or on behalf of TSA. SSI may not be disclosed except in accordance with the provisions of that rule or as otherwise approved by TSA.

3. **MEDIA**

All publicity or public affairs activities related to the subject matter of this MOU must be coordinated with the TSA Office of Strategic Communication and Public Affairs.

