

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

(b) (4)

**REGARDING SINGLE-TOKEN BIOMETRIC PILOT PROJECTS FOR  
INTERNATIONAL FLIGHTS DEPARTING FROM DESIGNATED U.S.  
AIRPORTS**

**I. PARTIES**

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

**II. PURPOSE**

The purpose of this MOU is for the Parties to collaborate on (b) (4) pilot program utilizing facial biometrics to verify the identity of participating travelers prior to their departure on (b) (4) international flights departing from selected airports in the United States. The purpose of the pilot is to allow the Parties to make a feasibility determination about a longer-term biometric verification solution.

**III. AUTHORITIES**

CBP is authorized to enter into 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 pilot described herein 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) represents and warrants that it has the full power and authority to enter into this MOU and to carry out the requirements necessary for its implementation.

**IV. OVERVIEW**

(b) (4) intends to capture each participating traveler’s photograph, in accordance with CBP’s specifications, during the boarding process for (b) (4) international flights departing from designated airport(s), in the United States serviced by (b) (4) (b) (4) collection from the traveler of

this information, processing of data, and transmission of such data to CBP are based solely on (b) (4) contractual relationship with the traveler and other independent authority of (b) (4)

(b) (4) intends to capture each participating traveler's photograph using its or its third-party providers' own technology and equipment. Once captured, such technology will process and transmit the photograph to CBP's Traveler Verification Service ("TVS"). Upon the receipt of each participating traveler's photograph, the TVS attempts to biometrically match a photograph with other records available to CBP and return a response to (b) (4). The response from TVS to (b) (4) indicates whether a traveler's identity has been validated or if a manual review of travel documents is necessary to confirm identity. (b) (4) is expected to perform alternative manual processing in the event: (i) CBP is unable to confirm identity through TVS; (ii) technical issues on behalf of CBP or (b) (4) preventing the transmission of necessary data, matching, or response; or (iii) as otherwise requested by CBP. To the extent travelers are permitted to opt out of (b) (4) collection of travelers' photographs under this MOU, (b) (4) is expected to conduct alternative manual processing of the non-participating traveler in order to confirm identity, consistent with the (b) (4) standard processes.

CBP's authority to inspect all outbound international travelers is not affected by this arrangement.

## V. ROLES

### CBP intends to:

- 1) Build a biometric gallery of facial images obtained through various DHS databases, of all travelers identified by the manifest(s) submitted by (b) (4) to CBP's Advance Passenger Information System ("APIS");
- 2) Provide (b) (4) with technical specifications relating to image quality and protocols for the transmission to CBP of participating travelers' photographs;
- 3) Receive photos transmitted by (b) (4) namely facial photographs captured during the boarding process, and perform the biometric matching of each photograph against the pre-established biometric gallery of manifested travelers;
- 4) For each match, transmit an electronic response, comprised only of the APIS numeric identifier, to (b) (4) boarding system to indicate whether CBP was able to confirm the traveler's identity or whether manual review by (b) (4) to confirm the traveler's identity is necessary;
- 5) Use the captured photographs for diagnostic and analytical purposes to evaluate the success of the pilot, to evaluate the potential for expansion of the pilot, to consider how to improve the efficiency and effectiveness of CBP's biometric exit program, and for other lawful purposes; and
- 6) Protect (b) (4)-captured photographs received under this MOU in accordance with applicable law and CBP's privacy and security policies (including the Privacy Impact Assessment Update available at [https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp030e-tvs-august2018\\_0.pdf](https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp030e-tvs-august2018_0.pdf)) and delete such photos from the TVS in accordance with applicable laws and policies.
- 7) Provide available statistics on a basis determined by CBP and provide ad hoc data pulls to the extent possible.

(b) (4) is expected to (directly or through cooperation with its third-party technology providers):

- 1) Integrate traveler photograph capture into the boarding process for flights within the scope of this MOU, in accordance with CBP's facial matching specifications;
- 2) Provide equipment and technology to capture photographs of participating travelers and transmit them to CBP's TVS per CBP's technical specifications;
- 3) For each participating traveler, capture a traveler photograph at boarding that conforms to CBP's facial matching specifications;
- 4) Facilitate transmission of each conforming traveler photograph to CBP's TVS per CBP's technical specifications;
- 5) Permit boarding of the traveler based in part on a positive matching response of CBP's biometric facial matching service indicating that CBP was able to validate the traveler's identity;
- 6) Perform manual confirmation of a traveler's identity using that traveler's travel documents in the event: (i) that traveler does not participate in the TVS photo capture; (ii) CBP is unable to confirm identity through TVS; (iii) technical issues on behalf of CBP or (b) (4) prevent the transmission of necessary data, matching, or response; or (iv) as otherwise requested by CBP;
- 7) Consistent with normal operating procedures, promptly contact CBP following any manual review of a traveler's travel documents if required under applicable procedures to receive CBP recommendations regarding the boarding of such traveler;
- 8) Delete any photograph captured or any matching response from CBP after it is no longer needed for the intended purpose of processing travelers for boarding, as outlined in this MOU; and
- 9) Develop and implement defined processes and instructions to undertake this pilot, including the provision of manual identity validation when necessary, as outlined in this MOU.

## VI. PUBLIC COMMUNICATIONS

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) may not use any statements or feedback provided by CBP regarding the implementation of the pilot for marketing purposes. All content for public communications regarding cooperation under this MOU, including but not limited to the issuance of press releases or promotional activities, is expected to be approved by CBP prior to such release to the public or media. CBP may undertake public communications without (b) (4) approval, but may not use (b) (4) name, brand or logo without (b) (4) prior approval.

## VII. 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, Biometric Exit Strategic Transformation  
CBP  
Program Planning, Analysis and Evaluation  
1300 Pennsylvania Ave NW  
Washington, DC 20229

(b) (4)

Point of Contact:

(b) (4)

**VIII. IMPLEMENTATION**

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

**IX. FUNDS**

Each Party is 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 for which it is responsible under this MOU, unless otherwise mutually determined. This MOU does not obligate DHS/CBP funds or other resources, 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**

The Parties may discuss possible expansion of the Pilot to additional flights or airports, or processes associated with flights utilizing the biometric technology, provided the staff and background infrastructure are available. This MOU may be modified upon the mutual written consent of the Parties.

**XI. DISCONTINUATION**

This MOU remains in effect until the completion of the Pilot. Any Party may discontinue, suspend or terminate the Pilot with 90 days written notification to all other Parties if performance of the Pilot is unreasonable or causes disruption to CBP's or (b) (4) respective operations.

**XII. MISCELLANEOUS PROVISIONS**

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, including any addenda or attachment hereto, represents the entire understanding between and among the Parties with regards to the Pilot. No other understanding, oral or otherwise, regarding the subject matter of this MOU exists or binds any of the Parties thereto.
3. Each Party is expected 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 or as otherwise required by applicable United States law.
4. No Party may disclose any confidential or proprietary information of another Party exchanged under this MOU for any purpose outside the scope of this MOU without prior written consent of the Party that provided the information, unless otherwise authorized under this MOU or required by applicable law.
5. [REDACTED] agrees to indemnify CBP for any liability that might arise from CBP's participation in the Pilot, including, but not limited to, any liability that might be argued to arise from [REDACTED] use of third party equipment and software as part of the Pilot (but excluding in any case any liability arising from CBP's or its personnel's breach of this MOU or negligence, willful misconduct, or violation of law).
6. CBP understands that terms of use related to [REDACTED] technology solution 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, [REDACTED] is to strike that language and deem it unenforceable.
7. The Parties acknowledge that [REDACTED] does not have authority to establish the manner or timing of any steps or actions taken by CBP, as all steps or actions taken by CBP are done so at its sole discretion and pursuant to its authorities and appropriations. Any benefit provided by [REDACTED] to CBP under this MOU is provided without condition.
8. [REDACTED] hereby grants to CBP a non-exclusive license to use, copy, reproduce, and create derivative works based upon the captured photos received by CBP under this MOU for the limited purpose of using facial biometrics to verify the identity of travelers prior to their departure from the United States as described in this MOU. Without prejudice to the foregoing, nothing in this MOU conveys to a Party any right, title or interest in any intellectual property right of another Party.
9. Nothing in this MOU obligates a Party to enter into any further arrangements with respect to the purpose described above or to preclude any Party from entering into future business arrangements or commercial opportunities related thereto.
10. [REDACTED] understands that CBP's involvement with [REDACTED] Pilot is intended only to facilitate [REDACTED] feasibility determination for a longer term solution. [REDACTED] also understands that CBP intends to explore future biometric verification projects utilizing the TVS in other use cases in collaboration with other carriers and/or technology providers, and therefore, CBP is making no commitment to give [REDACTED] any special consideration in any future undertaking or acquisition.
11. 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.

**XIII. APPROVED BY**

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

**U.S. Customs and Border Protection**

**(b) (8), (b) (7)(C)**

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

**Date:** 12/27/18

**(b) (4)**

**(b) (8)**

**Date:** 1/28/19