

Dissecting the DHS SAFETY Act: What is it, and should I apply?

Companies, venues, sports stadiums, shopping malls, and other entities all face substantial liability risks in the event of a terrorist attack on their property. Not to mention the risk providers of anti-terrorism security solutions face if their product fails.

After the terrorist attacks on 9/11, the government worried that the liability would be so high it would deter companies from developing and deploying security services and technologies. To alleviate the liability burdens for companies, Congress enacted the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act as part of the Homeland Security Act of 2002.

In recent years, commercial facilities and sports venues have expressed a drastic increase in interest towards SAFETY Act protections. Notably, owners and operators see the value of the SAFETY Act program and are taking the necessary steps to further invest in security and technology that meets or exceeds industry best practices for their venues. These steps to improve security are significantly strengthening our homeland security, as many venues and commercial building are recognized as key infrastructure by the DHS.

DHS SAFETY ACT Basics

What is the DHS SAFETY Act and Program?

The SAFETY Act eases financial and liability burdens for numerous types of entities when faced with a terrorist attack. The Act allocates important legal liability protections to users and providers of Qualified Anti-Terrorism Technologies. The goal of the Safety Act is to encourage the development and deployment of effective anti-terrorism products and services by providing liability protections.

The SAFETY Act Program is a voluntary program designed to give incentives for deploying effective anti-terrorism technologies, services and capabilities. The Program is administered by the Office of SAFETY Act Implementation (OSAI) in the Science and Technology Directorate, U.S. Department of Homeland Security.

DHS SAFETY ACT Video



Source: [DHS Science & Technology Directorate Youtube](#)

Who can apply?

Entities that use, sell, or provide anti-terrorism products, technologies or services are eligible to apply for the Safety Act. Also, entities can apply for the Safety Act if they offer products or services that aid in the following ways:

- Response to terrorist acts
- Recovery from terrorist acts
- Limits the harm from a terrorist act

The SAFETY Act isn't limited to security providers. Companies, venues, stadiums, and sport franchises can all apply for SAFETY Act Certifications or Designations. Any organization that could be affected by terrorism should consider applying for protections under the SAFETY Act.

What types of technologies can be submitted for Safety Act approval?

The SAFETY Act covers several types of anti-terror technologies to stay ahead of evolving threats. Solutions can include products, services, software or other types of intellectual property that can help identify, detect, deter, respond to, or mitigate terrorist acts.

Examples of approved technologies:

- Threat & Vulnerability Assessment Services
- Detection Systems
- Sensors and Sensor Integration
- Blast Mitigation Materials
- Screening Services
- Cyber Security & Networking Software
- Decision Support Software
- Security Plans / Services
- Crisis Management Systems
- Venue Security

Technology refers to the security you provide in terms of protecting your venue, guests, building, and employees. For stadiums, Technology will mean your comprehensive venue security plans. For companies, it could be your cybersecurity software and networking protocols. For commercial building owners, it might mean your building security plans.

The SAFETY Act refers to what you are submitting in your application as a Technology. You do not have to be an actual seller of these products, as in generating revenue from the sale of these technologies.

Parties covered under the SAFETY Act are referred to as “Sellers” and can include any person, firm, or other entity that provides Qualified Anti-Terrorism Technologies (QATTs) to customer(s) and to whom a Designation has been issued.

What are the different levels of protection?

The SAFETY Act provides two levels of liability protection:

1. **Designation** – DHS caps a seller’s insurance liability in the event of an act of terrorism among several other legal protections.
2. **Certification** – in addition to the Designation benefits, the seller can assert the Government Contractor Defense for any claims arising from acts of terrorism.

Which type of application should I submit?

There are three different types of application:

1. **Developmental Testing & Evaluation (DT&E) Designation** - This application is for those with technology that has not been tested or used in an operational setting. This is the appropriate application for prototypes that show existing potential.
2. **Designation** - This is the application type for technologies with some operational information and past use. The technology has proven effectiveness with repeatable results.
3. **Certification** - This the best application for technologies with substantial use and consistent proven effectiveness. There needs to be high confidence that the technology will work as intended each time.

The above is a basic guideline for anyone considering to apply for the SAFETY Act. For those with more questions about which application to submit, the DHS encourages you to file a pre-application and arrange a subsequent teleconference with the Office of SAFETY Act Implementation.

How long does the Designation last?

The term of a SAFETY Act Designation and Certification is typically five years and must be renewed with the DHS each subsequent term. A DT&E Designation is valid for up to 3 years. Safety Act approvals can be renewed beginning 24 months prior to the date of expiration.

Getting ready for your application

If your company, stadium, or building is already prepared to start the application - skip to the SAFETY Act Application Process section below. For those who still have questions regarding your security plans and insurance requirements keep reading to make sure your organization is application ready.

Stadiums

Three major sporting leagues: the National Football League (NFL), Major League Baseball (MLB), and National Basketball Association (NBA), have played a key role in upgrading and strengthening security at stadiums and arenas throughout the country with the help of the DHS Science and Technology Directorate's SAFETY Act. Stadium operators and owners can use the approved Technology such as league level best practices for stadium security as a pathway to apply for their individual designation or certification.

If a stadium hosts professional sports leagues, such as the NFL, MLB, or NBA, stadium operators and owners must prove they are carrying out league security best practices and effectively safeguarding their venue to meet the risks and threats unique to their location and demographics.

An open-air stadium may require different security standards, such as protection against drone threats, than a closed arena. Also, a venue in an urban area will have distinct risks that differ from a site located in a less densely populated area.

Owners and operators of other sports and entertainment venues can look to industry best practices for security guidance in having a successful application process. Examples of industry best practices leaders include Command, Control and Interoperability Center for Advanced Data Analysis (CCICADA) and National Center for Spectator Sports Safety and Security (NCS4).

Helpful resources for Sporting and Entertainment Venues:

- [BPATS for Sporting and Entertainment Venues Resource Guide](#) (2013)
- [BPATS Tier II Metrics and Measures of Effectiveness at sports and entertainment venues](#) (2016)
- [BPATS Tier III - Economics of Security and Randomization at sports and entertainment venues](#) (2018)

- [NCS4: Intercollegiate Athletics Safety and Security Best Practices Guide \(2017\)](#)
- [Building SAFETY Act Applications for Event, Arena, and Stadium Security](#)

Commercial buildings

With best practices developed by the Department of Homeland Security (DHS) Science and Technology Directorate (S&T), in partnership with the National Institute of Building Sciences (NIBS), building owners seeking protection under the SAFETY Act can use an assessment tool when developing their application packages.

The [BPATS Assessment Tool for Commercial Facilities](#) can be used to record and compare a facility's practices to the Best Practices for Anti-Terrorism Security (BPATS). Facility Owners can learn more about gaining access to the tool on the dedicated [BPATS Assessment Tool Website](#).

Building owners and facility security professionals can use the output from their assessment to enhance building security and to use as a guide for their SAFETY Act application.

Helpful resources for commercial buildings:

- [Best Practices for Anti-Terrorism Security \(BPATS\) for Commercial Office Buildings](#)
- [Field Guide: Conducting BPATS Based Assessments of Commercial Facilities](#)
- [BPATS Assessment Tool for Commercial Facilities](#)

Insurance requirement

There isn't a set or pre-defined dollar amount of liability insurance required by DHS, insurance requirements will vary depending on proposed technology. It is a good idea to go over your insurance coverage with your insurance agent, underwriter, and legal advisor prior to beginning the application process.

When determining the amount of liability insurance required, the DHS may consider:

- The particular Technology at issue and its intended use
- The amount of liability insurance the Seller maintained prior to application
- The amount of liability insurance typically maintained by Sellers of comparable Technologies
- Data and history regarding mass casualty losses
- The possible effects of the cost of insurance on the price of the product, and the possible consequences for development, production, or deployment of the Technology

If the Seller fails to provide insurance certifications or submits falsified insurance certifications, the Under Secretary may terminate a Designation. Also, the Seller must maintain the required insurance for the duration of the Designation. The Seller's Designation may be revoked if the entity does not maintain the required insurance.

SAFETY Act Application Process

The application process is time consuming and takes much preparation. The OSAI recommends you take your time filling out the application, and make sure your submission is clear, concise, and well organized.

Application process in 3 steps:

- 1. Register with Office of SAFETY Act Implementation (OSAI)**
- 2. Request Pre-Application Consultation (optional, yet highly recommended)**
- 3. Submit the appropriate application**

Register with Office of SAFETY Act Implementation (OSAI)

The initial step in applying for the liability protections available under the SAFETY Act is to register with OSAI. Registration can be done electronically on the SAFETY Act Website (<https://www.safetyact.gov/>).

The purpose of Registration is to establish an official point of contact for the DHS to use in its interactions with you concerning your Technology and to create a unique identification number for you as a potential Seller.

Request Pre-Application Consultation

The next step is to schedule a [Pre-Application Consultation](#). The Pre-Application Consultation is intended to facilitate a process by which a potential applicant may provide DHS with initial information regarding their Technology. During this consultation, the DHS can provide potential applicants with guidance regarding the submission of a SAFETY Act application.

A Pre-Application Consultation is not a prerequisite for submitting an application. However, it is recommended to reduce the likelihood of submitting an incomplete application.

Submit the appropriate application

Selecting the right application type will help guide your information preparation efforts. It is a good idea to get familiar with the application questions so you can better prepare before you embark on the application process. There are three different application you can choose to submit (links to corresponding SAFETY Act application):

1. [Developmental Testing & Evaluation](#)
2. [Designation](#)
3. [Certification](#)

If a technology shows promise but is not sufficiently mature to receive a full Designation, a DT&E Designation is available to provide protection during further testing or trial deployment in order to collect the additional efficacy data necessary for a full Designation

Designation is a prerequisite for receiving Certification. However, sellers can apply for Designation and Certification at the same time or apply for Certification after SAFETY Act Designation has been issued.

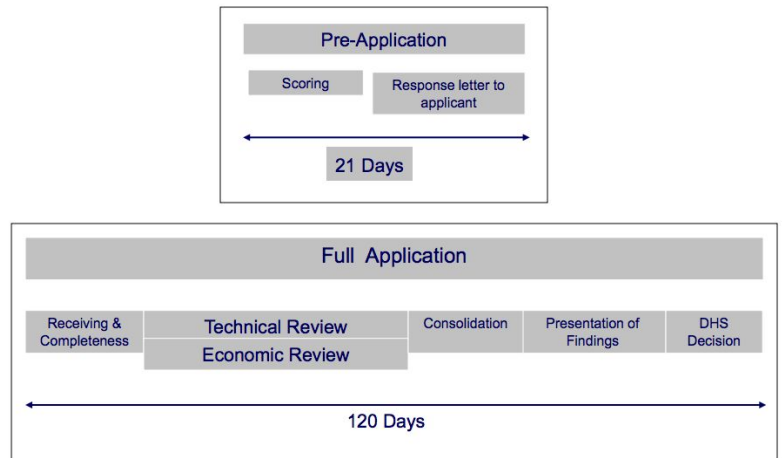
Timeframe for application

Applicants can expect the Pre-Application Process to take roughly 21 days from filing to final response.

Full Application will take approximately 120 days from filing the application to receiving a decision.



Timeline: SAFETY Act Application



Source: DHS SAFETY ACT 101 Briefing

Tips for submitting a successful application

The DHS has put together guides and resources to help you during the application process. You can find these resources on the Safety Act website under [printer friendly materials](#). Once on the printer friendly page, you can use the category filter to find resources related to different topics.

Some of the useful resources you will find on the DHS SAFETY Act website include:

- [SAFETY Act Application Kit](#)
- [DHS Webinar: What is the Safety Act & How do you apply](#)
- [Tips for Submitting a Successful SAFETY Act Application](#)
- [Building SAFETY Act Applications for Event, Arena, and Stadium Security](#)

Tips for Stadiums and Commercial Buildings

There is only one version of each type of application. All applicants use the same formatted application. If you are applying for internal services such as security plans, you may have to answer questions differently than specified in the form.

Example:

Application Item D16.4/TE 12.4: Technology Revenue Projections

For stadiums, arenas, entertainment/sporting venues, or corporate buildings submitting an internal service such as layered security plans, you are expected to provide Technology cost in place of revenue for question D16.4 in the designation application or TE12.4 in the DT&E application.

Instead of providing revenue, you will give the actual Technology cost for each of the past three years and projections for the current year and next two years. If exact cost figures are unavailable, you may provide estimates. However, it would be best if you briefly explained the source of any estimates.

Make sure to contact the OSAI if you have any concerns regarding the application questions. The pre-application stage is a great way to address issues with clarity and ensure you submit a complete application.

Examples of SAFETY Act Approvals

The DHS has approved more than 1,000 anti-terrorism technologies for coverage under the SAFETY Act. Recent QATT approvals include the Bloomberg Corporate Headquarters Security Program, the Soldier Field Security Program for SMG and the Chicago Park District, and the Arrowhead Stadium Security Program for the Kansas City Chiefs Football Club.

Sports League and Stadium Awards

 **Designation and Certification**

Entity	Expiration
NFL	November 2018
Univ of Phoenix Stadium (Arizona Sports and Tourism Authority)	January 2020
Comerica Park (Ilitch Holding, Olympia Entertainment, Detroit Tigers)	October 2020
Yankee Stadium (New York Yankees)	December 2022
CenturyLink Field (First & Goal Inc.)	April 2023
Citi Field (Queens Ballpark Co.)	August 2023
MetLife Stadium (New Meadowlands Stadium Co.)	September 2023

Designation

Entity	Expiration
FedEx Field (WFI Stadium Inc.)	March 2020
NRG Stadium (Harris County Sports & Convention Corp.)	May 2020
NBA	August 2020 <input type="text"/>
FirstEnergy Stadium (Cleveland Browns)	September 2022
Soldier Field (SMG and the Chicago Park District)	May 2023
MLB	May 2023
Arrowhead Stadium (Kansas City Chiefs Football Club, Inc.)	June 2023
Hard Rock Stadium (South Florida Stadium LLC, Miami Dolphins, Ltd., and SFS Events)	June 2023
New Era Field (Buffalo Bills, LLC, Erie County Stadium Corporation, and Erie County)	October 2023

Developmental Testing & Evaluation

Entity	Expiration
Mercedes-Benz Stadium (Atlanta Falcons Stadium Company, LLC)	January 2019
U.S. Bank Stadium (SMG)	February 2020

Source: Homeland Security

In summary, the SAFETY Act advances public safety by fostering the development and deployment of anti-terrorism best practices and technologies and providing entities with liability protections. The SAFETY Act liability protections can apply to a wide range of technologies, including products, services, software, or other forms of intellectual property. Small and large organizations can benefit significantly from SAFETY Act protections. The protections help companies manage the liability risks and give incentives to use effective counter-terrorism solutions to strengthen national security.

Resources:

DHS: SAFETY Act FAQs

<https://www.safetyact.gov/lit/f/aqs>

DHS: Safety Act 101 Briefing (2010)

<https://www.safetyact.gov/externalRes/refDoc/refGroup/8/SAFETY%20Act%20101%20Briefing.pdf>

DHS: Step-by-step Applicant Guide (2014)

<https://www.safetyact.gov/externalRes/refDoc/refGroup/4/SAapplicantGuide-2014.pdf>

DHS: Safety Act Factsheet (2016)

https://www.safetyact.gov/externalRes/refDoc/refGroup/8/Factsheet_01142016.pdf

DHS Fact sheets: Snapshot: SAFETY Act Program in its 15th Year, Passes 1,000 Qualified Anti-Terrorism Technologies (July 2018)

<https://www.dhs.gov/science-and-technology/news/2018/07/06/snapshot-safety-act-program-its-15th-year-passes-1000>