



INDIRECT AIR CARRIER PROGRAM





BECOMING AN IAC

Travelers are familiar with the requirement to be screened by agents of the Transport Security Administration (TSA) if they wish to travel through US airports. The TSA agents handling the security process at the airports are one of the many resources that the TSA and the Department of Homeland Security (DHS) use to protect our country. As stated on the DHS website “The Department of Homeland Security (DHS) has one vital mission: to secure the nation from the many threats we face.” (<http://www.dhs.gov/about-dhs>).

The TSA also manages security issues for movement of cargo on aircrafts. Air transportation of cargo is highly regulated and anyone tendering cargo directly to an air carrier must first be accepted into the Indirect Air Carrier (IAC) Program.

Many companies are interested in the IAC Program and are eager to understand the application process and the implementation process a company must undergo to become part of the program. However, gathering information for the IAC Program can be somewhat problematic. Because the program falls under the boundaries of Sensitive Security Information as outlined in 49 C.F.R. Parts 15 and 1520, the details of the program are limited to persons with a ‘need to know.’ This limits the amount of information the TSA and members of the IAC program are allowed to disseminate to the shipping community and other interested parties.

Companies with a vested interest in moving cargo from point A to point B are the major players in this program. The IAC program allows participants to use air carriers to transport their cargo as long as certain security measures outlined in the Indirect Air Carrier Standard Security Program (IACSSP) are met prior to tendering the cargo to the airlines. The program affords participants the opportunity to provide their customers with different solutions and avenues for product delivery. Participating in the IAC program also opens up the international market for many logistics and freight forwarding companies. With the growth of international

commerce and many companies increasing their footprint into international markets, the need to provide customers with an international air forwarding solution has vastly grown. Not only can moving goods via air be very cost effective but the quick transit times are very appealing to customers who need their products in a matter of days.

While acting as an IAC can be very lucrative and many companies find it to be an integral part of their business portfolio, it is not without certain obstacles. As one might imagine, this program has become quite robust as a result of the 9/11 attacks against the US. Throughout the years, the TSA has developed an intricate security system. For example, the TSA works alongside the shipping industry and other government

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agencies such as US Customs and Border Protection and other nation’s air freight security authorities across the world to ensure that our borders and citizens are protected. The frustration in becoming part of the IAC Program results from the limited information available. On the one hand, the lack of information works to protect the interest of US citizens because the program is not available to the public for review. However, it makes it very difficult for an interested company to understand what the program consists of and the requirements that will be placed on the participating company prior to initiating the online application process for review by the IAC Regional Compliance Coordinator (RCC).

The air forwarding sector is an exceptionally high paced industry, and decisions for routing

cargo must be made quickly in order to satisfy the requirements of customers. On its own, this task can be demanding, but add to this all of the requirements that must be met within the IAC program and the burdens on the participant can be rather weighty as the TSA continues to make strides to ensure that a strong, secure supply chain is in place.

The focus and central approach of the IAC program is to create layers of security throughout the supply chain to ensure that any compromise or discrepancy can be addressed quickly and without causing harm to the public. This tactic places a great amount of responsibility on the IAC which is not taken lightly by the participants of the program. To ensure all of the requirements of the program are met, the program requires all participant employees performing security functions to be properly trained and managed. This same requirement falls on any agent that the participant hires to perform security functions on its behalf and one of the hurdles faced by many IACs is the need to hire third party providers to perform certain tasks within the supply chain. Proper control, due diligence, training and oversight must be maintained over the third party providers who are essentially thought of as employees of

We are pleased to introduce a new panel of industry experts for our At the Bar column in 2014:

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the IAC as defined by the IACSSP. Therefore, it is key that any participant considering applying for the program allot the proper resources to manage it.

A resource to manage the security program is also important for companies that have offices across the US that will be enrolling its various locations in the program. The program itself is very straightforward and allows each participant to implement the procedures of the program at their discretion. The implementation process can be relatively seamless for companies that are already highly regulated and experienced with following government regulations. Nevertheless, the main concern is ensuring that the security program adopted can be rolled out to all offices and certain discretion allowed for inspector suggestions and best practices at the local airports. Although the TSA does its part to maintain consistency with its interpretation, understanding, and implementation of the IACSSP, participants in the industry do find that the TSA inspectors at the local airports might have their own interpretation and understanding of the program. This may result in added measures taken by the participant. Participants have also found that the inspectors enforcing the program welcome participant ideas and are willing to work with participants so that an effective and achievable program is in place.

As a seriously interested party, a company's

first step would be to visit TSA's website. Vital information regarding the purpose and some of the current developments made in the program are listed under the Stakeholders' Program and Initiatives section of the TSA.gov website. The information on this page leads an interested party to the online web application portal named the Indirect Air Carrier Management System. The instructions for application on the web portal indicate that the application must be completed in one sitting which takes approximately 30-35 minute. Questions such as general company information (addresses, state of incorporation, Employer Identification Number) are intermingled with questions regarding the type of cargo the company will be offering for transport via aircraft, and information regarding the main point of contact for the IAC program (referred to as the IAC Security Coordinator).

After the online application is completed, the applicant is required to submit various documents via email to the designated IAC RCC as outlined at the beginning of the application process and also stated in 49 CFR Part 1548.7. A careful reading of this section of the CFR is necessary. Any deviation in wording or missing information can result in the application review process being delayed. The documents required include a signed statement from each proprietor, general partner, officer, director and owner confirming whether he or she has previously acted in such capacity and previously had

its security program withdrawn; copies of government-issued IDs for the persons listed above; statement declaring whether the business falls under the Small Business Act; statement affirming all personnel and agents performing security-related duties will be trained in the program; proof of the Employer Identification Number from the IRS; and submission of Security Threat Assessments (STA) of all directors, owners, proprietors, general partner, officers and others as specified in 49 CFR Part 1548. The requirements listed above must be completed at least 90 days prior to the applicant offering up cargo for transport on an aircraft. Submission of the online application, additional corporate documents, signed statements from certain corporate personnel, and submission of the STAs are thought of as the applicant's initial security program.

Under 49 CFR Part 1548.7(a)(2), the IAC RCC will review the initial security program submitted and upon acceptance of the security program provide the applicant with the Indirect Air Carrier Standard Security Program and any applicable Security Directives. Once approved, the applicant may begin acting as an Indirect Air Carrier as long as all of the security requirements are met and the proper training and STAs are complete (49 CFR Part 1548.7(a)(3)). The program also requires annual participant renewals. The assigned IAC RCC will advise the participant when the renewal period opens and provides a deadline for submission of renewal into the program. This process is done to ensure that proper maintenance of the program is maintained.

The Indirect Air Carrier Program can be a great avenue for generating valuable customers and revenue for interested participants. However, interested participants should not dive into the program lightly. Participants are advised to conduct due diligence to determine if there is a true need for the program, speak to participants about their experience in the program, ensure that they are ready to take on the responsibilities the program entails, and ascertain if resources are available to properly implement the program. As a member of the program, each participant is tasked with assisting the TSA in its efforts to protect the nation's airways, a responsibility that should be taken with great care and forethought. ✈



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Ms. Payne is an attorney in the Litigation Practice Group. She represents and assists North American transportation and logistics providers and users on a wide variety of transportation issues. She has extensive experience in drafting and negotiating domestic and international transportation, logistics, and supply chain management contracts. She advises shippers, carriers, and 3PLs of all sizes regarding cargo liability, risk management, contracting, and collection issues.

Prior to joining Benesch, Ms. Payne had more than 30 years experience in the transportation industry, including terminal operations, accounting, pricing, collections, cargo claims management, and finally Senior Attorney for Consolidated Freightways. In the position of Senior Attorney, she was responsible for all transportation related legal issues, including contracts, cargo claims, regulatory matters, and litigation management.

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