SAFETY Act
AAPA Port Security Seminar
July 19, 2012
Miami, FL

Akmal Ali, J.D.
Principal, Catalyst Partners
www.catalystdc.com

akmal.ali@catalystdc.com
1250 Connecticut Ave. NW
Washington, D.C. 20036
Case Study: SAFETY Act

- World Trade Center bombing in February 1993
- Port Authority of New York and New Jersey sued by over 500+ plaintiffs for over $100,000,000 in damages
- Court found the Port Authority over 65% liable and the terrorists 35% liable

Why?
Origin: SAFETY Act

➢ Following the 1993 World Trade Center bombing and the 9/11 attacks, the private sector threatened the removal of their anti-terrorism technologies and services from homeland security related deployments due to the extraordinary large liability exposure
➢ After the attacks of September 11, 2001, Congress enacted the Homeland Security Act of 2002
➢ It included the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (“SAFETY Act”) – www.safetyact.gov
SAFETY Act: Failure vs. Defeat Argument

Protecting your enterprise

The SAFETY Act incentivizes the deployment of effective anti-terrorism technologies and services by providing liability protections.

- Certification
- Designation
- Developmental Test & Evaluation Designation
SAFETY Act: Process Timeline

- The SAFETY Act timeline is about 120 calendar days
- Currently, DHS is averaging 112 days to process complete applications

SAFETY Act: Eligibility

What is eligible for SAFETY Act:

- Any Product or Service used for:
  - “preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause…”

- **Products**: detectors, sensors, cyber security software, blast mitigation, intellectual property, apparel, mobile command centers, decontamination, standards, situational awareness, etc.

- **Services**: Security services, venue security plans, auditing and inspection, sensor integration, cargo screening, global supply chain security, vulnerability and threat assessment, post-incident clean-up, etc.
SAFETY Act: Eligibility for Ports

- Port Security Program
- Policies and Procedures
- Vulnerability Assessment
- Architecture and Engineering
- Selection of Security Services Vendors
- Selection of Security Technology Vendors
- Security Command Center
- Closed-Circuit Television System
- Tenant Area Agreements
- Access Control System – Badging, Card Access Control, Magnetometers
- Emergency Notification System – Public Address Announcements
- Vehicle and Pedestrian Barriers and Interdiction Devices – Bollards, Delta Barriers
- Mail Room - X-ray Detection for Mail and Packages
- Explosive Detection Canine-Handler Teams
- Employee Vetting and Hiring Process
- Unarmed Security Officers
- Federal, State, and Local Government Coordination
SAFETY Act: Flow Down Protections

- SAFETY Act Protections Extend to Customers
- Such cause of action may be brought only against the Seller of the technology and may not be brought against the buyers or downstream users of the technology.
SAFETY Act: Added Benefits

- Public Listing – Product List for Homeland Security
  - Technologies that receive SAFETY Act Designation and/or Certification are placed on a publicly accessible DHS website
- SAFETY Act Seal
  - DHS released three new SAFETY Act seals that can be used by successful applicants for their own business purposes
- 500+ companies approved
- FY 2011 was record breaking year for with 101 SAFETY Act approvals
SAFETY Act: Venue History

- Dow Chemical – Chemical Materials Transportation
- Beacon Capital – Emergency Response Program
- National Football League – Best Practices
- National Basketball Association – Best Practices
- Port Authority of New York and New Jersey – Multiple Coverage
- New York Stock Exchange – Security Program
- Cincinnati/Northern Kentucky International Airport (CVG) – Security Program
- New York Yankees – Security Program at Yankee Stadium (June 2012)
SAFETY Act: Recap

Critical Benefits:

1. Protect Your Enterprise
   - Dramatically limit your liability*
   - Win the Failure vs. Defeat argument
   - Potential Annual Insurance Savings ROI
   - Board comfort in the DHS review process

2. Market Differentiator
   - Flow Down Liability Protections to your Customers – True Incentive
   - DHS Products List for Homeland Security
   - DHS SAFETY Act Seal

*Critical distinction between insuring your liability and limiting your liability