



*To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.*

1. **PURPOSE:** This directive provides TSA policy and procedures for the issuance and use of TSA administrative subpoenas to obtain documents and testimony as part of an investigation pertaining to security in any mode of transportation.
2. **SCOPE:** This directive applies to all TSA employees with administrative subpoena authority.
3. **AUTHORITIES:**
  - A. 49 U.S.C. § 40113(a)
  - B. 49 U.S.C. § 46104
  - C. 49 U.S.C. § 114(v)
  - D. 49 C.F.R. § 1503.3
  - E. TSA Delegation Order (unnumbered), *Authority to Issue Administrative Subpoenas*, February 27, 2006
  - F. TSA Delegation Order 400.1, *Delegation of Authority to Federal Security Directors*, February 24, 2006
4. **DEFINITIONS:**
  - A. Administrative Subpoena: There are two types of administrative subpoenas. The subpoena *ad testificandum* orders a witness to appear and give testimony. The subpoena *duces tecum* requires the production of documents and/or other records.
  - B. Guidance Document: The Guidance document provides additional detail beyond the procedures outlined in this directive. Most importantly, it provides technical direction, and regulatory and legal requirements for managing a specific operation or task.
5. **RESPONSIBILITIES:** The Office of Chief Counsel (OCC) is responsible for providing legal advice to individuals who have been delegated the authority to issue administrative subpoenas including, the appropriateness of issuing administrative subpoenas as specified in sections IV.A. and V.B. of the [\*Guidance for the Issuance and Use of Administrative Subpoenas\*](#), dated September 2008.

**6. POLICY:**

- A. By statute, the Assistant Secretary of TSA (Administrator) has the authority to subpoena witnesses and records, administer oaths, examine witnesses, and receive evidence. 49 U.S.C. § 46104(a).
- B. Scope of Administrative Subpoenas: A TSA administrative subpoena may be issued in any investigation relating to any mode of transportation.
- C. The Chief Counsel and each Deputy Chief Counsel have been delegated by regulation the authority to issue administrative subpoenas. 49 C.F.R. § 1503.3(b). The Administrator has also delegated the authority to issue an administrative subpoena to the following individuals:
  - (1) Assistant Administrator for Law Enforcement/Director, Federal Air Marshal Service
  - (2) Assistant Administrator for Security Operations
  - (3) Assistant Administrator for Transportation Sector Network Management
  - (4) Assistant Administrator for the Office of Inspections
  - (5) Each Federal Security Director
  - (6) Each Special Agent in Charge
- D. Consultation Required: Prior consultation with the OCC is required before any administrative subpoena may be issued.

**7. PROCEDURES:** Reference [Guidance for the Issuance and Use of Administrative Subpoenas](#) for additional guidance.

**8. EFFECTIVE DATE AND IMPLEMENTATION:** This directive is effective immediately upon signature.

**APPROVAL**

*Signed*

*10/10/08*

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Francine Kerner  
Chief Counsel

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Date

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