Since the events of 11 September, airports, airport tenants and airport users have been significantly impacted both operationally and financially. Many of these impacts resulted directly from Emergency Amendments and Security Directives issued by the FAA. Although airport and airline security is of national interest, there has been a lack of communication between the users and the government, to efficiently, effectively and practically improve security in our national aviation system.

The Criminal History Records Check (CHRC) has followed this same pattern of rule making. There is no denying its value, but to implement it without prior notice, without necessary equipment in place, without immediate funding, without interim measures, and contrary to public law, blatantly ignores the cooperation and good faith efforts between the aviation public and the Federal Aviation Administration.

The $31 submission fee per person and associated staff costs or outside agency processing costs will continue the trend of increased operating costs for unfunded mandates at a time revenues remain down.

The absence of interim measures burden small airport tenants or other entities with limited staff to provide escort to individuals awaiting results from their CHRC. This further taxes their resources and increases expenditures, threatening their survival as important aviation businesses.

Approximately 750,000 current employees plus all new hires are required to undergo the CHRC. The turn-around time for the process will dramatically increase and cause further operational inefficiencies for airport businesses, tenants and employees. The CHRC system is sure to bog down once in effect and no contingencies are in place to counter the effect this will have.

The regulation is contradictory to Public Law P.L. 106-528 for Category I – IV airports. According to FAA guidance, “where conflicts may arise between the regulation and the public law, the public law will prevail.” Therefore, according to FAA guidance, “the 100% [fingerprint] requirement becomes effective at all airports, and for all screeners at all locations, regardless of airport category, on December 23, 2003.” Due to this contradiction, the rule must be amended to reflect the intended date of implementation, or the public law itself must be changed.

Further, while trying to manage other current restrictions and requirements, there has been little guidance from local FAA offices regarding this matter and many previous pending matters. If the FAA continues to mandate such requirements, they must ensure that their local offices have the knowledge, resources and authority to coordinate with airports under their responsibility. Only by working together, can the FAA and airports successfully address important aviation security issues and implement reasonable measures to ensure the public’s safety.