

MEMORANDUM OF UNDERSTANDING
BETWEEN AND AMONG
U.S. CUSTOMS AND BORDER PROTECTION
AND

(b) (4)

AND

(b) (4)

REGARDING (b) (4) BIOMETRIC PILOT PROJECT AT

(b) (4)

I. PARTIES

The Parties to this Memorandum of Understanding (MOU) are U.S. Customs and Border Protection (CBP), (b) (4), and (b) (4).

(b) (4) (collectively, "the Parties").

II. PURPOSE

The purpose of this MOU is for the Parties to collaborate on (b) (4) proposed pilot program to utilize facial biometrics to verify the identity of travelers prior to their departure on (b) (4) international flights from (b) (4) in the United States to Aruba.

III. AUTHORITIES

CBP is authorized to enter this MOU pursuant to 6 U.S.C. § 301a, and more generally, the Homeland Security Act of 2002, 6 U.S.C. §§ 112 et seq., as amended. Other legal authorities relevant to CBP's participation in the below-referenced pilot program include 8 U.S.C. § 1365b, 8 U.S.C. § 1731, and Section 8 of the Executive Order 13780, *Protecting The Nation From Foreign Terrorist Entry Into The United States* (Mar. 6, 2017).

(b) (4) and (b) (4) represent and warrant that they each have the full power and authority to enter into this MOU and to carry out their respective requirements necessary for its implementation.

IV. RESPONSIBILITIES

(b) (4) working with (b) (4) its technology partner, intends to capture each traveler's photo, in accordance with CBP's specifications, during the boarding process for all (b) (4) international flights from (b) (4) in the United States to Aruba. (b) (4) collection from the traveler of this information, use of (b) (4) to facilitate processing, and transmission to CBP, is based solely on its contractual relationship with the traveler and other independent authority of (b) (4) which may be obtained through disclosure and consent. (b) (4) is entitled to rely upon (b) (4) authority.

(b) (4) intends to capture the traveler's photo using (b) (4) provided technology and send it to CBP's Traveler Verification Service (TVS) which is expected to match the records biometrically within an agreed degree of accuracy and return a response to (b) (4) via (b) (4) provided technology to indicate whether a traveler is clear to board or otherwise requires a manual review of travel documents to confirm identity. CBP's authority to inspect all outbound international travelers is not affected by this arrangement.

The Parties expect to begin the pilot on or before June 12, 2017, and continue for 45 calendar days. The pilot may be extended for an additional 45 calendar days upon written concurrence of the Parties. The Parties can mutually determine, in writing, to continue or discontinue the pilot per Section XI, below.

(b) (4) and (b) (4) understand that CBP's involvement with (b) (4) pilot is for market research and exploratory purposes only. CBP intends to explore future projects to test the TVS in other use cases in collaboration with (b) (4) however, CBP is making no commitment to give (b) (4) and/or (b) (4) any special consideration in any future acquisition. The Parties consent to discuss possible expansion of the pilot to additional flights and/or locations, provided the staff and background infrastructure are available.

CBP intends to:

- 1) Build a biometric gallery of facial images, obtained through various DHS databases, of all travelers intending to depart on the Boston/Aruba flight as identified through its Advance Passenger Information System (APIS) manifest submissions and CBP's facial image database;
- 2) Use the manifest to determine if CBP agent presence is required at the departure gate and coordinate with (b) (4) in advance to support its airport operations, as appropriate;
- 3) Provide (b) (4) with specifications for the collection and transmission of facial images from travelers to CBP;
- 4) Receive data transmitted by (b) (4) through the (b) (4)-provided technology, namely facial photographs captured during the boarding process, and perform the facial matching of each photograph against the pre-established biometric gallery of manifested travelers;
- 5) For each match, transmit an electronic response through the (b) (4) provided technology to (b) (4) pilot boarding system, comprised only of the APIS numeric identifier, to indicate whether the traveler is cleared to continue with the boarding process or manual review by (b) (4) to confirm the traveler's identity is necessary;
- 6) Record a biometrically confirmed departure record for each traveler matched against the biometric gallery of expected travelers;

- 7) Use the (b) (4) captured photo for diagnostic and analytical purposes to evaluate the success of the pilot, to evaluate the potential for expansion of the pilot, and to consider how to improve the efficiency and effectiveness of CBP's biometric exit program; and
- 8) Protect (b) (4) captured photos received under this MOU in accordance with its applicable privacy and security policies and delete such photos from the TVS in accordance with applicable law and policy.

(b) (4) intends to:

- 1) Integrate traveler photo capture into the boarding process for flights within the scope of this MOU, in accordance with CBP's facial matching specifications;
- 2) For each traveler on the flight manifest, capture the traveler photo at boarding that conforms to CBP's facial matching specifications;
- 3) Transmit each conforming traveler photo to CBP's TVS per CBP's technical specifications;
- 4) Permit boarding of the traveler based in part on CBP's biometric facial matching response through the (b) (4) provided technology indicating that the traveler is cleared to continue;
- 5) Perform manual confirmation of each traveler's identity using that traveler's travel documents in the event CBP's response indicates that such review is necessary or as otherwise directed by CBP;
- 6) Consistent with normal operating procedures, promptly contact CBP following any manual review of a traveler's travel documents for which (b) (4) is not able to confirm the traveler's identity, to receive CBP instructions regarding the boarding of such traveler;
- 7) Delete biometric facial matching response provided by CBP in connection with this MOU within 14 days of capture; and
- 8) Develop and implement defined processes and instructions to undertake this pilot.

(b) (4) intends to:

- 1) Provide (b) (4) with technology to perform facial image capture and facilitate transmission to CBP's TVS per CBP's specification and (b) (4) defined process and instructions;
- 2) Provide technology to integrate with (b) (4) Departure Control System (DCS) to provide boarding details;
- 3) Provide a pass-through service to (b) (4) retaining no data, including but not limited to facial images or CBP TVS response transmissions, and excluding log-files, unless explicitly agreed among the Parties;
- 4) Provide (b) (4) with a passenger-facing screen with indicators to guide the boarding process in accordance with (b) (4) defined process and instructions; and
- 5) Provide (b) (4) with an agent application to allow (b) (4) to view traveler information, such as passenger name and seat number, to support (b) (4) customer experience requirements.

(b) (4) and (b) (4) intend to develop a separate Scope of Work ("SOW") document describing the boarding process concepts being developed, implemented, and tested by (b) (4) and (b) (4) in this pilot initiative, which will define detailed concepts, technical specifications, an implementation schedule, and operating procedures. (b) (4) will provide a copy of the SOW to CBP as a reference and provide updated copies to CBP as changes may be made. CBP may provide input to (b) (4) regarding the SOW, solely on the provisions that pertain to CBP and its operations. Receipt of the SOW by CBP shall not be construed as an endorsement of any kind.

V. PUBLIC COMMUNICATIONS

(b) (4) and (b) (4) understand that CBP's involvement with (b) (4) pilot is for market research and exploratory purposes only. CBP is making no commitment to give (b) (4) and/or (b) (4) any special consideration in any future acquisition. Through participation in this pilot initiative, CBP is not officially endorsing or approving the equipment, technology, or process developed by (b) (4). As such, (b) (4) agree not to use any statements or feedback provided by CBP regarding the implementation of the pilot for marketing purposes. All content for public communications regarding the pilot project, including the issuance of press releases or promotional activities, is to be approved by all Parties prior to such release to the public or media.

VI. POINTS OF CONTACT (POC)

Each Party is expected to provide specific contact information for their respective POC, listed below, by separate written communication, within 24 hours of the signing of this MOU, and provide updates of such information as necessary to ensure the information remains current for the duration of the pilot.

CBP Point of Contact

Director, Entry/Exit Policy and Planning
CBP
Entry/Exit Transformation Office
1300 Pennsylvania Ave
Washington, DC 20004

(b) (4) Point of Contact

(b) (4)

(b) (4) Point of Contact

(b) (4)

VII. OTHER PROVISIONS

Nothing in this MOU is intended to conflict with applicable U.S. law or the policies of the U.S. Department of Homeland Security (DHS) and CBP. If a term or provision of this MOU is inconsistent with such authority, then that term or provision shall be invalid, but the remaining terms, provisions, and conditions of this MOU shall remain in full force and effect.

VIII. IMPLEMENTATION

This MOU is to be implemented on the date of the last signature hereon by the Parties.

IX. FUNDS

Each Party is expected to be responsible for its own costs incurred in the implementation of this MOU, and is expected to use its own equipment and personnel resources in performing the activities under this MOU. This MOU does not obligate DHS/CBP funds, nor does this MOU in any way expand CBP's liability for any damage or loss to the other Parties that might arise from implementation of the pilot. CBP's stated intentions are subject to the availability of appropriated funds and changing operational needs.

X. MODIFICATION

This MOU and any annexes or addenda thereto may be modified upon the mutual written consent of the Parties.

XI. DISCONTINUATION

This MOU remains in effect until the completion of the pilot project. The MOU may be extended by mutual written consent of the Parties. Any Parties can discontinue, suspend or terminate the pilot project with 24 hours notification if performance of the pilot is unreasonable or disruption to the CBP or (b) (4) operations.

XII. MISCELLANEOUS

1. This MOU does not confer a right or benefit, substantive or procedural, on behalf of any third party and does not otherwise confer a right on any third party to enforce any provision of this MOU.
2. This MOU represents the entire understanding between and among the Parties. No other understanding, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind any of the Parties thereto.
3. Each Party agrees to permit access to data received by it under this MOU to only those personnel of such Party (including a party's contractors, or personnel of affiliated entities) with an official need to know.
4. CBP understands that (b) (4) terms of use may be implicated by CBP's participation in this pilot. To the extent such end user license agreement(s) include(s) indemnity language and/or other language that would cause CBP personnel or contractor personnel to violate the Antideficiency Act, 31 U.S.C. § 1341, or otherwise violate Federal law, if accepted by

the personnel in the course of their participation in the pilot, (b) (4) agrees to strike that language and deems it unenforceable.

5. Nothing in this MOU conveys to a party any right, title or interest in any intellectual property right of another party.
6. Nothing in this MOU obligates a Party to enter into any further agreements with respect to the purpose or preclude any Party from entering into future business agreements or commercial opportunities.
7. This MOU is governed by federal law, but to the extent necessary, a court of federal jurisdiction will look to the laws of the State of New York to resolve disputes between or among the Parties.

XIII. APPROVED BY

Signed for and on behalf of and by its duly authorized representative:

U.S Customs and Border Protection

(b) (4)

Todd Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
Date: _____

(b) (4)

Title: _____

Date: _____

(b) (4)

(b) (6), (b) (7)(C), (b) (4)

- accepted by the personnel in the course of their participation in the pilot. (b) (4) agrees to strike that language and deems it unenforceable.
5. Nothing in this MOU conveys to a party any right, title or interest in any intellectual property right of another party.
 6. Nothing in this MOU obligates a Party to enter into any further agreements with respect to the purpose or preclude any Party from entering into future business agreements or commercial opportunities.
 7. This MOU is governed by federal law, but to the extent necessary, a court of federal jurisdiction will look to the laws of the State of New York to resolve disputes between or among the Parties.

XIII. APPROVED BY

Signed for and on behalf of and by its duly authorized representative:

U.S Customs and Border Protection

Todd Owen
Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
Date: _____

(b) (4)

(b) (6), (b) (7)(C)

(b) (4)

(b) (4)

Title: _____

Date: _____