

MTSA Regulations found at 33 CFR Subchapter H

PACD #37-04 JUN 10, 2004---POLICY ADVISORY COUNCIL FAQ

Q. Can a private security firm that proposes to market security services to facilities and vessels subject to 33 CFR Subchapter H have access to NVIC 06-04, enclosure (1) which is designated SSI?

Ans. The Coast Guard recently published screening guidance for the maritime industry, which is designated as Sensitive Security Information (SSI). In order to receive SSI, the COTP in consultation with G-MPS, may find that a private security firm that develops training programs for screeners has a "need to know" SSI in accordance with the TSA regulation.

49 CFR 1520.11(a)(4) of the regulation permits access to SSI when the person needs the information to provide technical or legal advice to a covered person regarding maritime transportation security requirements. Since the Coast Guard's screening guidance states that owners/operators may consult with privately owned security companies for training, it would not be inconsistent with the provisions of the TSA regulation for the COTP to determine that those privately owned security firms that offer training services to owners/operators have a "need to know" the specifics of the Coast Guard guidance and receive enclosure (1) of NVIC 06-04. However, prior to disclosure, the COTP should consider such factors as the companies' experience and background, the level of training being offered, and the regulated entities that the security firm is marketing.

If a private security firm is determined to have a legitimate "need to know", the COTP would be responsible for ensuring that the requesting party signs a non-disclosure statement.

Note: For further guidance, a facility owner/operator should contact their local Captain of the Port (COTP/FMSC).