New York — LPB Training Ernie Hesling

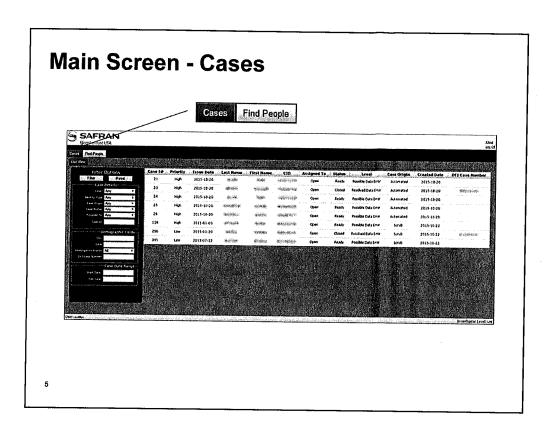
Identification Type

- 1:N (Many) 1:N Identification is the process of comparing the image template for one person (the Probe) to the image templates of every other person in the IVS database.
- 1:R (Record) 1:R Identification is the process of comparing the image template for one person to that same person's historical set of templates and demographic data.

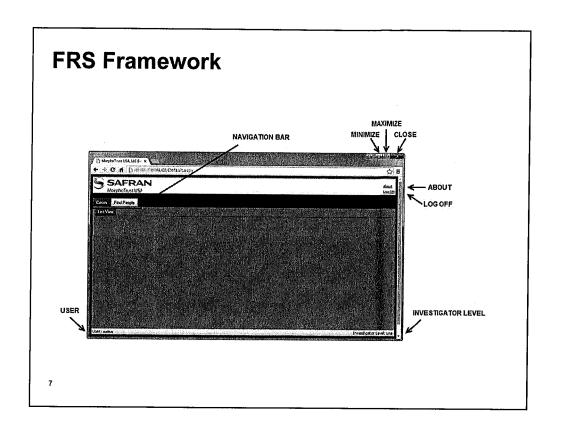
3

The identification type 1:N, sometime called 1 to many is the process of comparing the image template for one person (the Probe) to the image templates of every other person in the IVS database. If a closeness match is found a case is created.

The identification type 1:R is called 1 to Record - 1:R Identification is the process of comparing the image template for one person to that same person's historical set of templates expecting to see like facial features. If likeness is NOT found a case is created.



You are logged into FRS. The FRS Cases tab is displayed.



The FRS framework is present throughout the workflow process.

- In Use an investigation is started and the investigator is actively looking at the search results. While in use, no other users can edit the case. The status does not change until the investigator saves the work, completes and closes the file, or logs out of the FRS application.
- No Matches the probe has no matches. This status is used only for manual identifications, watch list identifications and managed cleanse.
- Processing the probe is in the process of being matched with the templates in the database.
- Ready the identification process is completed and the case is ready for further investigation and processing.
- Closed case is closed and is read-only
- New the probe has been added to the database, but the identification process has not yet started. If the Case Status is New, the row is highlighted in red.

Level of the investigation.

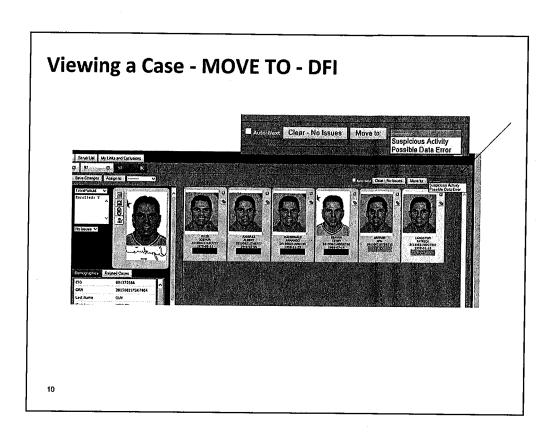
Possible levels are: Possible Data Error or Resolved Data Error.

Case Origin How the case was originated.

Possible sources are: Automated (A), Manual (M), S (Scrub), and Watch List (W). (Cases tab)

Created Date Date the case was created using the format YYYY-MM-DD.

DFI Case Number Case number from the NY System of Record; the alphanumeric imported from Face Explorer.

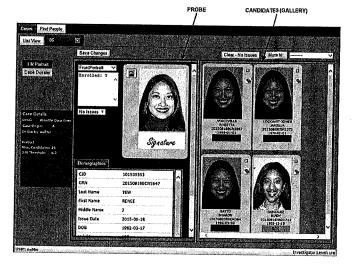


Select the reason for moving the case from the Move to: drop-down menu on the probe or the candidate.

Click Move to.

The case is moved to the Cases Tab

Record View



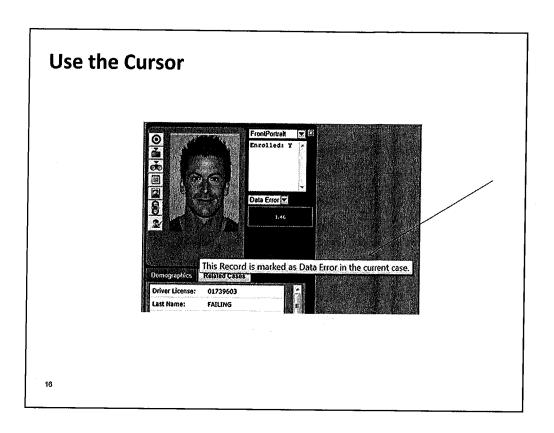
12

New York DMV 110061

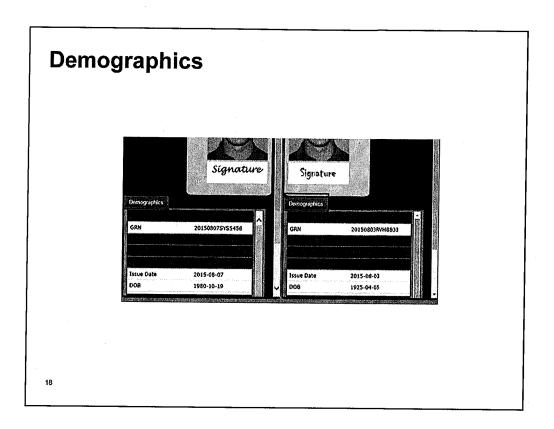
Relative Match Scores

Relative Match Value	Low	Low-Medium	Medium	Medium-High	High		
Color	Blue	Green	Yellow	Orange	Red		
Sample image	PIGEON LOIS 2015409101245 1599-06-01	Priseon LOIS 2015000/1007245 1599-05-01	Pigeon (198 C) (198 C) (198 C) (198 C) (198 C) (198 C) (199 C)	PIGEÓN LOIS 2015 2015 2015 2015 2015 2015 2015 2015	PIGECH LOIS 2015000001245 19994401		

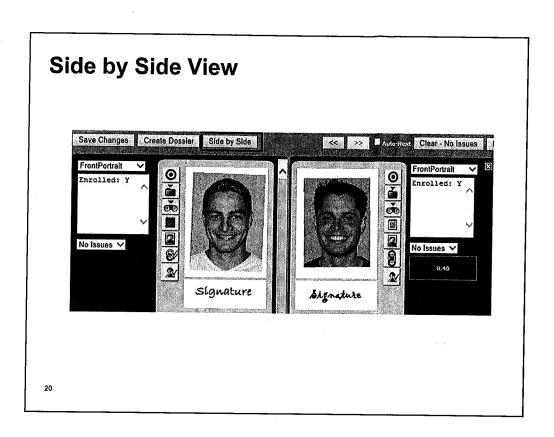
14

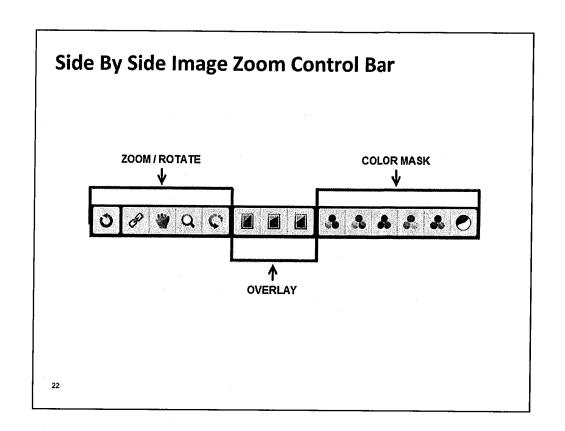


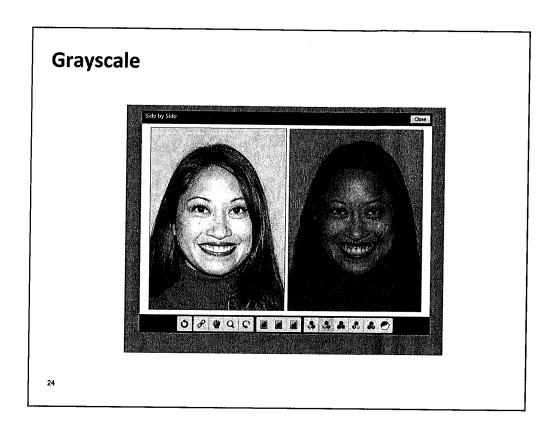
By placing the cursor over an Icon or the color that surrounds the image, a message box will appear explaining either the Icon or what the color indicates as seen in this slide.



Matching demographics for probe and candidate are highlighted in red when viewing a Probe and Candidate Record Details screen

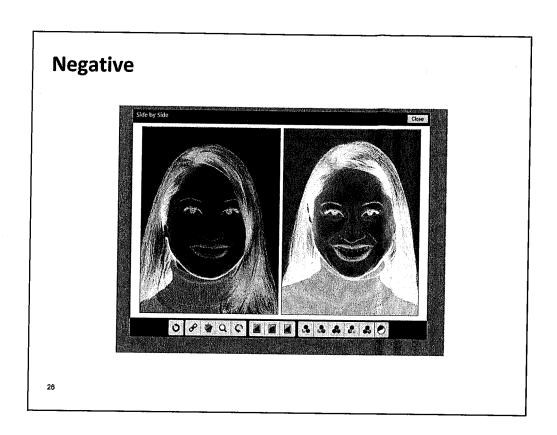


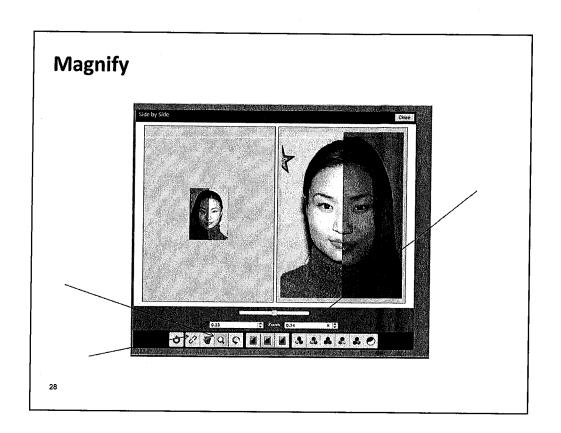


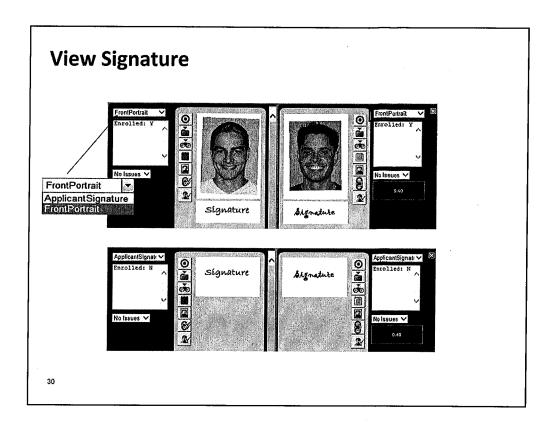


Grayscale

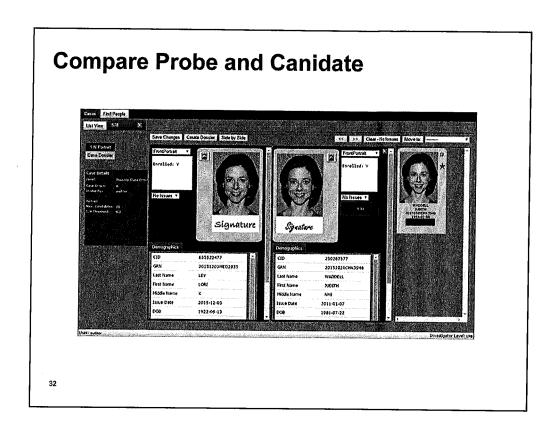
Use this button to display images in shades of gray.







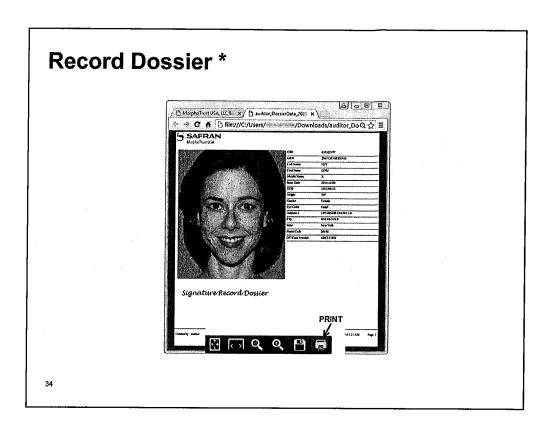
The default view is the front Portrait view however you may want to compare signatures. Click on the drop down list box to the top right of the Image and select Applicant Signature. Select applicant signature in the other view as well to display side by side signatures. You can also zoom in on the signatures by clicking on the signature to launch the zoom tool. To view the images again change the drop down list box to front Portrait on both the probe and candidate.



Click an image in the gallery. The Probe and Candidate Record Details screen is displayed side by side for comparison. Note that the green star indicates the candidate that is currently selected for side by side comparison with the probe.

4To:

- O Return to the investigations results list, click the List View sub-tab
- O Close the current case details screen, click the in the upper right corner of the case tab.
- O Zoom in on the probe or selected candidate image, click the image and the selected image is enlarged

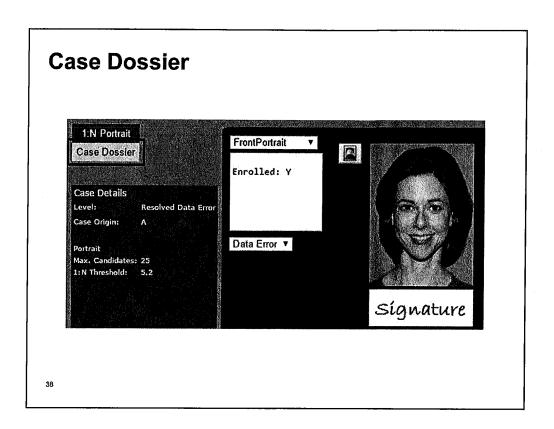


A record dossier similar is generated.

Side by Side Dossier

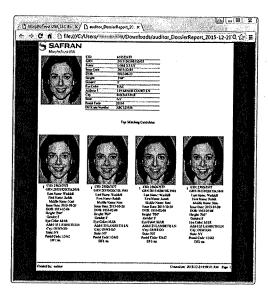


36

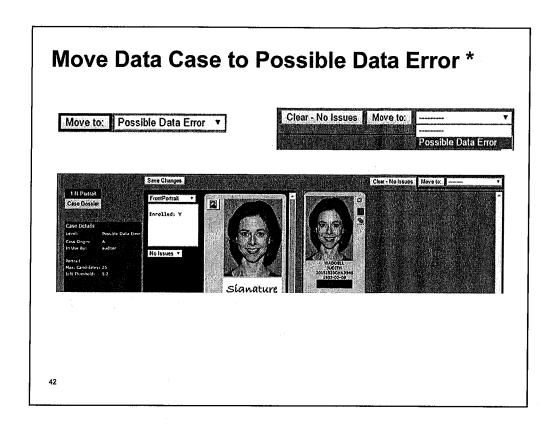


Open the record you want to convert into dossier form. Select the Case Dossier link from the Case View Options.

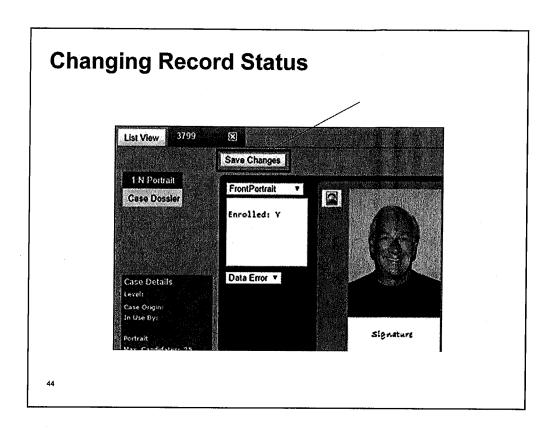
Case Dossier



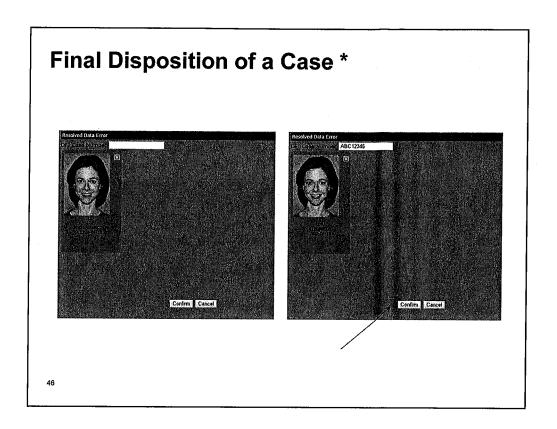
d٥



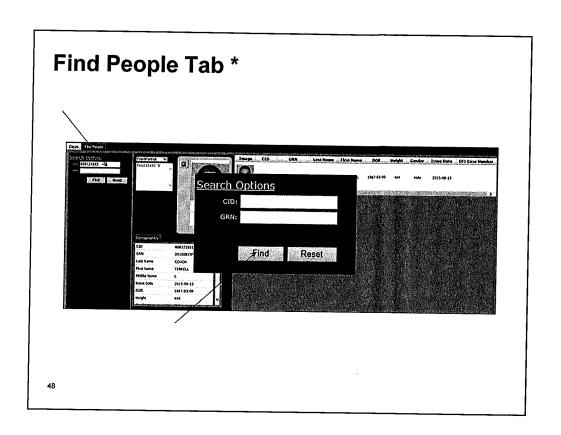
Select the reason for moving the case from the Move to: drop-down menu on the probe or the candidate

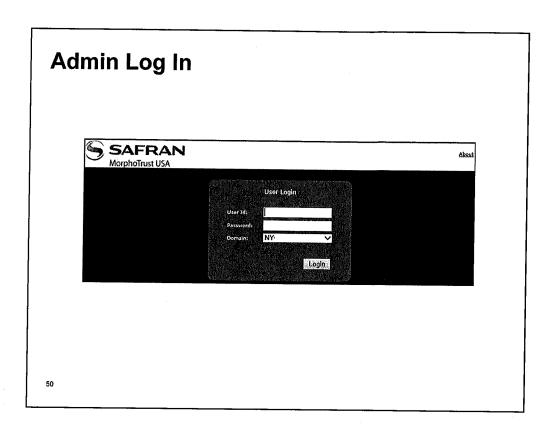


Click Save Changes to save the change. This selection saves your work, but will not close the investigation.

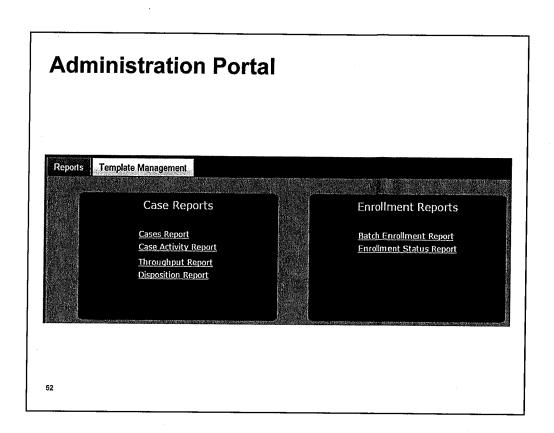


A Confirmation screen is displayed. Assign a DFI Case Number to the case Click Confirm to confirm the status change; otherwise click Cancel to exit the screen without saving the change.

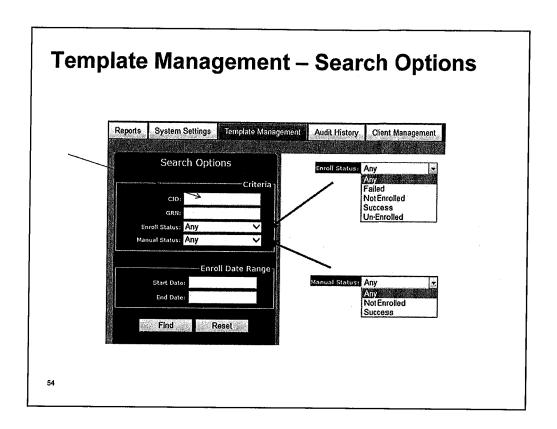




Enter your User ID, Password and Domain and then click Login. You are logged into FRS Admin; the Reports screen is displayed.



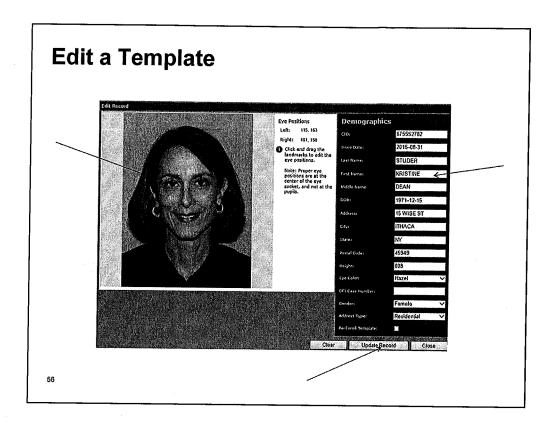
GULaw Privacy FR New York DMV 110081



To search for enrollment records using Search Options

Enter the CID or GRN criteria or use the selections in the Enroll Status and Manual Status drop-down menus to search for a template.

Select Reset at any time to clear the Search Options fields.

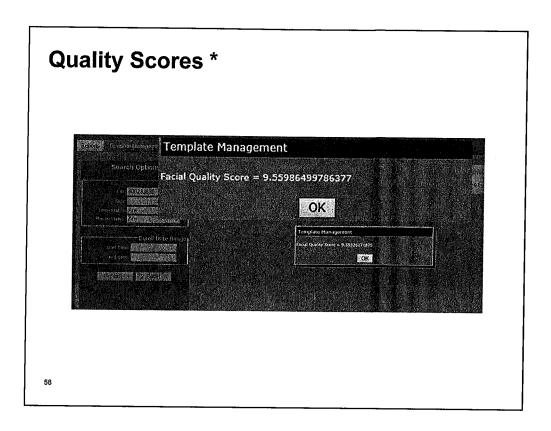


To edit a template

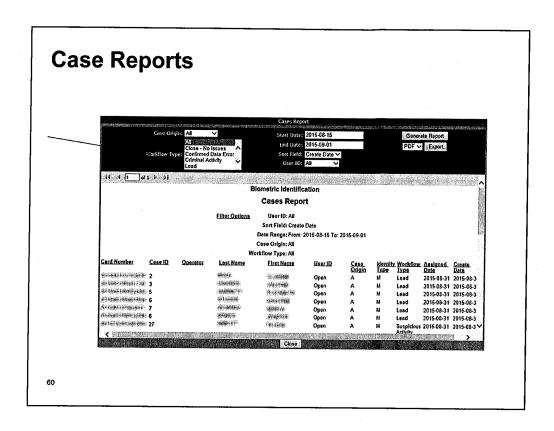
Complete the search steps in Searching for a Template.

Select Edit. The Edit Record window is displayed.

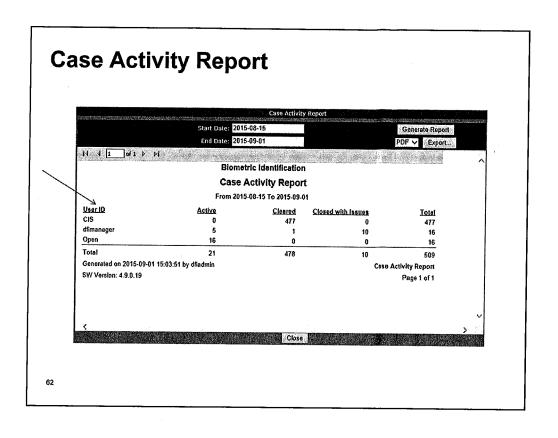
If necessary, click and drag the crosshairs to adjust the center point of the eyes on the displayed image.



The quality score indicates how well the system generates an accurate template for the given biometric. System administrators can view facial scores for enrolled portraits to ensure good quality portraits are enrolled. Each enrolled template displays a score from 0 (lowest quality) to 10 (highest quality).

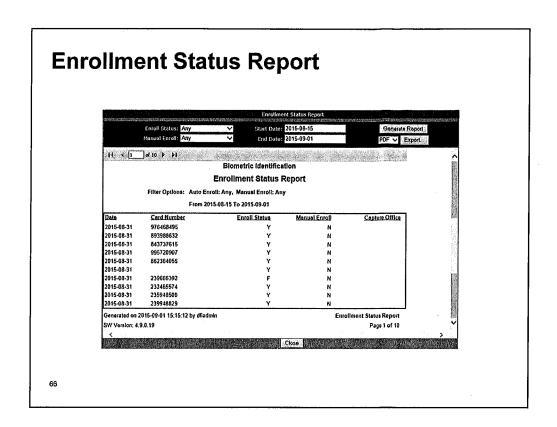


The Cases Report shows case related data based on user selected filter settings. The results are sorted by Create Date unless a User ID is specified, and then the results are sorted by User ID.

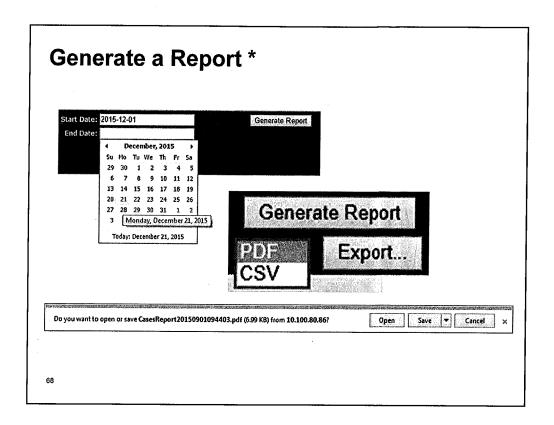


produktion (1912)	Investigator: Any	V	Disposition Report		in in the state of	voitersegerus.
	investigators (41)		and Date: 2015-09-01	P	Generate Report	
14 ¥ [I	Jaile W	a de desire				
	**************************************		tric Identification	CYRCHINGS THE		
		Disp	osition Report			
	Filter Option	s Investigator: Any Date Range: From	1 2015-08-15 To 2015-0	39-01		
Date	Confirmed Data Error	Criminal Activity	Close - No issues	CID Criminal Activity		
2015-09-01	2	8	1	0		
Total	2 015-09-01 15:09:08 by dilado	В.	1	0		
SW Version: 4.9		nin			Disposition Report Page 1 of 1	
					ragelori	

The Disposition Report displays a summary count of the reasons given by investigators when a case is marked for disposition for the selected date range. Possible reasons for marking a case as closed include data errors, resolved criminal activity, or no issues. The results are sorted by Date. Select a specific investigator to further filter the results.



The Enrollment Status Report shows the enroll status and manual enroll status for each card processed for the selected date range. The results are sorted by Date.



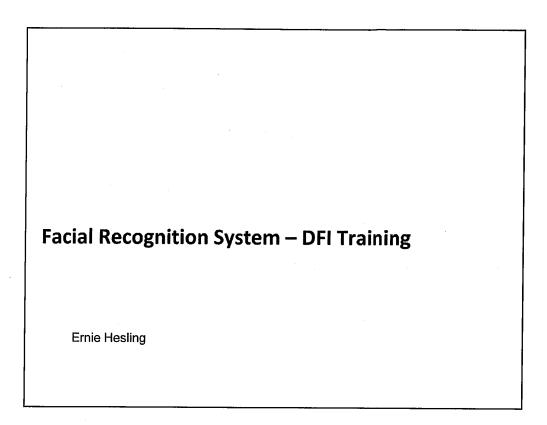
When available on a report, use the drop-down menus to select any other report criteria, such as case origin, workflow type, sort field, user ID, investigator, enroll status, or manual enroll.

Click Generate Report. The report is displayed on the screen.

If you want to save or open the report, select PDF or CSV from the format drop-down menu. Click Export

The file is generated and downloaded by default to the Downloads folder on your PC. Choose to Open the file and / or go to the Downloads folder using the links at the bottom of the screen.





Welcome Facial Recognition Training. This will give the user an introduction to Facial Recognition including but not limited to Facial Recognition terminology, technology and the workflow overview.

Identification Type

- 1:N (Many) 1:N Identification is the process of comparing the image template for one person (the Probe) to the image templates of every other person in the IVS database.
- 1:R (Record) 1:R Identification is the process of comparing the image template for one person to that same person's historical set of templates and demographic data.

3

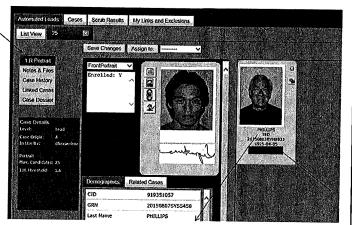
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The identification type 1:R is called 1 to Record - 1:R Identification is the process of comparing the image template for one person to that same person's historical set of templates expecting to see like facial features. If likeness is NOT found a case is created.

1:R-1 to Record



1:R Identification is the process of comparing the image template for one person to that same person's historical set of templates.



5

Starting an Investigation – DFI Limited Investigator

The first step is to review and sort through new Cases to determine if there is potential for fraud.

The Investigator can:

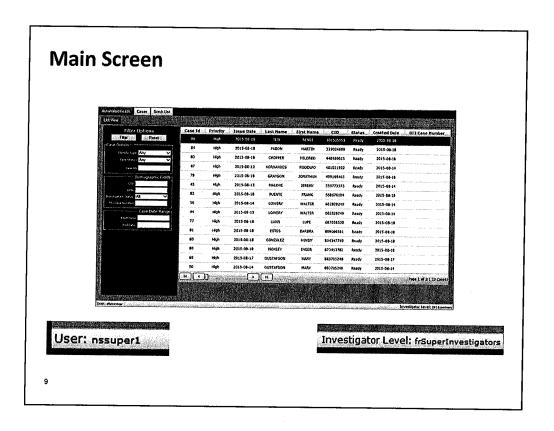
- •View a case from the Cases or Scrub tab
- •Comparing an Image (Probe) to Candidates List
- •Clear a case as passed with no issues or Resolve.
- •Add case notes and upload file attachments(will follow current process to use record notes and existing documentation process)
- Add record notes
- •Move a Automated Lead to Cases tab.

7

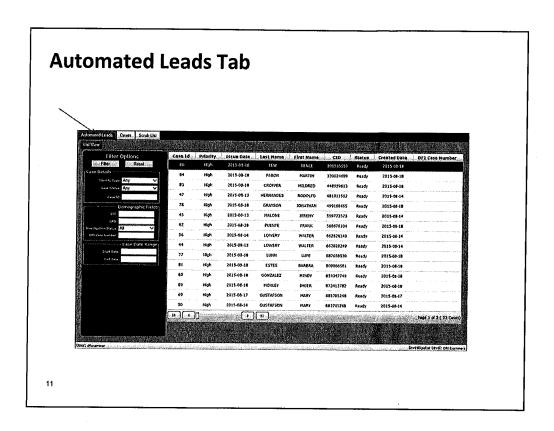
The first role we will discuss is the role of the Examiner which is to review and sort through new Cases to determine if there is potential for fraud, data error or Clear and close the case with No Issues.

The Investigator can:

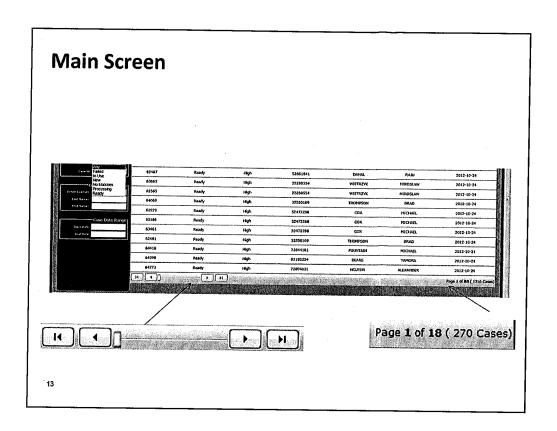
•View a case from the Cases list also called the Cases tab as you will see shortly. The Cases in this list are the automatic identification that occurred overnight. Recall if a candidate matched above a set threshold to the Probe, a case was automatically created and placed in the common Cases list. On the Cases list also called the Cases tab the Investigator using their skills can Clear and Close the case with No Issues. If an Investigator suspects fraud or data error they can Add notes and upload appropriate file attachments that might be helpful with the investigation. It is important for each of the user roles to add notes and appropriate attachments to help you or other Investigators when they view the case. Once the Investigator adds all appropriate notes and attachments the Investigator would move the Case to Research. Moving the case to Research moves the case to another list called the Cases List. The cases list is also called the Cases tab. The cases tab is a common list of cases that need further research by Investigators, Senior Investigators or Supervisors. Now Let get introduced to the BI Tool.



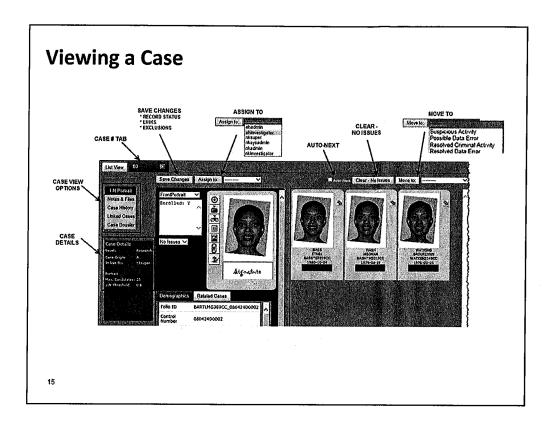
Once logged in and depending on your user role a series of tabs will be displayed as shown top left. The default tab is the Cases List tab that we mentioned earlier and will describe in greater detail on the next slide. In the upper right corner the About link allows you to bring up a new window that display the version of the software and copyright information. The log off button will log you out or can close the browser using the Red X in the upper right corner of the window. The bottom right of the window displays the user level or what we have been calling user role. In this example the user is logged in as a FRS Super Investigator level. This level is also known as Supervisor role. Your naming will likely be simplified on your system. The bottom left of the window displays the User that is logged in and in this example the username is nssuper1. In the next slide we will learn more about the Cases tab and other options allowing you to navigate and filter your results.



The **Automated Leads** tab displays a list of all nightly identifications that were automatically created by the **FRS** System that have resulted in at least one or more matches of the Probe to Candidate. This example is at DFI Limited Investigator user level which only has the **Automated Leads tab** and the **Cases Tab**. Notice just under the **tabs** there is a sub tab called **List View**. List View is the default view on the tabs. To open a case, double click on the row you want to view. We will describe other features of the other tabs in greater detail on the next few slides. Some information on this and other slides was grayed out as it may contain personal information.

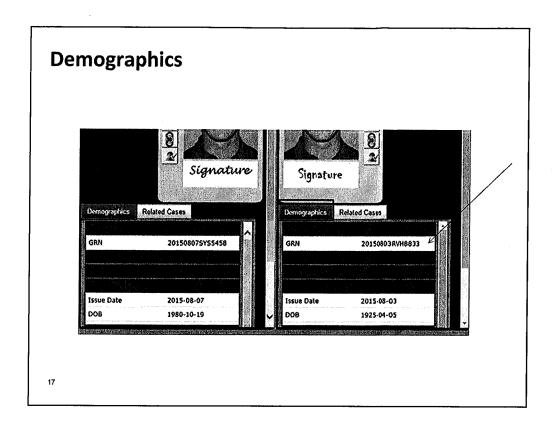


Using the arrow keys at the bottom of the List View you can navigate through all the Cases or cases currently in the system. The inner single arrow buttons let you move forward or backward one page at a time. The outer buttons go to the first and last page. The bottom right display the page you are on and the total number of pages and total number of cases. In this example we are viewing page 1 of 18 and there is a total of 270 cases. On the next slide we will describe the use of Filters which allows you to reduce the list to a manageable size.



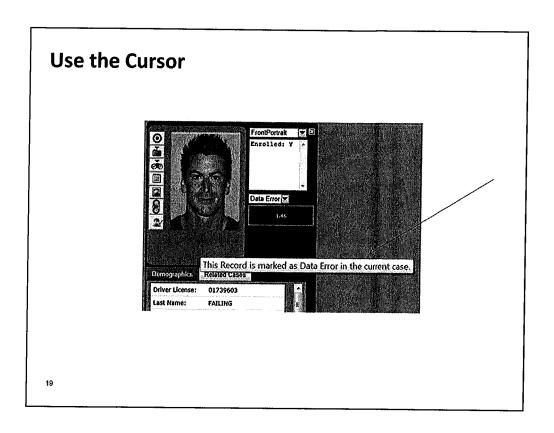
As mentioned earlier, to open a case, double click on the case in the List view. The case opens and the Case Details screen is displayed as shown here. Let's review the items on this page. Notice at the top left a tab was created next to the List view tab. This is the case and the case number is shown inside the tab. You can have multiple cases open at once. Click the red X to close case without saving any changes. The case view by default is shown just below the List view tab and is the 1:N gallery. 1:N meaning the identification was made using the 1:N or 1 to Many or in other words the entire database was searched for potential matches. We will explain Notes & Files shortly. Just below is the Case Details. In this example the case Level is Lead meaning it is a new lead. The Case Origin is A for Automated, meaning it was created by the automated identification that was run overnight. The case is In Use By a user named limited Investigator, this would usually show your user name if you opened the case. The Max. 1:N Candidates means the maximum number of candidates was set to 25, meaning return up to 25 of the highest matches, the setting is configurable in increments of 5 up to 50. The 1:N Threshold is set to 0. This is the default setting for manual investigations that we will explain later. The larger image in the middle is the PROBE and the GALLERY of images being the **CANDIDATES** are to the right. Just below the Probe Image is the **Demographics**. We will explain the items on the top right shortly. Simply put, double clicking and opening a case displays case status information, the probe and demographic as well as images of the candidates. There is a lot of information to absorb. We will continue point out the items and features as we go through this tutorial. Also it will be easier to understand once you start using the tool.

Note: If you navigate back to the **List View** tab once a case is opened you must click the **Reset** button in **Filter Options** to see the status of the case change from Ready to In Use.

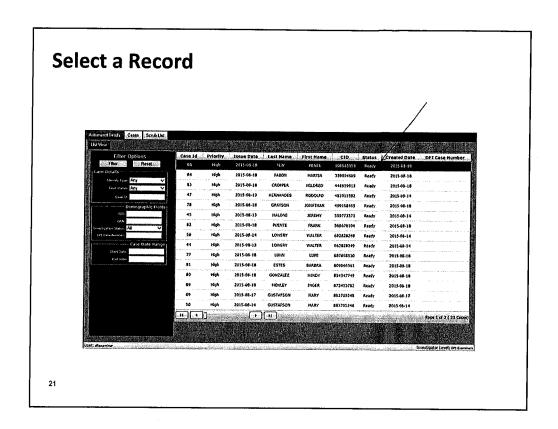


• Click the Demographics tab to view demographic information. Information displayed includes CID, GRN, Last Name, First Name, Middle Name, Issue Date, DOB, Height, Gender, Eye Color, Address 1, City, State, Postal code, Case Id, Enroll Status, Investigation Status, and DFI Case Number. Use the scroll bars to the right of the list to view all information.

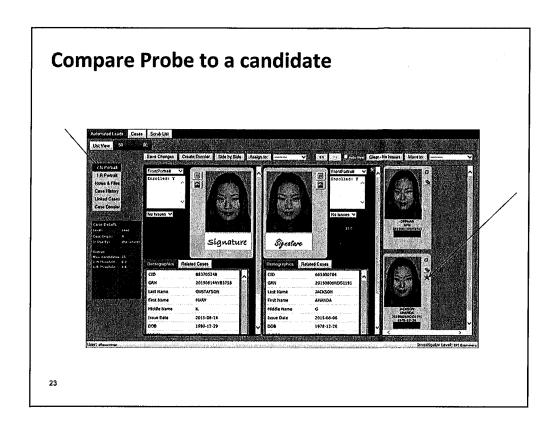
Matching demographics for probe and candidate are highlighted in red when viewing a Probe and Candidate Record Details screen.



By placing the cursor over an Icon or the color that surrounds the image, a message box will appear explaining either the Icon or what the color indicates as seen in this slide.



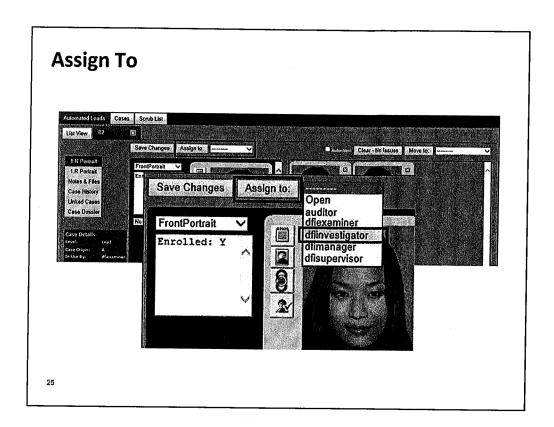
Click the case that you want to view from the **Automated Leads tab** search results list.



Click an image in the gallery. The Probe and Candidate Record Details screen is displayed side by side for comparison. Note that the Green Star indicates the candidate that is currently selected for side by side comparison with the probe.

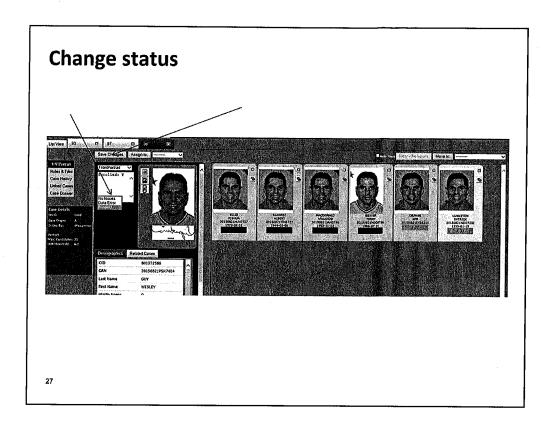
To:

- Return to the investigations results list, click the List View sub-tab
- Close the current case details screen, click the X in the upper right corner of the case tab.
- Zoom in on the probe or selected candidate image, click the image and the selected image is enlarged

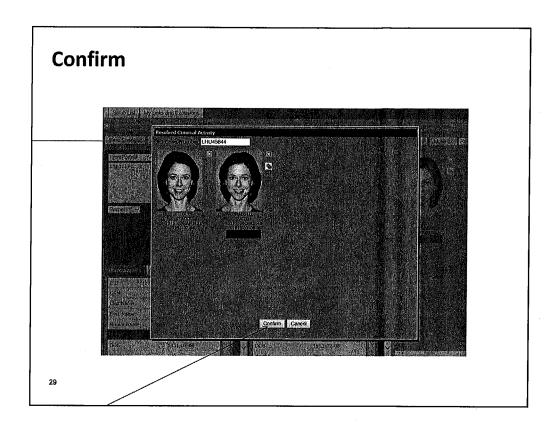


Select your name or the name of the investigator from the Assign to: drop-down list. This example assumes you are assigning the case to dfinvestigator.

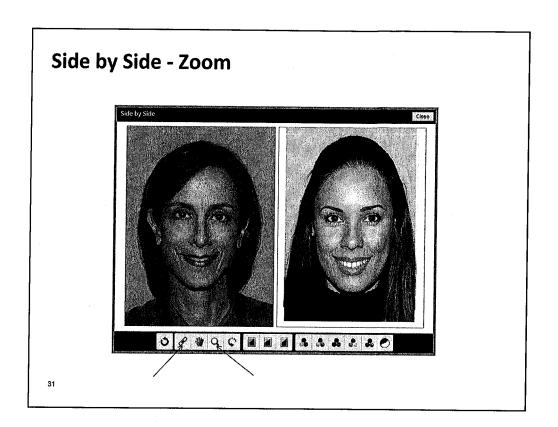
Click the Assign to: button. The case is assigned to the investigator as shown in the Assigned To column of the results list



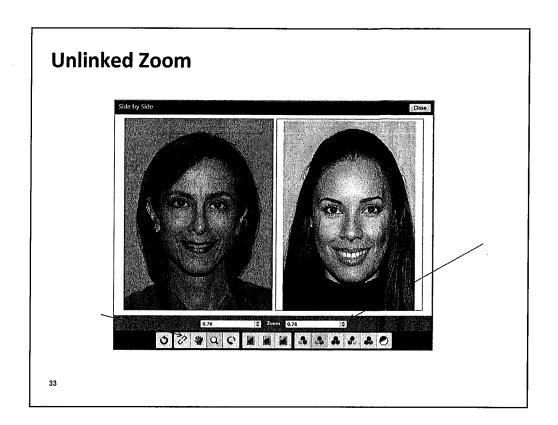
Select the Cases tab and the search results list is displayed. Click the case that you want to review. The Case Details screen is displayed. This example shows a record with a status of **Suspect**.



A Confirmation screen is displayed. Click Confirm to confirm the status change; otherwise click Cancel to exit the screen without saving the change. Click the Move to: button.



In this example 2 records of the same person are displayed. Click on the magnifying glass to further enlarge or decrease the Image size. You may want to zoom in on an image to look for a distinctive mark on the face. When done, click to Close button to exit the Zoom tool.

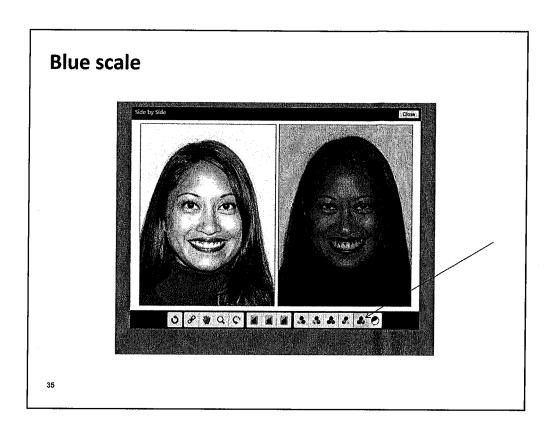


Link/Unlink

Link images to apply actions to both images.

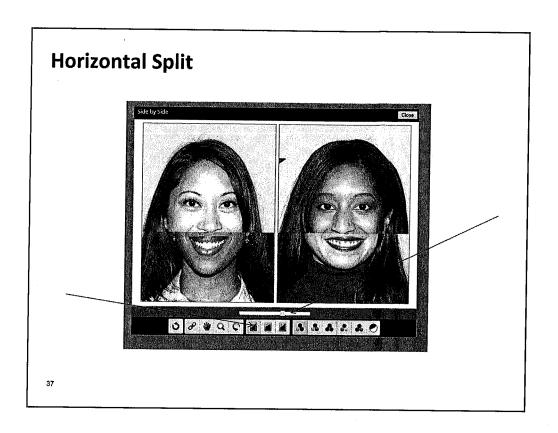
Unlink images to apply action to one image.

Use the Unlink button in combination with Grab and Pan, Zoom In/Out, and Rotate buttons

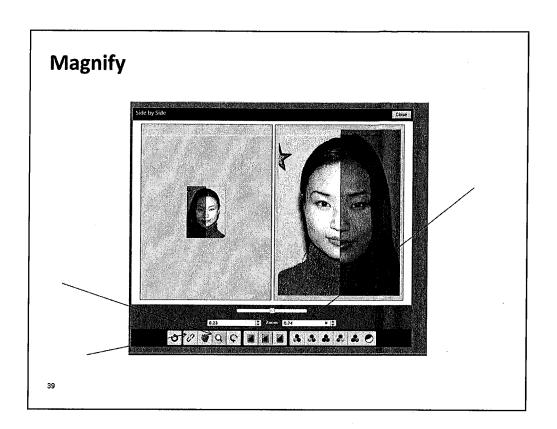


Greenscale

Use this button to display images in shades of blue.



Split Horizontally
Use this button to move the slider to change the overlay splitter.



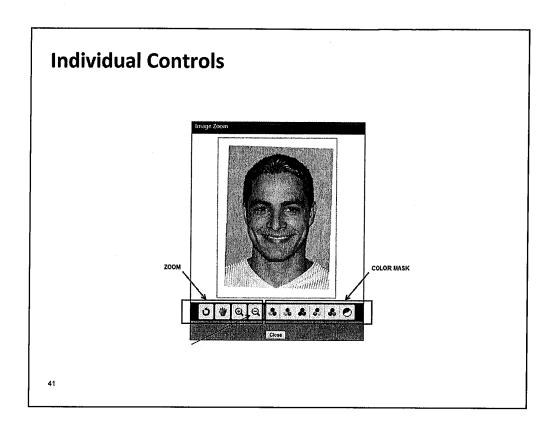
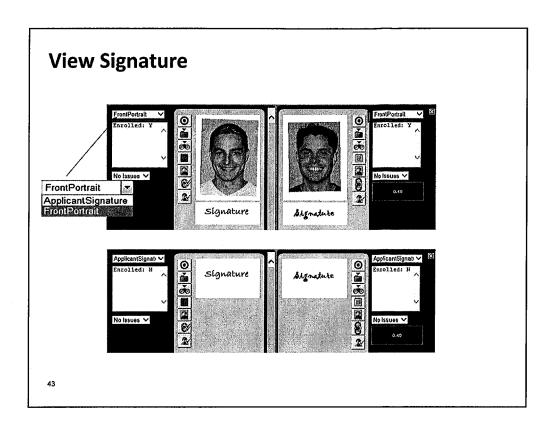
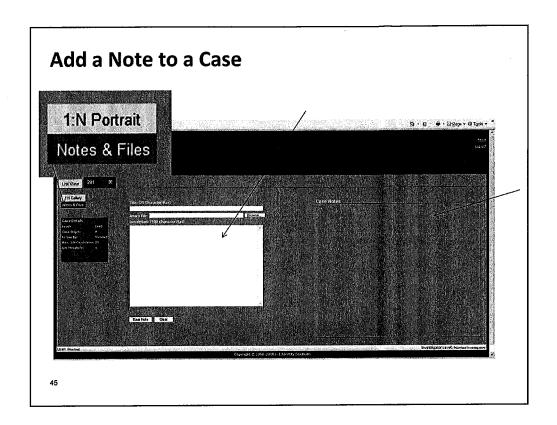


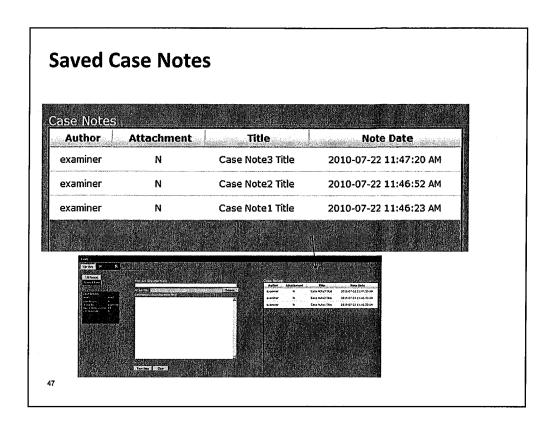
Image zoom controls are available any time you click an individual image or when you select the Side by Side button.



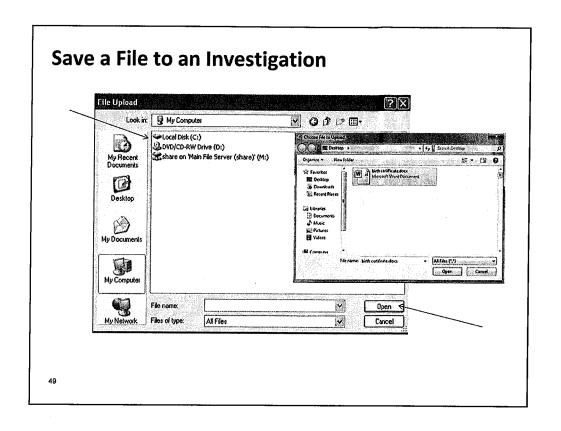
The default view is the front Portrait view however you may want to compare signatures. Click on the drop down list box to the top right of the Image and select Applicant Signature. Select applicant signature in the other view as well to display side by side signatures. You can also zoom in on the signatures by clicking on the signature to launch the zoom tool. To view the images again change the drop down list box to front Portrait on both the probe and candidate.



Keeping good notes is important for your records as well as other Investigators. Clicking on the Notes & Files section on the left hand side bring up the "Case" notes window. Case notes can be added to the middle section in white. To the right, if other case notes existed, they would be displayed by timestamp. Let's take a closer look at adding and viewing case notes.



Notes entered by a user become a permanent part of the case. The notes are sorted by date with the most recent note at the top of the list. As shown here the case notes section in the right side shows the Author who created the note, a Y or N if the author created an attachment, we will show you and example next. The title is displayed as well as the time and date the note was created.



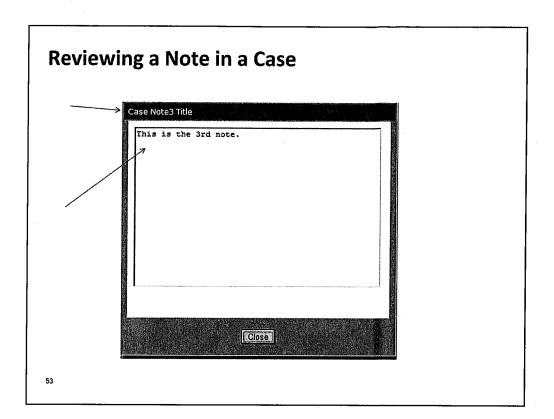
To Add a File to an Investigation

.JPG.DOC.PDF.BMP.XML.HTML.XLS

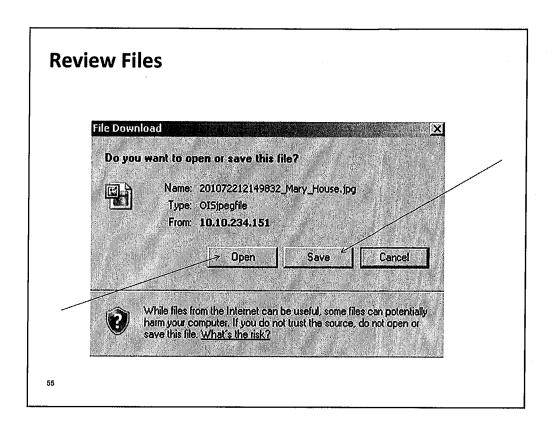
Note: There is a 10MB limit for file attachments.

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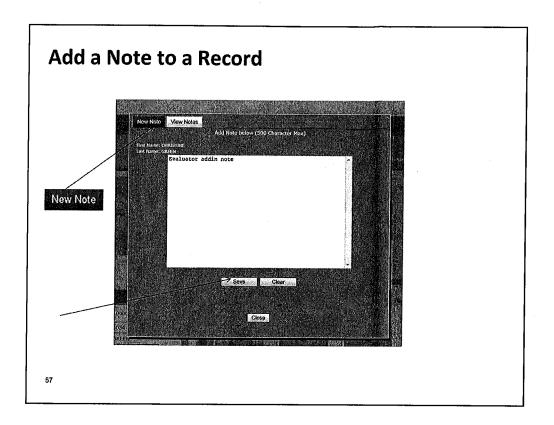
These are the types of files that can be added or attached to the case. Note, there is a 10MB file size limit for attachments.



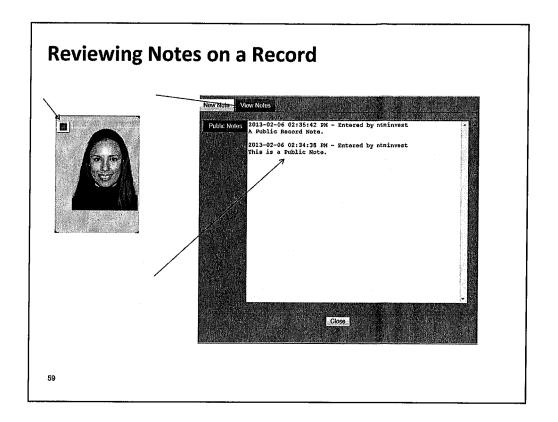
The case title is displayed at the top and the description is displayed in the window. Remember notes are permanent and read only. Click the close button when finished.



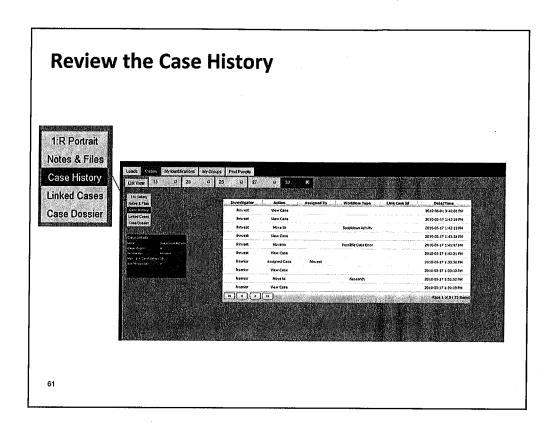
The File download window allows you to **Open** the attachment or **Save** it to your PC or **Cancel** all together.



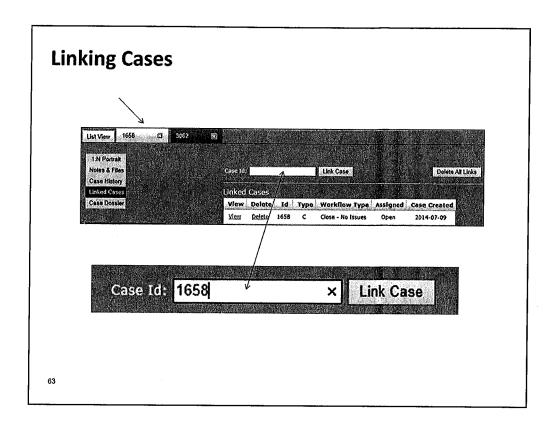
The **New Note** window is displayed. Similar to case notes you enter your notes in the text box, there is a 500 character limit. One feature that is different with record or person notes is the ability to create a public or private note. It should be noted however, Investigator user levels are not allowed to create a private note. It should be further noted most jurisdiction require their Investigators to create Public notes. Supervisors are allowed to see all private notes. Type your new Note and click the save button to permanently save the note to the record. Click the Close button to close the window.



To review the notes on a record select the **View Notes** tab instead of the default New Notes tab. You will see a time stamped list of all the notes with the most recent note on top. You should also be aware there are sub tabs for viewing notes. The default is the Public notes. To see the private notes you can click on the Private Notes sub tab. Private notes can only be seen by the person who entered them or a Supervisor. Again, Investigators are not allowed to enter private notes and many jurisdictions expect others to add public notes. Click the close button to exit the window.



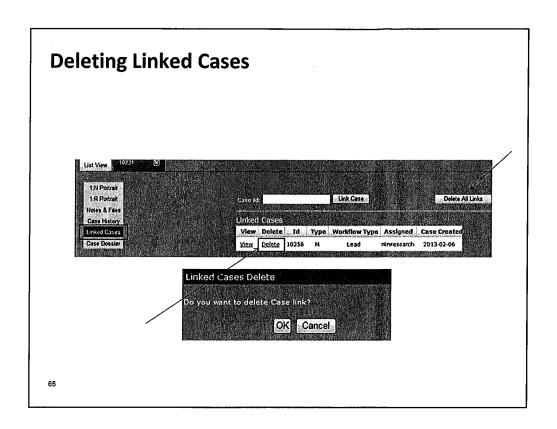
Select the **Case History** link from the left side of the screen. The Case History table displays a times stamped history of all changes to the case. Let's take a closer look on the next slide.



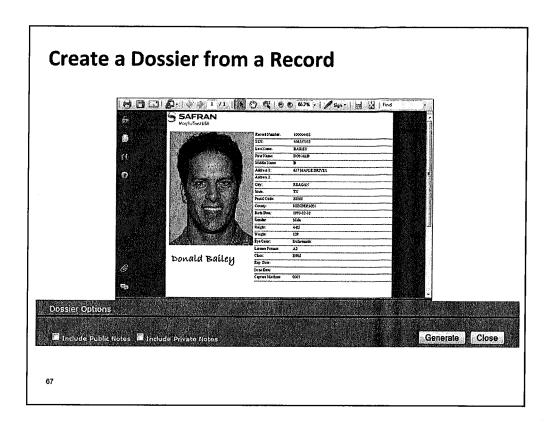
If you are reviewing a case and believe it is similar to another case, you can manually link the two cases. The list of linked cases remains with the case even if it is re-assigned to another Investigator.

To link cases

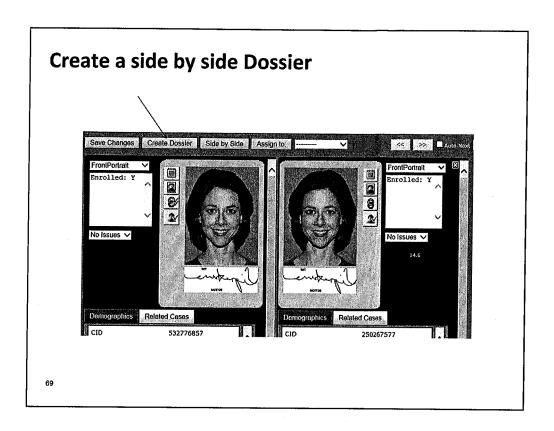
From an open case, select the Linked Cases link. This example selects case ID 1658. The Linked Cases screen is displayed.



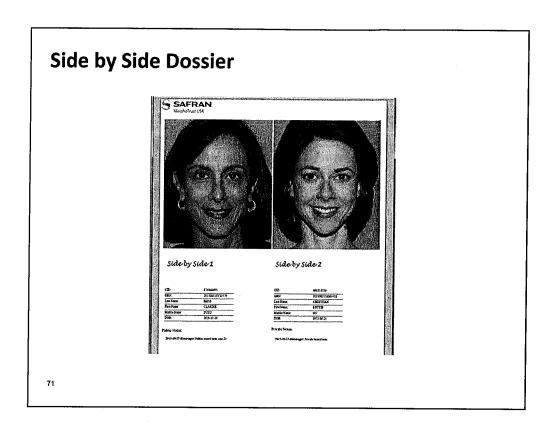
Click OK to delete the case. Otherwise, click Cancel to cancel the transaction.



The PDF is created with the image, signature and demographics of the individual record. If you want to include public and private notes you can select the check boxes at the bottom of the window and then select the Regenerate button. A new PDF will be generated with notes included.

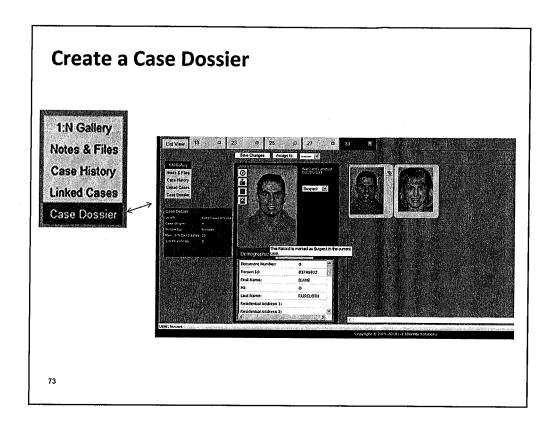


Click the Create Dossier button on the Probe and Candidate Record Details screen.

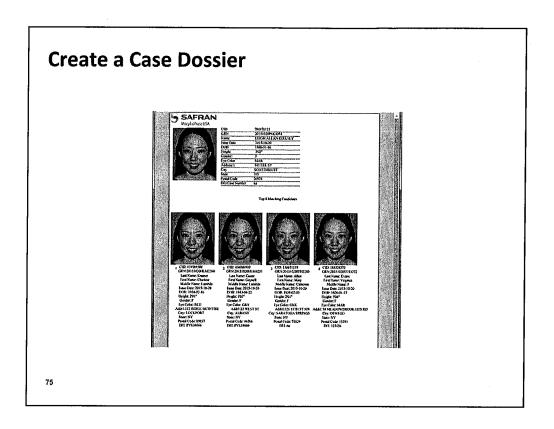


You can print or send the dossier by email.

Determine which Dossier Options you want to include in the dossier. If you want to include notes, scores, or generate dossier with smaller portrait images, checkmark your selection(s). Note that if you select smaller images, additional demographics are displayed. Click Generate.



The last menu option allows you to created PDF style dossier of the Case. To create the Case Dossier of the probe and all the candidates click on the Case Dossier link. The Dossier Options window is displayed, by default the 1:N gallery is selected. The "Only Flagged Records" checkbox allows you to only create the dossier with flagged records. To this point in the training we haven't talked about a flagged records but do you see the color of the probe is Orange? The colored background indicated the records has been flagged as Suspect. We will talk more about flagged records shortly. The "Include Scores" check box allows you to decide whether to create a dossier with the match scores or not. If the dossier is to be used in an investigation it is common to NOT print the scores. As you will see shortly the default case dossier displays the probe at the top left of the paper and all candidates in rows of 4 images. The Court Dossier options displays the images in rows of 3. Select the Generate Dossier button to create the dossier. Let take a look at an example.

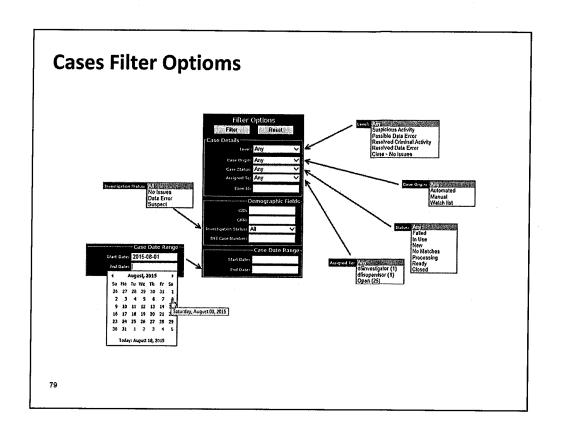


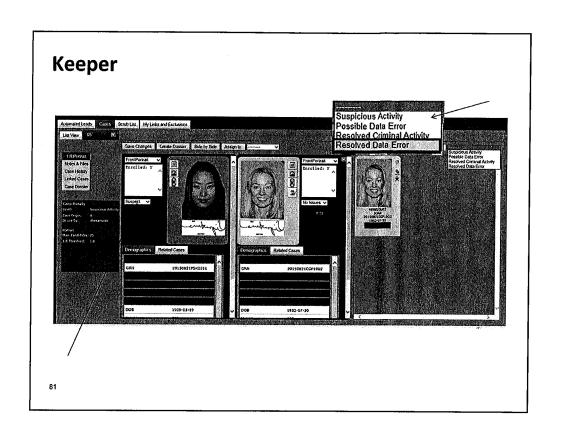
This is an example of the court dossier. The probe is at the top and the candidates are below. In the default dossier if there were more than 3 candidates another image would have displayed on the right of the 3rd candidate as the default it 4-up or 4 per row. If the court dossier check box was selected it would display 3 images per row. The dossier is a PDF file. It can be saved, printed and depending on your business rules possibly emailed to others.

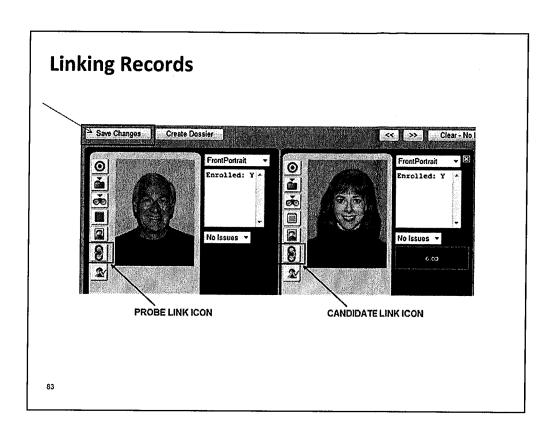
Questions?



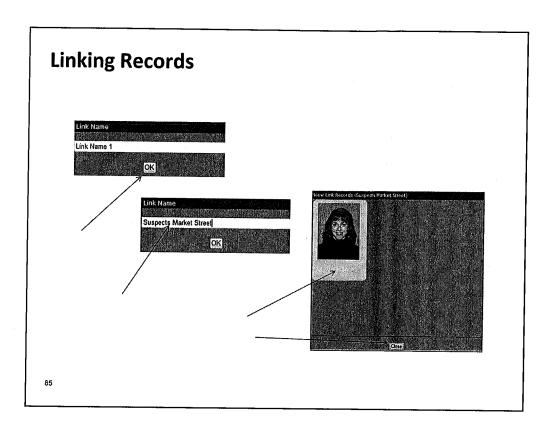
--





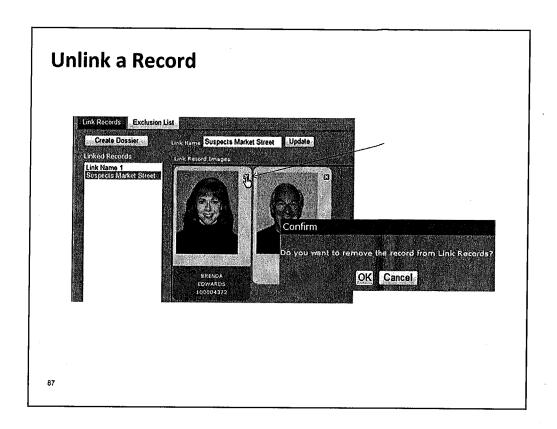


Click the Link icon on the candidate FIRST record.



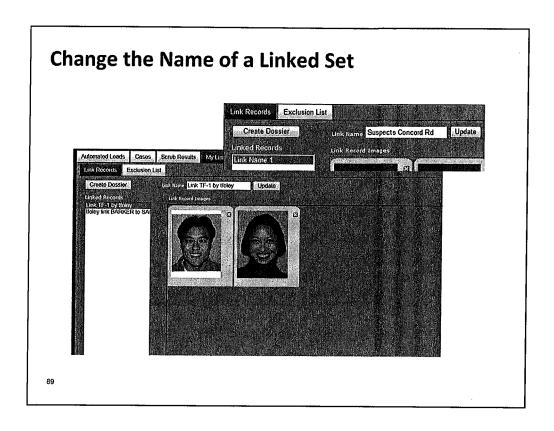
Click the Link icon on the probe record.

- •If this is a newly created link set, the Link Name screen is displayed. If you did not name the newly created link, your link set is automatically named Link Name n (where 'n' is lowest unused number 1,2,3, etc.).
- •If you want to change the name at this time, type in a link name. This example changes the name to Suspects Market Street. Click OK.
- •If this is not a newly created link set, this screen is skipped.
- 2 The View Link Records screen is displayed. Hover the cursor over the image to view the case name and record number.



From the Link Record Images field, click the red X next to the record you want to unlink.

A Confirm message is displayed. Click OK to unlink the record; click Cancel to keep the record as part of the link set.



Select the My Links and Exclusions tab.

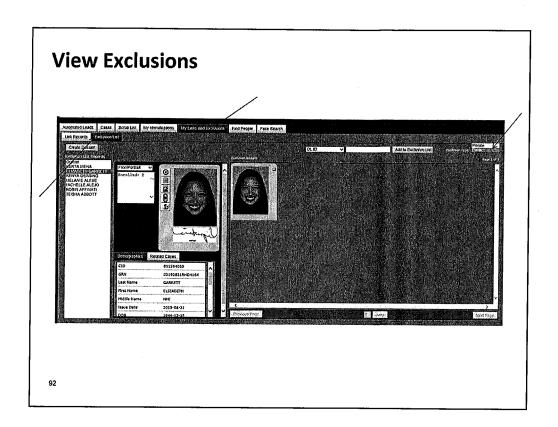
Select the Link Records sub-tab.

Select the link set from the Linked Records list. This example selects Link Name1.

Type the new name in the Link Name field. This example names the link Suspects Concord Rd.

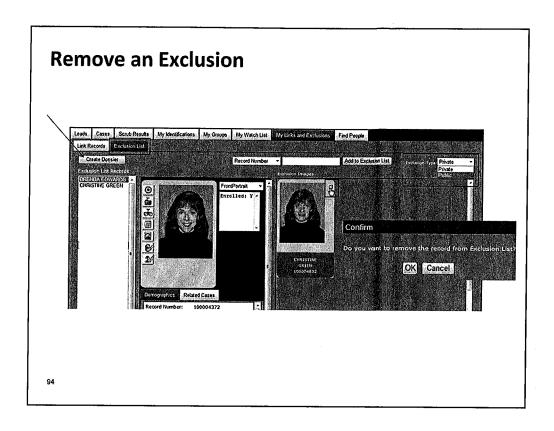
Click Update. The updated link name appears in the Linked Records list.

Public exclusions do not apply to uploaded images. Public exclusions are based on Person ID, and uploaded images do not have a Person ID.



- Use the Exclusion icon when you have a case open
- Use the Links and Exclusions tab

To use the Exclusion icon



From the Exclusion Images field, click the red X next to the record you want to remove.

A Confirm message is displayed. Click OK to remove the image; click Cancel to keep the image as an exclusion.

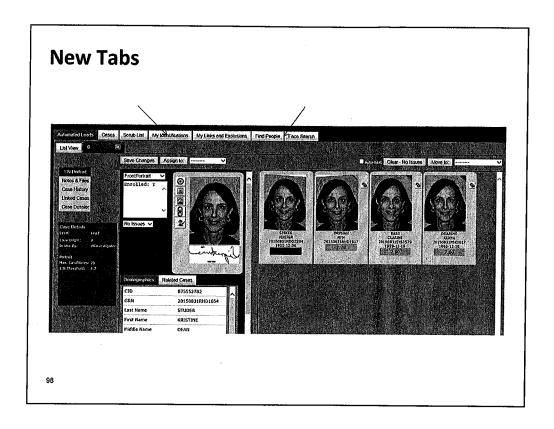
Working on a Case - DFI Investigator

Investigators perform detailed case reviews to determine if there is suspect activity or data error. Investigators can perform all of the functions of an Investigator plus....

- Close and Clear an Investigation
- Start a new Investigation
- Can use My Identifications
- Can use My Groups
- •Find (Search) People

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- •The role of Investigators is to perform detailed case reviews to determine if there is suspect activity, data error, the case needs further investigation or clear the case with no issues. Investigators can:
- View a Case from workflow tab called the Cases Tab
- Assign a Case to them self
- •Review the Case History Notes and Attachments that may have been created by others
- Create a Group of cases
- •Create a Dossier for the Probe only to create a PDF file or print a hard copy
- •Create a Dossier for the Case which is the Probe and All Candidates to create a PDF file or print a hard copy
- •Move a Case on for Further Investigation by Senior Level people
- Close and Clear an Investigation with No Issues
- •Start a new Investigation on a Person of Interest
- Create an personal group, like a file folder of a group of individuals
- •Upload a photo into the BI system to be able to start an investigation



My Identifications Tab

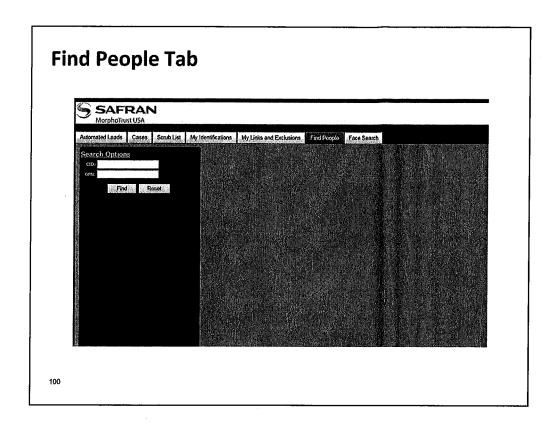
You can retrieve a specific case and begin a new investigation. This tab displays a list of all manual investigations that were processed by a specific user.

Find People Tab

This tab allows you to locate individual records in the system using criteria entered into search fields.

Face Search Tab

This tab allows you to upload images to scratchpad, delete images in scratchpad, search for images, and compare uploaded images. Images under Face Search are also available under My Groups if you decide to start an investigation.



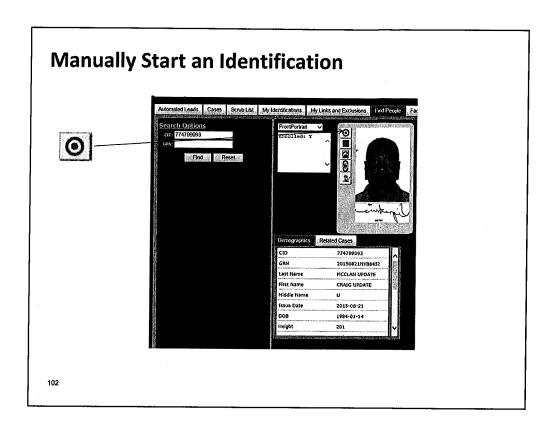
You can create a new search from the Find People tab. Use any of the search fields to narrow your search results, and then click Find.

Click Reset at any time to clear the fields.

Search Option

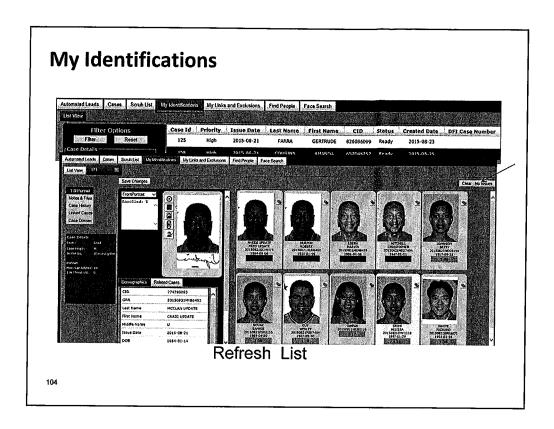
CID - Client ID or Person ID number of the individual, a unique ID using a 9-digit format.

GRN - Global Reference Number. This number is a unique ID of the actual portrait image using the format: YYYYMMDDSSSCSEQ (SSS-Site code, C-Camera, SEQ 0-999).

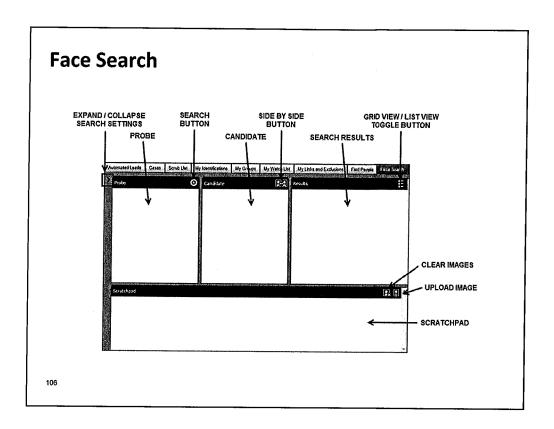


After searching and finding a person of interest you may decide to conduct a manual identification. The manual identification searches the entire database for matching candidates to your person of interest or what we call the Probe. Selecting the Target or Bulls Eye Icon located at the top left of the image will launch the Identification Options window as we will see next.

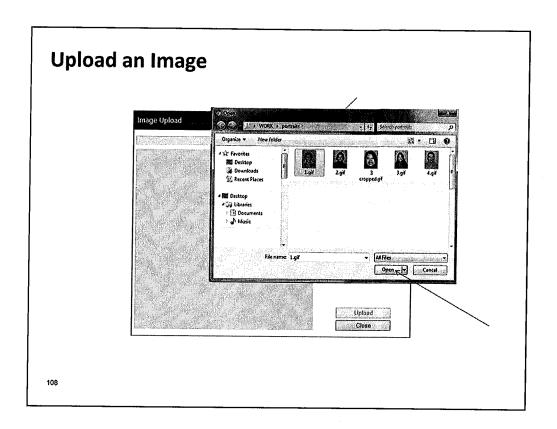
110142



The My Identifications tab contains your manual investigations. You may need to click the Filter Reset button to Refresh the list. Just like from the Cases and Cases tab, click on the case to open the case in detailed view.



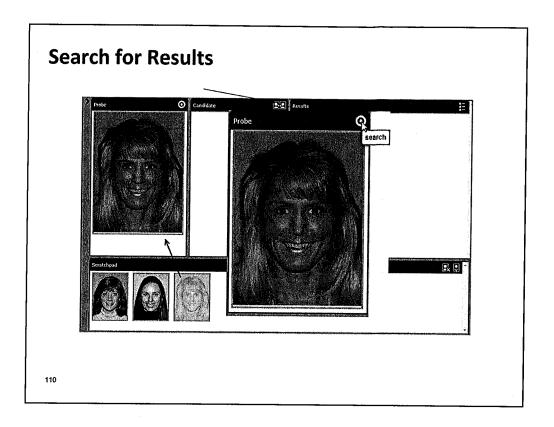
Face Search allows you to upload images to its Scratchpad and perform searches of the uploaded images. The following figure shows the Probe, Candidate, Results, and Scratchpad boxes and associated buttons.



The Image Upload window is displayed.

Click Choose File. The Open dialog box is displayed

Navigate to the location of the file, and click Open. The Image Upload screen is displayed.



Drag and drop an image from the Scratchpad box to the Probe box. (The image in Scratchpad appears faded when it is selected.)

Click search in the Probe box to obtain search results.





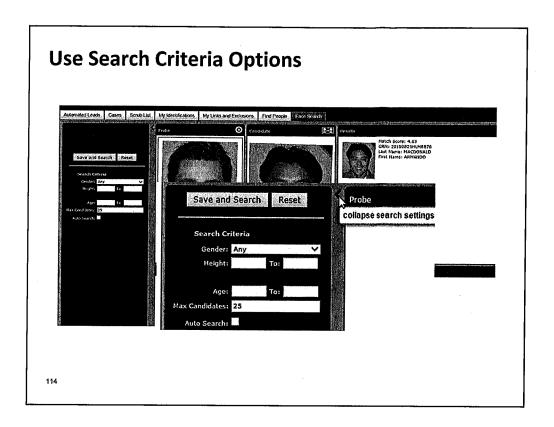




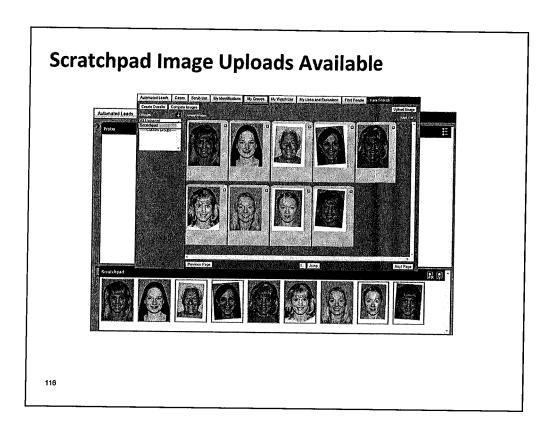
SEARCH RESULTS LIST VIEW

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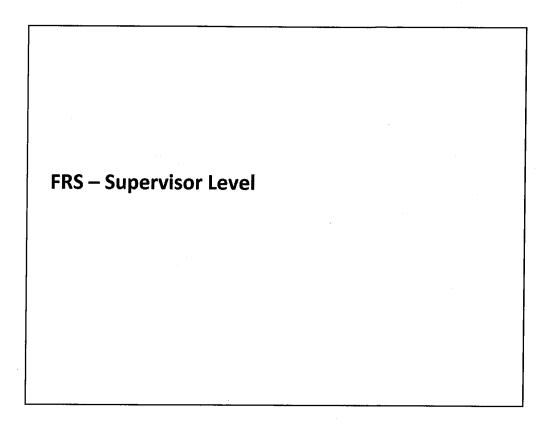
New York DMV 110147 GULaw Privac 122



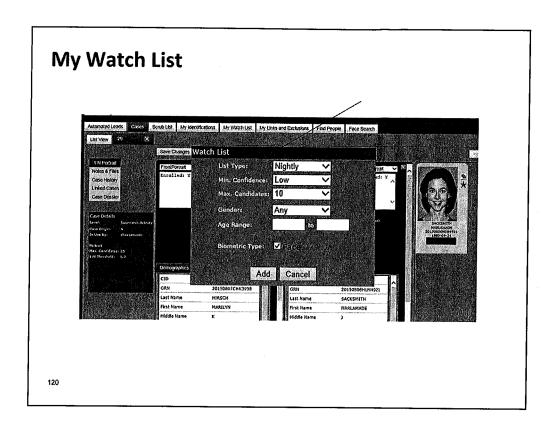
- Enter any specific traits (gender, height range, age range, maximum number of candidates) you want to use to narrow your results.
- Maximum number of candidates determines the maximum number of matches you want to be returned by the CIS. Possible number of candidates ranges from 5 to 50 in increments of 5.
- If the Auto Search box is checked, a search is automatically started when an image is dragged and dropped in the Probe box. This enables rapid examination of images. If the Auto Search box is not checked, click search in the Probe box to start a search.



Images that are uploaded via the Face Search tab or the My Groups tab are available under both tabs in the Scratchpad box/group.



Today we are here to introduce the Issuance Tracking Application. This application will work in conjunction with the new Central Issuance process. Central Issuance now introduces a new set of services we will offer to our customer and also insures them from some instances of identity fraud.



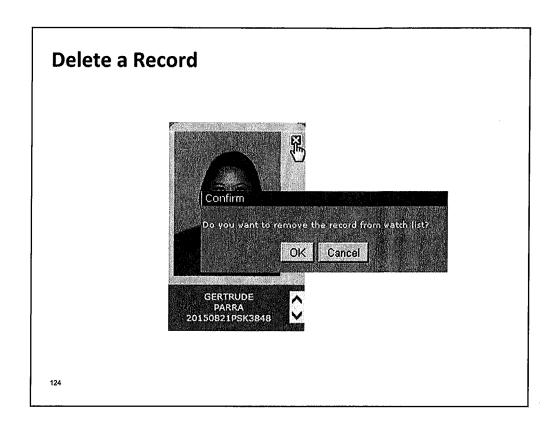
Select the Watch List icon. The Watch List settings screen is displayed. Select specific settings you want to use from the applicable drop-down menus.

To save your changes, click Add and the record will be visible when you select the My Watch List tab. Click Cancel to exit the screen without saving the change.

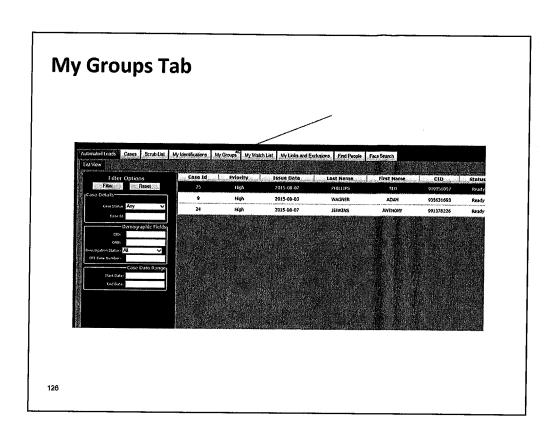
Record Details

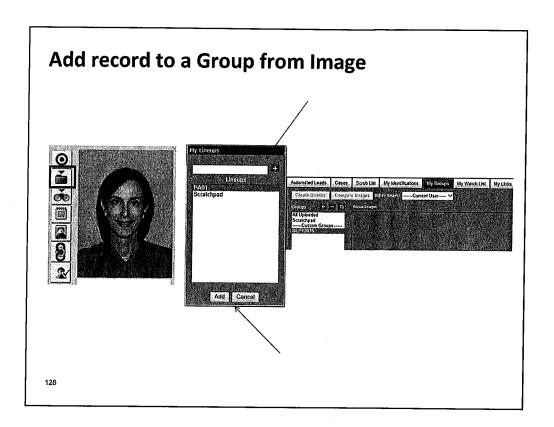


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2 Click the red X located to the right of the image. The name and identification number associated with the image is displayed when the cursor hovers over the red X.

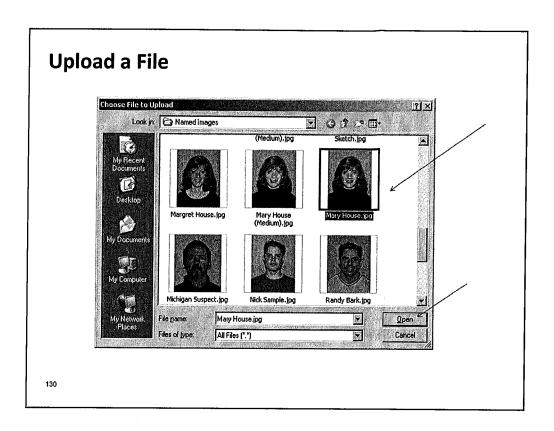




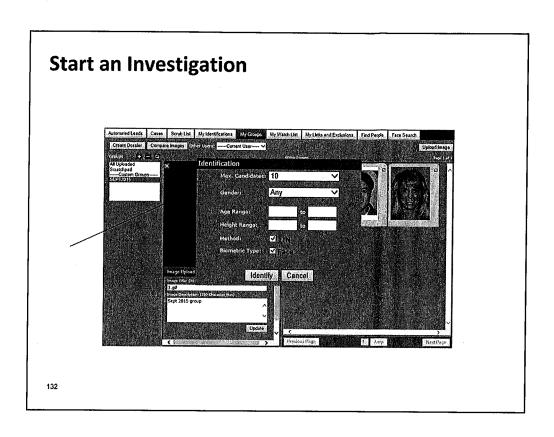
Select a lineup from the listed Lineups or create a new lineup by clicking the Add Lineup icon and entering a name for the lineup.

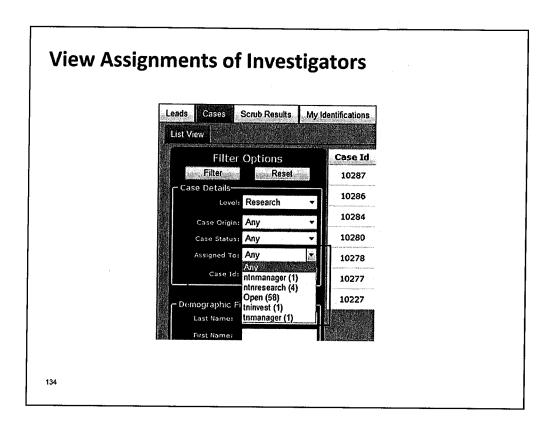
Click Add. The My Lineups dialog closes.

To view the added lineup image, click the My Lineups tab. The My Lineups tab displays the image added to the lineup.



In the Choose File to Upload window, navigate to the location an select the file. Select the **Open** button to attach the file. Now click the **Save Note** button as we did before to save the attachment to the case.

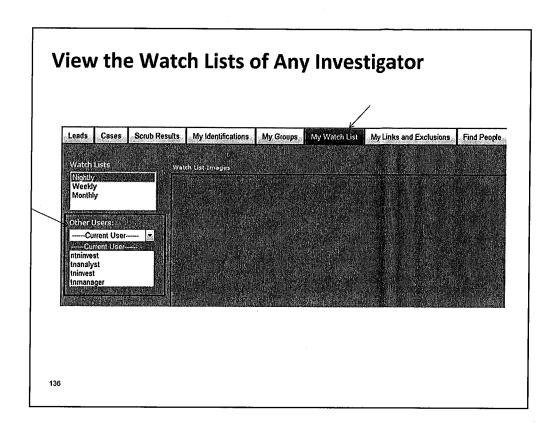




Select a user from the Filter Options Assigned To drop-down list to narrow your search

The cases assigned to that user will be displayed.

Click Reset to return to the original search results list



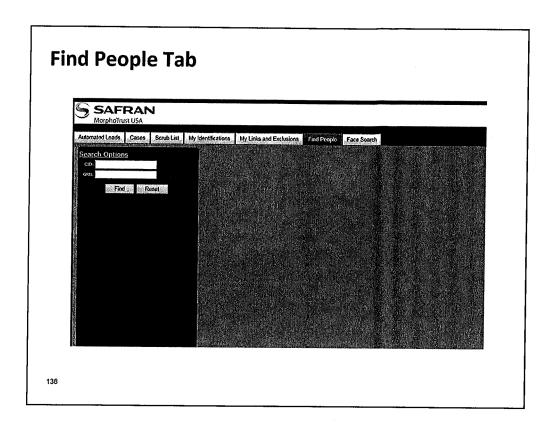
Select the My Watch List tab.

Select a user from the Other Users drop-down menu.

The watch list images for the selected user are displayed. If you go to the detailed view of the image, the Hot List settings cannot be updated.

To return to your own Hot List images

Select Current User from the Other Users drop-down menu.



You can create a new search from the Find People tab. Use any of the search fields to narrow your search results, and then click Find.

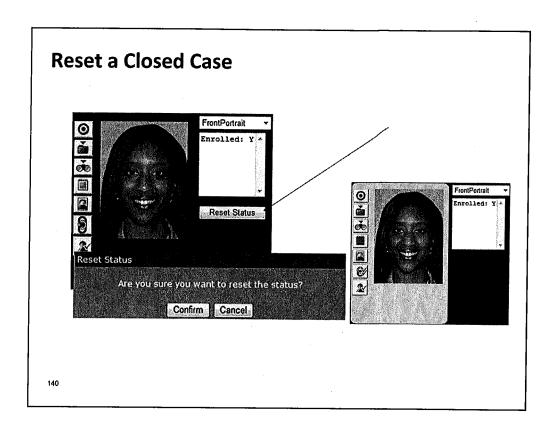
Click Reset at any time to clear the fields.

Search Option

Description

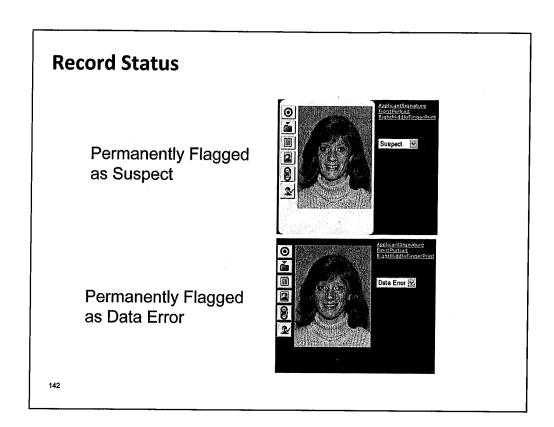
CID - Client ID or Person ID number of the individual, a unique ID using a 9digit format.

GRN - Global Reference Number. This number is a unique ID of the actual portrait image using the format: YYYYMMDDSSSCSEQ (SSS-Site code, C-Camera, SEQ 0-999).

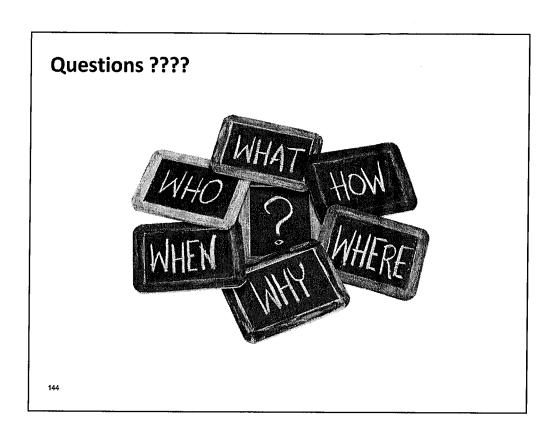


Click Reset Status. A message similar to the following is displayed Click Confirm to reset the status. Otherwise, click Cancel if you do not want to reset the status.

Upon confirmation, the Reset Status button is no longer available on the screen. The image background color changes to gray and the record returns to a No Issues status.



If a record contains a Yellow background the record is Closed and Permanently flagged as Suspect or Criminal Activity. If the color is Magenta a red/purple color the record is permanently flagged as Data Error. Once you get used to the different colors you can quickly identify the status of the record. Also, if you hold your mouse over the background a tool tip will pop up to give you the status of the record. By the way, if you hold your mouse over any of the other buttons you will also get a tool tip.



2.3.13.7 Issue Escalation Path

Name	Title	Contact Number
Jeff Hamel	SVP, Global Services	(978) 932-2200
Walter Krepcio	VP, DMV Service	(978) 932-2293

2.3.13.8 System Maintenance Tasks

The following table outlines FRS maintenance designated as Contractor-tasks and DMV-tasks.

System Maintenance Tasks	Contractor Tasks	DMV Tasks
Backups	Contractor shall provide the plan	DMV to provide tape rotations
	for backups and verify process	and off site storage
Operating System	Contractor shall work with DMV	DMV to install OS patches
(OS) Patches	to schedule approved OS patches	
Anti-Virus	Contractor shall work with DMV	DMV to provide anti-virus
	to confirm the anti-virus update	_
Network/Security	Contractor shall comply with the	DMV to provide network and
	DMV network security polices	security infrastructure
VPN Access	Contractor shall comply with the	DMV to provide VPN Access
	VPN access security polices	
Production Hardware	Contractor provided hardware	DMV to provide hardware and
/ Support	specifications	hardware support
3rd Party Software /	Contractor provided 3rd party	DMV to provide 3rd party
Support	software specifications	software and software support
Software System	Contractor to provide weekly	
Maintenance	software system maintenance	
Updates	Technology Updates	
	FRS System Updates	

2.3.14 FRS Upgrades

At DMV's request, Contractor shall upgrade the database, operating system, and related software to supported levels. Contractor shall assist in the migration of the FRS to any new hardware components. Contractor shall have six months from DMV's request for an upgrade to prepare for such upgrade.

Contractor has a dedicated team to introduce new features and technology into the L-1 ABISTM (Automated Biometric Identification System) search engine and FaceEXPLORER application suite. In-version upgrades shall be tested on the test system at Contractor's facility, using DMV test data/images. The test system shall be comprised of the initial legacy enrollment components plus additional servers, to simulate the DMV production environment in Albany. As new engine technology is developed and introduced to the market, Contractor shall work with the DMV to plan a migration path for any out of version major release. Often major releases require a new comparison template to be created. For this type of upgrade, Contractor shall leverage the existing test environment at its facility in order to re-template the existing database and to requalify the new system, before introducing it to the DMV Albany production environment.

Contractor shall work with the DMV team to ensure that new system technology is introduced in a seamless manner, with a process similar to the initial rollout. It is anticipated that upcoming versions will decrease the hardware requirements for this system. If available, one out of version major upgrade shall be introduced over the three-year contract term, at no additional cost to DMV.

2.3.15 Documentation

Contractor shall supply high-level documentation, including detailed documentation of the connections between the FRS and DMV's IT systems. This documentation shall be provided on a media that is agreeable to DMV.

At a minimum, this documentation shall include:

- Overview of the facial recognition system;
- Overview of the Central Image Database Server;
- Overview of the automatic image enrollment process;
- Automated Image Quality Assessment;
- Overview of the manual image enrollment process;
- Overview of the 1:1 comparison process;
- Overview of the 1:N comparison process;
- Detailed functional requirement specifications;
- Detailed interface specifications;
- Acceptance test documentation.

Contractor shall provide updates to the documentation as needed, or upon request by the DMV. Original documentation and any updates shall be provided in WORD 2003 format, or any other standard format designated by DMV.

Contractor shall use a web-based document management portal where all documents shall be kept updated and made available for access by authorized DMV personnel.

Contractor shall use a staged documentation development, labeling (Draft, Final, Approved) and versioning number (major and minor revision) approach for all documents to ensure efficient control of manuals. A change history section at the beginning of each document shall reflect the complete history of document for changes and revisions.

2.3.16 Installed Software Inventory

Contractor shall maintain a list of all software installed on the FRS through the term of the Contract. This inventory shall be regularly updated to reflect any changes, and the inventory shall be provided to DMV.

All installations, whether for initial rollout or subsequent updates, shall be routed via Contractor's Quality Assurance (QA) and release, which shall ensure that only authorized configuration changes are included in the installation by verifying that there is traceability between approved changes, new development, and the content of the installation. In addition, QA shall check the completeness of the installation by ensuring all impacted deliverables (i.e., hardware, software and documentation) are appropriately updated. Once the installation is

approved, it shall be registered in the Configuration Management Repository and deployed at the DMV site. Deployment may consist of a field installation or an automated system update.

Contractor uses the following Software Configuration Management Tools to ensure the availability of updated inventory of software and documents:

- Oracle Installed Base/ Oracle Inventory: Installed software inventory. The inventory is maintained and managed using Oracle Part Numbers. Each release to DMV shall be assigned a part number in this system;
- AccuRev or similar: Centralized repository of all project software, code and configuration items, fundamentally used for source code control and document version control;
- AccuBuild Manager or similar package: Used to Manage Software Releases;
- <u>Privia or similar repository</u>: Centralized repository of the project document throughout the life cycle of the project and during the operations phase; proposals, contracts, deliverables and related artifacts are maintained and tracked in the Project Portal.

2.3.17 Training

Contractor agrees to work closely with DMV to establish a training schedule which coincides with the installation schedule.

Contractor agrees to provide the required number of training sessions to DMV trainers in use of the facial recognition system to enroll and compare images at a time or times determined by the DMV. The training session shall provide adequate preparation and materials for DMV trainers to train other DMV staff members.

Contractor agrees to provide training in the use of the investigative browser and all of its functions, at a time or times determined by DMV. Contractor shall provide detailed step-by-step instructions for investigative browser to DMV's License Production Bureau (LPB) and Division of Field Investigation (DFI) staff.

Contractor shall provide paper copies as well as electronic copies of the training materials. Contractor shall provide 20 paper copies, and additional electronic copies in the required format, to DMV for the first round of training. The latest electronic copies shall also be available on the project web portal for the life of the contract.

The Contractor User Manuals and Job Aids shall provide detailed step by step instructions to end-users for executing any functionality of the application. Part of the Job Aid shall include a Getting Started Guide to introduce end-users to the product. Similar to a tutorial, this manual shall explain important concepts that new users will need in order to become productive quickly.

The user manual shall include the following sections at a minimum:

- A cover page;
- A title page and copyright page;
- A preface, containing details of related documents and information on how to best use the user guide;
- A contents page;
- Overview of the system;

New York State Department of Motor Vehicles

Facial Recognition System Contract #C000665



1	REC	TITALS	1
	1.1	RECITALS	1
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1 RECITALS

1.1 Recitals

This Product and Services Sales Agreement (this "Agreement" or "Contract"), dated this 14nd day of 1200, 2009, is entered into by and between the New York State Department of Motor Vehicles, an agency of the State of New York, with an address at 6 Empire State Plaza, Room 138, Albany, New York 12228 ("DMV") and L-1 Identity Solutions Operating Company, a Delaware corporation, acting through its Secure Credentialing Division, with an address at 296 Concord Road, Billerica, MA 01821 (collectively, "Contractor").

WHEREAS, the DMV released a Request for Proposal for Facial Recognition System, dated July 7, 2008 (the "Program");

WHEREAS, the DMV awarded a contract to Contractor under the Program;

WHEREAS, the parties mutually desire to memorialize their rights and duties under the Project in this Agreement.

WHEREAS, this Agreement, including the Exhibits attached hereto, governs the sale of certain products by Contractor to the DMV and the supply by Contractor to the DMV of certain related installation, custom engineering, and other services related to the Products.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth below, DMV and Contractor hereby agree as follows:

1.2 Hierarchy of Precedence

In the event of any conflict of terms, the hierarchy of precedence shall be as follows with No. 1 being highest in order:

- 1. Appendix A, "Standard Clauses For All New York State Contracts";
- 2. The Agreement, inclusive of all Appendices except Appendix A;
- 3. The Contractor's response to the RFP
- 4. The RFP #C000665 issued on dated July 7, 2008;

2 STATEMENT OF WORK

2.1 Project Overview

Contractor is providing the DMV with a facial recognition system solution ("FRS") subject to the terms and conditions of this Agreement. The Contractor shall enroll the 17 million images, which are comprised of DMV's legacy image database, at the Contractor's own site using only the Contractor's own equipment. The enrolled legacy image database shall then be delivered to DMV and loaded onto equipment (meeting the specifications required by the Contractor as outlined in this contract) which shall be provided by DMV. The Contractor shall then install an FRS that shall both perform 1:1 (one-to-one) and 1:N (one-to-many) searches on DMV's daily image capture volumes, (approximately 20,000 images daily), while concurrently cleansing (performing a 1:N search) the enrolled legacy image database. This system shall be installed at a site designated and provided by DMV and shall only use equipment (hardware and operating software meeting the specifications required by the Contractor as outlined in this contract) provided by DMV.

2.2 Project Management Plan

2.2.1 Project Tasks

Based on the proposed project plan the principal high level project task along with target completion dates are given below:

Project Task	Start	End
Contract Phase	10/14/2008	3/27/2009
Planning Phase	3/02/2009	3/05/2009
Requirements Phase	3/09/2009	3/27/2009
Documentation Phase	3/30/2009	4/10/2009
Setup and Enrollment of Legacy Database	4/13/2009	7/10/2009
Testing of Legacy Database Setup and Enrollment	5/13/2009	6/19/2009
Procurement Phase	3/16/2009	6/05/2009
Installation of Daily Operations System	7/06/2009	7/17/2009
Testing of Daily Operations System	7/10/2009	7/27/2009
Train the Trainer	7/28/2009	7/29/2009
System Rollout	7/28/2009	8/14/2009
System Turned Over to Contractor Support for Maintenance	8/14/2009	8/14/2009

The first critical task following contract finalization shall be the planning phase in which Contractor shall meet with NY DMV staff and draft a final Project Plan reflecting the actual implementation dates as required by the DMV and as accepted by Contractor. The final Project Plan shall supersede the dates set forth in this Section 2.2.1. A more detailed sample project plan can be found in Appendix N, "Sample Project Plan".

Immediately following the issuance of an agreed to project plan, Contractor and the DMV shall have a series of meetings to generate the requirements specifications which shall govern the design and development of the system.

2.2.2 Contractor Roles and Responsibilities

The following table identifies the Contractor's roles and responsibilities, and contact information for the Contractor's key personnel for this project.

Leadership Team Role	Name	Phone Number(s)	Email Address
Program Manager	James McDermott	978-932-2262	jmcdermott@L1ID.com
Account Executive	Alan Chapski	508-400-1510	achapski@L1ID.com

The roles and responsibilities of each are as follows:

<u>Program Manager</u>: The Program Manager (PM) shall serve as Contractor's main point of contact with DMV for all matters dealing with this contract. The PM shall manage requirements and deliverables; lead the project team; and manage all tasks in the development, implementation, and delivery of the project. The PM shall also control the project and maintain the project plan (track due dates, deliverables, design reviews and progress updates). The PM shall lead the system requirements definition with DMV to ensure that the system meets the defined specifications. The PM shall also conduct design reviews related to hardware and software modules and shall work with the implementation team to assure quality engineering installations. The PM shall be available 100% of the time prior to full system implementation and system rollout, and as needed during ongoing maintenance and support.

Account Executive: Shall work with the Program Manager and DMV to ensure a successful implementation.

Additional personnel may include:

Systems/Security Architect: The Systems/Security Architect (SSA) shall be responsible for overall system architecture. The SSA shall work on the development of design specifications and requirements. The SSA shall develop procedures to ensure the integrity of data, and reliability of systems, and shall contribute to the development of test plans and requirements. The SSA shall participate in the development of the Facial Recognition System design, and in design reviews and technical reviews. The SSA shall provide technical advice to the PM. The SSA shall be available 70% of the time during design, development, test and implementation phases. SSA involvement shall be reduced to 5% to 10% during ongoing operational support.

Lead Database Administrator: The Lead Database Administrator (LDA) shall manage the setup, configuration, and administration of the enrollment, production, and test Oracle databases. The LDA shall be available 80% of the time during design, development, test and implementation phases. LDA involvement shall be reduced to 5% to 10% during ongoing operational support.

Biometric Software Manager: The Biometric Software Manager (BSM) shall manage the development of custom software features and FR business workflows. The BSM shall be available 70% of the time during design, development, test and implementation phases. BSM involvement shall be reduced to 5% to 10% during ongoing operational support.

<u>Lead Programmer Analyst</u>: The Lead Programmer Analyst (LPA) shall manage the development of business rules and system interfaces as they are applied to the application workflows. The LPA shall be available 90% of the time during design, development, test and implementation phases. LDA involvement shall be reduced to 2% to 4% during ongoing operational support.

<u>Programmer/Analyst</u>: The Programmer/Analyst (PA) shall perform analysis and workflow creation as directed by the Lead Programmer Analyst. The PA shall be available 90% of the time during design, development, test and implementation phases. PA involvement shall be reduced to 2% to 4% during ongoing operational support.

<u>Lead Software Engineer</u>: The Lead Software Engineer (LSA) shall create the customized software and perform integration efforts. The LSA shall be available 90% of the time during design, development, test and implementation phases. LSA involvement shall be reduced to 5% to 10% during ongoing operational support.

<u>Senior Product Line Manager</u>: The Senior Product Line Manager (SPLM) shall manage FRS system capabilities to ensure project requirements are integrated into the appropriate Product development efforts. The SPLM shall be available 25% of the time during design, development, test and implementation phases. SPLM involvement shall be reduced to 5% to 10% during ongoing operational support.

<u>Training Manager</u>: The Training Manager (TM) shall provide all training material for Image Collection Systems and shall be responsible for conducting formal and informal training as required by DMV. The TM shall work closely with DMV in creating the training program and training schedule. The TM shall be available 100% of the time during the training phase.

Quality Assurance Test Manager: The Quality Assurance Test Manager (QATM) shall establish the Program's quality standards and shall ensure that all hardware and software are in compliance with contractual and program quality standards. The QATM shall develop test requirements and shall coordinate and monitor testing. The QATM shall be available 25% of the time during design, development, and implementation phases; and 100% of the time during test phases. QATM involvement shall be reduced to 2% to 4% during ongoing operational support.

Director of Installation Services: The Director of Installation Services (DIS) shall oversee all installation activities including defining physical site requirements, conducting site surveys, training and installation. The DIS shall ensure that the system as installed is ready for ongoing support and shall smoothly transition into operation. The DIS shall be available for 10% of the time during design and test phases and for 100% of the time during implementation.

Field Service Manager: The Field Service Manager (FSM) shall lead the field service organization and shall manage calls for repair, software bug reports, and upgrades. The FSM shall be available for 25% of the time during the implementation phase and shall be available 10% of the time during ongoing operational support.

<u>DMV Service Manager</u>: The DMV Service Manager (DSM) shall manage all aspects of services, maintenance, support and training to ensure that all DMV needs are met. The DSM shall manage help desk staff and field technicians to resolve all DMV-related issues and to ensure that state-of-the-art service is provided. The DSM shall be available for 25% of the time

during the design, development, and implementation phases and 100% of the time during ongoing operational support.

Help Manager: The Help Manager (HM) shall be responsible for scheduling Help Desk coverage and ensuring all Help Desk contractual requirements are met. The HM shall be available for 25% of the time during the design, development, implementation, and ongoing operational support phases.

L-1 management staff and core team members shall be supported by additional staff and resources, as may be needed to meet project timelines, without additional cost to DMV. In the event there is a personnel change, the Account Executive shall notify the NY DMV Program Manager of the change within 5 business days. If the change occurs with the Account Executive. the Program Manager shall handle the notification.

DMV Roles and Responsibilities 2.2.3

The following table identifies the DMV's roles and responsibilities, and contact information for DMV's key leadership personnel for this project.

Leadership Team Role	Name	Phone Number(s)	Email Address
Project Manager	David Irving	518-408-2034	dirvi@dmv.state.ny.us
Technical Manager	Mark Hammond	518-473-2168	mhamm@dmv.state.ny.us
Business Lead (DFI)	David Fribourg	518-473-1074	dfrib@dmv.state.ny.us
Business Lead (LPB)	Janice McGowty	518-474-0482	jmcgo@dmv.state.ny.us

The roles and responsibilities of each are as follows:

Project Manager: The DMV Project Manager shall be the DMV's primary and single point of contact for all matters related to this project. This person shall be in direct communications with the Contractor project manager and shall be responsible for maintaining and resolving all matters requiring DMV support that may arise during the course of this project from startup to post rollout. The project manager shall be available as appropriate to the stage of the project. **Technical Manager**: The Technical Manager shall serve as the DMV's primary resource for all technical issues related to the project. This person shall work closely with Contractor's technical team to generate the final requirements.

Business Lead (DFI): The Business Lead (DFI) shall coordinate all necessary background checks and arrange for the secure transportation of any data and/or software.

Business Lead (LPB): The Business Lead (LPB) shall relay any LPB user problems or issues regarding software operations, training, or daily image enrollment to the DMV Project Manager.

System Requirements 2.3

2.3.1 **Enrollment of Legacy Image Database**

Initial enrollment of the legacy image database is the sole responsibility of the Contractor. Enrollment of the legacy image database must be done on Contractor's premises. Contractor shall be responsible for the acquisition, operation and maintenance of all equipment used for the FRS Contract #000665 New York DMV

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initial enrollment. DMV shall deliver to the Contractor the legacy image database JPEGS and applicable DMV data (approximately 17 million images), in a secure fashion, on a medium to be mutually agreed upon by DMV and the Contractor.

Statistics on the enrollment success rate shall be documented, and shall include any reasons for failure to enroll. The error codes that shall be used when an image is rejected for enrollment are as follows:

- Darkness
- Brightness
- Exposure
- Focus
- Resolution
- Cropping
- Glass glare
- Faceness
- Contrast
- Texture
- Head finding confidence

Images meeting the quality standards incorporated in ISO/IEC 19794-5 shall automatically enroll at a rate of 97% or better.

All legacy images shall be enrolled within 6 weeks from Contractor's receipt of the images from DMV. After initial enrollment, the resulting database of enrolled images shall be delivered to DMV, and loaded onto DMV's equipment specified in Appendix O).

The Contractor shall provide a manual enrollment process for any records that are rejected in the automated enrollment process (i.e., "failure to enroll" records).

2.3.2 Cleansing of Legacy Image Database

After the delivery of the enrolled DMV legacy image database to DMV, the cleansing of the DMV legacy image database system shall run concurrently with daily facial recognition operations and shall be completed by the end of the three year contracted period.

The legacy image database system shall compare each image in the DMV legacy image database to every other image in the database. Where comparisons meet or exceed the match threshold, the system shall generate a candidate match list that is sorted from "most likely" to "least likely". The results shall be presented in a searchable format and reside in a queue that shall be separate from the results of daily operations.

The FRS shall allow DMV to set and re-calibrate, as desired, match thresholds for the initial database cleansing for a minimum of 2 confidence bands:

- Absolute Match;
- Possible Match.

In between the time of the legacy database handoff to the contractor and the beginning of daily operations, there will be a set of images referred to as the "delta". Once the daily production of images has begun, the delta image set will be transferred from the state to the contractor in a mutually agreed to format. The contractor will import these images and data into the face recognition database, automatically enroll all viable images, and then process these images trough the 1:N FR process in the same manner as the legacy image set. Any potential matches from these images will reside in the "Daily" queues.

2.3.3 Daily Operations of the Facial Recognition System

23.3.1 General System Requirements

The system must support a core of approximately 200 full-time users, with 50 concurrent users. The system shall be scalable, and capable of accommodating additional users. Depending on the number of users beyond 200, the state may be required to purchase additional hardware, software, and/or services outside of this agreement.

Contractor shall provide DMV with access to the system over a secure, SSL-based web application, which is compatible with Internet Explorer Version 6.0 or newer. This application shall include all report, audit, and investigator functions.

The system shall be able to securely receive a file of images and other DMV information from a DMV file server. The system shall be able to securely transfer files to and from the DMV server using SFTP and/or FTPS file transfer protocols or another mutually agreed upon transport mechanism.

The system shall use Windows Server 2003 or a successor operating system, and Intel-based server hardware.

The system shall use an Oracle 11g database platform, (or newer if the Oracle 11g is no longer supported), to be provided by the Contractor at no additional cost. The Oracle license is a Hosted database license provided by L-1 for the exclusive use by DMV for the FaceEXPLORER application.

The system must be able to enroll JPEG images from any source, including still images, scanned images, and video surveillance frames.

The system must be able to use images of varying quality levels such as:

- · varied lighting conditions;
- small image sizes (300 x 300 pixels);
- low JPEG image quality.

The Contractor shall install a facial recognition system that shall perform both 1:1 and 1:N searches on DMV's daily image capture volumes, while concurrently cleansing (performing a 1:N search) on the enrolled legacy image database.

2.3.3.2 **DMV Requirements**

This system shall be completely installed at a site designated by DMV, and shall use only equipment (hardware and operating software specified in Appendix O) provided by

DMV. The daily operations equipment to be supplied by DMV includes servers, printers, and workstations. The following items shall also be provided by DMV:

- Images and demographic data;
- Adequate server space; power; HVAC; remote connectivity from Contractor; network connectivity for DMV to use the system in DMV's offices in Albany, NY.

2.3.3.3 Enrollment of New Images

The system shall be capable of enrolling all digital images captured by DMV during DMV's daily operations (a maximum of 20,000 per day).

New images captured during daily operations shall be enrolled at a rate of approximately 7,500 images per hour.

Statistics on the enrollment success rate for daily operations shall be documented, and shall include any reasons for failure to enroll. The error codes that shall be used when an image is rejected for enrollment are as follows:

- Darkness
- Brightness
- Exposure
- Focus
- Resolution
- Cropping
- Glass glare
- Faceness
- ContrastTexture
- Head finding confidence

Images meeting the quality standards incorporated in ISO/IEC 19794-5 shall automatically enroll at a rate of 97% or better.

The Contractor shall provide a manual enrollment process for any records that are rejected in the automated enrollment process (i.e., "failure to enroll" records).

The transfer of the images and DMV information files shall be done via a secure FTP server to be provided by DMV or by another mutually agreed upon transport mechanism. Files for daily processing shall be made available by the end of the day (NLT 10:00 p.m.). These images must be processed (enrolled, verified, and identified with 1:1 and 1:N match reports generated), by 7:00 a.m., on the following business day.

The Contractor shall provide the ability to enroll images in a way that makes the enrolled image "unmatchable" in any comparison. NY will specify the business rule(s) required for L-1 to perform this operation on the desired images.

2.3.3.4 Image Comparisons for New Images

On a daily basis the system shall perform 1:1 comparisons for all digital images captured by DMV on a daily basis (a maximum of 20,000 per day), using the new image against a previously stored image(s) for the same client identification number (CID). The system shall identify any "absolute non-matches" in the 1:1 string of images. The results shall be presented in a searchable format.

The system shall compare each daily batched image (a maximum of 20,000 per day) to every other image in the enrolled database. Where comparisons meet or exceed the match threshold, the system shall generate a candidate match list that is sorted from "most likely" to "least likely". The results shall be presented in a searchable format.

The system shall provide the ability for DMV to configure the image match threshold when and if DMV finds this to be necessary.

The system shall allow DMV to input ad-hoc images and conduct one-to-many (1:N) searches on a scheduled or on-demand basis. The results of these ad-hoc searches shall be presented in a searchable format.

Facial Recognition System shall allow DMV to set and re-calibrate, as desired, match thresholds for a minimum of 3 confidence bands:

- Absolute Match;
- Possible Match;
- Absolute Non-Match.

2.3.3.5 Image Comparison Output

The output provided by the Contractor, resulting from the overnight comparison process, shall include the following:

- a file of client ID numbers for all images that passed both the 1:1 and 1:N comparisons;
- a queue of images that failed the 1:1 comparison (absolute non-matches);
- a queue of images that failed the 1:N comparison (potential and absolute matches).

2.3.4 Investigator Support

The system shall provide user-based access to data and functionality, including:

- allowing users to select the maximum number of images ("N") to be displayed for each photo comparison;
- query the database for specific records to use within a comparison;
- execute comparisons to identify duplicate images within a database;
- ability to perform searches using predetermined demographic data (e.g. age, gender, height) to filter the comparison database;
- support a status flag within records in the database to indicate suspected fraud, approval for DL/ID issuance, or to close a case;

- generate daily a file of client ID numbers for all images that have been designated by investigators as approved for DL/ID issuance;
- produce, view, print, and schedule reports.

The proposed system shall have the ability to add notes as part of the investigator function; indicate the user who added the notes; and allow a user to view those notes upon request.

The system shall provide configurable settings for interactive comparisons, which are accessible by individual investigators during:

- progressive searching of suspected duplicate DL/IDs;
- investigation of externally uploaded images;
- investigations of duplicate DL/IDs discovered by law enforcement.

The user interface shall be easy and simple to use, so occasional users can use the system with minimal training.

For each image on the summary view, the system shall provide a side-by-side view of the probe with a view of the candidate matches, to support detailed evaluation of potential fraud.

The side-by-side view of facial images shall include, with each image, the following related data and images that shall be provided to the Contractor by DMV:

- Client ID Number;
- Global Reference Number (GRN);
- DL/ID Issuance Date;
- Name:
- Date of Birth:
- Address;
- Height;
- Eye Color;
- Gender;
- Signature Image;
- Match Score:
- Data from Previous Investigations.

The system shall support progressive searching, by using one of the match candidates within the results view as a probe in a new interactive comparison.

The system shall provide a function to generate printed dossiers and other supporting documents, which include images and data to be used during formal investigation and/or adjudication activities.

2.3.5 Reports

2.3.5.1 General Requirements

The proposed system shall provide reporting functionality that shall include, at a minimum, reporting on all aspects of the enrollment and matching processes, database management, and executive summary information.

The system shall generate a daily system status report that it shall send by email to a designated DMV contact person, in the event of a system outage.

2.3.5.2 System Reports

The system shall provide configurable reports of system activities and comparison results which permit the independent evaluation of system performance along with all activities of the system (timestamps, operators, actions). At a minimum this shall include:

- user reports detailing the time the system was accessed, user identification, and the amount of time the system was in use;
- reports detailing enrollment and matching statistics.

2.3.5.3 Comparison Reports

Comparison results whether created during initial cleansing, during nightly batches, or performed interactively shall be organized as a list which includes key details that support grouping and sorting for efficiency. At a minimum, these details shall include:

- Client ID Number;
- Global Reference Number (GRN);
- DL/ID Issuance Date;
- Highest Match Score;
- Number of Matches;
- Name:
- Date of Birth;
- Address:
- Height;
- Eye Color;
- Gender;
- Signature Image;
- Match Score:
- Data from Previous Investigations.

For each row in the results list, the system shall construct a summary view containing images and data which indicate possible duplicates. Data on this page shall include:

- Client ID Number;
- Global Reference Number (GRN);
- DL/ID Issuance Date;
- Portrait Images for the Probe and All Templates Identified as Possible Matches;
- Signature Images for the Probe and All Templates Identified as Possible Matches;

- Name;
- Date of Birth;
- Address;
- Height;
- Eye Color;
- Gender;
- Signature Image;
- Associated Match Scores;
- Data from Previous Investigations.

2.3.6 DATA SECURITY

Contractor shall protect all DMV data, in transit or at rest, in accordance with the statewide information security policy of the NYS Office of Cyber Security and Critical Infrastructure Coordination (CSCIC).

23.6.1 Protection of Data at Rest

Only authorized administrators from Contractor, or approved sub-contractors, shall have access to, and use of, DMV data.

All access to DMV data shall be controlled and auditable. In those cases where access is obtained through a PC, the access control shall be through log-on user ID/Passwords. The logging requirement for such Direct Access shall be satisfied by retaining log-on information (user ID and date/time) for all personnel who have access to the PC. Access logs must be maintained for a period of 6 years following the expiration of the contract and shall be provided by Contractor to DMV at any time during such 6-year period for audit.

Hard copies of DMV data shall be secured against access by unauthorized persons.

DMV data shall not be copied or shared with anyone outside of the Contractor's organization, other than authorized DMV employees or representatives.

DMV data exchanged by electronic means shall be stored in a place that is physically secure from access by unauthorized persons. The facility shall be secured by card access and 24/7 monitoring cameras. The entire rack shall then be located in a restricted access room which is only used for secure credential production and disk storage of secure information. Within the facility, DMV data shall be stored on servers held in a locked rack. Only the Project Manager and Technical Lead shall have keys to this rack. The network shall be setup in a manner which places DMV data on an isolated LAN.

2.3.6.2 Disposal of Electronic DMV Data

In order to prevent the unauthorized disclosure or dissemination of DMV data, electronic storage devices (such as hard disk drives) and other magnetic/optical media (such as tape, diskettes, or CDs), which contain DMV data, shall be either (1) physically destroyed, or (2) returned to DMV, or (3) securely overwritten.

When overwriting the data, the device or file(s) shall be overwritten, using U.S. Department of Defense clearing standards (Department of Defense (DOD) Standard

5220.22-M, and DoD.5200.28-STD:

http://www.dtic.mil/whs/directives/corres/html/522022m.htm), with seven (7) overwrite passes.

2.3.6.3 Disposal of Hard Copy of DMV Data

Disposal of hard copies of DMV data shall be accomplished through the use of a cross-cut shredder, or safer disposal mechanism.

2.3.6.4 Confidentiality

The equipment used in the conversion from the legacy image database to the new FRS shall reside in a secure, secluded area behind three layers of physical security. This enrollment system shall be a stand alone rack with no external data connections. After processing, all data shall be destroyed in compliance with the aforementioned requirements.

During ongoing operations the data shall be stored and managed by the DMV in DMV's facility, in order to benefit from the physical security of DMV's facility. The Contractor shall ensure that all data transfers occur in an encrypted secure fashion. Stored data shall also be encrypted to maximize security.

Transport of physical media containing DMV data shall follow these safeguards:

- Data stored on removable media (tape backups, optical storage, flash based memory or external hard drives) shall be encrypted prior to transport;
- Media shall be kept in a locked transport container during transport;
- Media shall be directly transported between Contractor and DMV facilities by Contractor's personnel, or by a commercial carrier contracted to transport the media, in conformance with the Department of Defense Constant Surveillance Service transport regulations (see http://www.sddc.army.mil/sddc/Content/Pub/1482//aftrp5.pdf for details);
- Personnel shall keep the media in their personal possession (except as may required by appropriate law enforcement);
- In emergencies, if the media cannot be delivered directly to the Contractor's facility, the transport container shall be stored in a locked storage container within a locked residence (wall safe or fully enclosed, permanently mounted, metal gun safe).

Contractor shall protect and maintain the confidentiality and security of DMV data to the fullest extent possible. Direct Access to DMV data shall be limited to an "as needed", or , "need to know" basis (i.e., DMV data shall only be accessed as required to perform the work that is necessary to deliver the product or service for which the DMV has contracted hereunder).

All Contractor personnel with access to DMV data during DMV's onsite enrollment of the legacy images, or providing support to ongoing operations at the DMV, shall be subject to background checks, and Contractor shall be responsible for informing personnel in writing of the confidential nature of DMV data.

Any derivatives of the DMV data, such as the creation of a facial recognition template database or a fraud screening report, shall be managed as DMV data if any elements of the original DMV data persist into the derivative.

2.3.6.5 Access to DMV Data

Contractor acknowledges that all DMV data is confidential and the property of DMV and the State of New York. Contractor shall control access to those areas in which DMV data is stored when DMV data is in the Contractor's possession. Only authorized employees directly involved in the processing and storage of such data will be permitted access the storage areas. Contractor shall identify all employees to DMV who may be authorized to gain access to the data storage area. All such employees shall undergo background checks, which shall be subject to approval by DMV prior to granting authorization. Contractor shall maintain adequate security to prevent unauthorized access to, or theft or vandalism of, DMV data by anyone at all times that DMV data is in their possession.

Contractor shall advise all personnel with access to DMV data of the criminal consequences for unauthorized access to, or use of, such data.

All of Contractor's employees, subcontractors, and employees of subcontractors, having access to DMV data shall sign a non-disclosure affidavit. Contractor shall execute any additional agreements necessary to safeguard DMV data.

Contractor shall provide DMV with written notice of any suspected or confirmed misuse of, or unauthorized access to, DMV data, within one hour from the discovery of such misuse or unauthorized access. Contractor recognizes that the intentional failure to submit such notification shall result in civil and/or criminal penalties as provided by law.

All DMV data and data transmissions shall be secured from unauthorized access.

Access to DMV data exchanged shall be protected in such a way that unauthorized persons cannot review or retrieve the information.

2.3.6.6 Security Review

The design and architecture of the Facial Recognition System shall meet or exceed the standards established by the NYS Office of Cyber Security and Critical Infrastructure Coordination (CSCIC).

The design and architecture shall pass an initial internal DMV security review, in addition to any subsequent security audits conducted by DMV's Information Security Office.

2.3.7 System Backup and Recovery

DMV shall integrate the proposed daily operations system into its existing database and server backup systems. The Contractor shall work with DMV to develop, test, and document an appropriate backup and recovery strategy.

Complete documentation of the backup and recovery procedures for the proposed daily operations system shall be provided to the appropriate DMV staff.

System recovery procedures shall be reviewed as part of system design. Prior to system implementation, recovery procedures shall be documented, tested and proved.

A Business Continuity Plan is attached as Appendix P. The system shall be built with fully redundant components and mirrored by Oracle Data Guard to provide full failover capability for any component failure.

2.3.8 Disaster Recovery Plan

The disaster recovery plan is attached as Appendix Q. The plan provides procedures to be followed for the expeditious recovery of all critical elements. The plan shall be updated, as needed over the course of the Contract, or upon the request of the DMV. The plan includes complete specifications for all hardware to be replaced, so any such hardware can be ordered on an emergency basis. DMV is responsible for purchase of the hardware. The plan includes detailed testing criteria for each step of the recovery process. The plan is based on the assumption that processing must resume within 48 hours of a disaster. The plan is predicated on the fact that the required DMV hardware, 3rd party software, and network infrastructure is in place and ready for FRS recovery by the Contractor.

2.3.9 Daily Operation System Security Requirements

2.3.9.1 System Security

The Contractor shall adhere to existing DMV security standards when interfacing with existing DMV applications.

DMV may, at its discretion, place the facial recognition servers on an isolated network segment behind a firewall. In that event, DMV shall work with the Contractor to define an appropriate firewall rulebase.

All network settings, including server name, IP address, and domain membership shall be solely at DMV's discretion. DMV's Information Technology unit shall be solely responsible for ensuring compliance with all security policies on the servers and workstations.

23.9.2 Control Features

The system authentication shall use DMV's internal Microsoft Active Directory authentication system to provide log-on services, as well as to utilize its ability to designate specific levels of access to the system.

The proposed system shall log all user activity including FRS specific record changes, record searches, manual accepts and/or overrides, etc.

2.3.10 Legacy Enrollment Site Security Requirements

2.3.10.1 Alarm System

Contractor shall provide a system for securing the area where enrollment of the legacy image database shall occur, with a UL-approved intrusion and fire alarm system, with battery back-up, which is integrated with either a law enforcement agency or a licensed private security company acceptable to the DMV. In the event that the Contractor's premises are not occupied 24 hours a day, and an electrical outage or telephone line failure occurs which makes the alarm system inoperative, the Contractor shall provide

licensed security guards at the facility until the alarm becomes operative, at no additional cost to DMV.

2.3.10.2 Background Investigation

Notwithstanding any provision to the contrary contained in this Agreement, Contractor shall work within the DMV's security-clearance requirements and ensure that all staff working on this project are properly cleared. Contractor shall assume the costs of these security measures.

2.3.10.3 Plant Inspection

DMV reserves the right to enter the Contractor's premises at any time during normal business hours to evaluate the Contractor's plant security and storage facilities, to ensure full compliance with all specifications of this Contract. Plant security inspections and audits must demonstrate that the security measures indicated herein are fully met at all times during the term of the Contract. Contractor, and any subcontractors, shall permit unannounced and intermittent security inspections by DMV of all of their facilities relating to this project.

2.3.11 General Maintenance Requirements

During the entire term of the Contract, Contractor shall provide maintenance to keep the system in, and restore the system to, "good working order." For the purposes of this Contract, "good working order" as applicable to software shall mean:

- Software shall perform all functions as required by this Contract;
- Software shall perform all functions as specified in the Contract.

In order keep the system and database operating at peak performance Contractor shall require four (4) hours of preventative system maintenance typically occurring each week between 8:00a.m. to 12:00 p.m. each Sunday. During this period Contractor shall analyze database indexes, manage archive logs, and adjust table spaces. Contractor shall also validate search engine system performance and implement any approved and tested change orders/bug fixes.

Contractor shall provide all necessary maintenance to the system related to software enhancements and troubleshooting. Contractor agrees to perform all software maintenance without the intervention of DMV users or DMV IT staff.

During the life of the Contract, Contractor shall obtain and install required periodic software upgrades (new versions or service packs), at no cost to DMV, upon request and in the sole discretion of DMV technical staff.

2.3.11.1 Operating System and Third Party Software

The FRS shall function within the secure computing environment managed by DMV. This shall include the following necessary software upgrades:

- Operating system critical patches and updates (after testing and review by Contractor);
- Operating system service pack updates (after testing and review by Contractor);

- Third-party software critical patches and updates (after testing and review by Contractor);
- Application bug fixes or enhancements to Contractor's application software.

2.3.11.2 Connectivity to DMV

DMV shall allow the Contractor to remote-control the Facial Recognition servers over a Virtual Private Network (VPN) connection with Microsoft Terminal Services. The Contractor agrees to adhere to DMV's VPN security agreement.

2.3.11.3 Anti-Virus and Security Patching

The FRS shall function within the secure computing environment managed by DMV, including compatibility with anti-virus software used by DMV.

2.3.12 Application Software Distribution

All application code is web-based, therefore all updates shall be centralized on the FaceEXPLORER web servers.

Contractor shall use a carefully designed and executed process for release / patch management to ensure that product updates and upgrades are transitioned to production seamlessly, without causing any disruption to DMV.

The releases may include any of the following:

- Product updates to include enhancements / modifications as per change requests or according to Contractor product enhancement strategy;
- Bug fixes to resolve production issues Bug fixes may be required to be moved as emergency "patches";
- Operating system / licensed software updates / upgrades / security patches.

A release plan shall be created on a regular basis to plan out the scheduled releases. This plan shall also consolidate the updates to minimize the need for frequent releases, except when an emergency patch is required to fix a production problem.

The QA tested release shall first be deployed on a staging / test environment. The staging environment shall simulate the production environment and hence the same tools and process shall be used for applying the release as shall be used for production. Once the deployment in the staging environment is successfully completed and tested, the release shall be ready to be deployed in production. This test environment shall be at the Contractor's headquarters, utilizing DMV test data/images.

For each software release, release notes shall be generated that indicate all configuration management items, changes, bug fixes, and other modifications that went into the release. Complete audit trails shall be available for each release component, in order to ensure that any changes that cause disruptions can immediately be rolled back if needed.

2.3.12.1 Application Updates Change Control Process

Major changes are those with significant impact on the requirements or specifications documents. These require a thorough evaluation before inclusion in the FRS. The change control process shall ensure effective management of major FRS changes. Effective management shall mean involving the appropriate stakeholders and accurate assessment of the potential impact to the project's cost, scope, risk, and schedule.

Management and Standards

Following development of the software, the Contractor shall employ the following systems to manage the project:

The source code control system

The source code control system (SCS) shall support the orderly development of software by many developers working collaboratively. The SCS shall enforce a check-out/check-in discipline to guarantee that cooperating developers do not inadvertently make conflicting changes to code. The SCS shall incorporate the naming and version conventions applied to software components to enable management of builds and baselines.

The issue tracking system

The issue tracking system (ITS) shall track defects, enhancement requests, build requests, and other actions affecting the software. For each issue, this system shall track the current owner, priority, status, history, related issues, etc.

Documentation repositories

Documentation, like software, evolves during the project and shall be similarly tracked and managed. Documentation shall be maintained in a document management system or sometimes, in the case of small, plain-text documents, in the source code control system.

Standards repositories

Standards applicable to the project's software components originate from organizations such as the International Standards Organization (ISO), the American National Standards Institute (ANSI), and the American Association of Motor Vehicle Administrators (AAMVA). These shall be available during development and testing to ensure compliance, and shall be maintained in an easily accessible repository.

The release engineering environment

When a software application is built for release, whether for quality assurance (QA) testing, user acceptance testing (UAT), or production, the release environment shall be carefully controlled and all details of the environment shall be captured. The details shall include not only the version of the application itself, but also the compiler used, the target operating system, the platform on which the build occurs, associated third-party software components, and so on. Managing the release environment shall guarantee reproducibility of the build, enable testing in a known environment, and support discovery and repair of defects.

2.3.13 System Support

The Contractor shall provide the DMV with 3 years of maintenance for the FRS. Contractor shall perform all system maintenance in accordance the terms of the Maintenance Agreement. Contractor shall respond within 15-minutes to all voice, web and e-mail service requests during DMV operational hours (Monday through Friday, 7am to 5pm, excluding U.S. federal holidays).

In addition to the delivered FRS, Contractor agrees to provide follow-on support and maintenance through the end of the contract period, as follows:

- A technical support team dedicated to this project;
- Comprehensive troubleshooting and problem resolution training;
- DMV support help desk toll-free phone/email support;
- Direct engineering telephone support and remote problem diagnostics/resolution, via DMV provided VPN;
- Available on-site support for advanced problem resolutions/fixes;
- Regularly provided service and performance reporting;
- Bug report fixes;
- Software update support;
- Problem escalation process.

2.3.13.1 DMV Support Help Desk

All elements of FRS maintenance and service delivery shall be coordinated through Contractor's DMV Support Help Desk. The DMV Support Help Desk shall be the point of contact for all problem calls and operational issues. The DMV Support Help Desk shall remain accessible to the DMV from 7:00 a.m.(EST) to 5:00 p.m.(EST), Mondays through Fridays, excluding U.S. Federal holidays.

All calls to the Contractor's DMV Support Help Desk shall be logged and tracked via a state of the art call handling system. This application shall permit the Contractor to log and track all incoming calls from DMV, in order to provide quick and efficient service. The call shall remain open until DMV is satisfied with the repair. The application shall also store all of the history of every DMV call to Contractor's DMV Support Help Desk, in order to allow Contractor to analyze the basis of the call to identify trends and to take the proper corrective action.

When contacted regarding a field problem, the Contractor's DMV Support Help Desk shall first attempt to resolve the problem quickly over the telephone while the end-user is still on the line. When a service representative designated to DMV cannot resolve the problem over the telephone, he or she shall contact the support engineering project lead. The support engineering project lead shall then evaluate the problem and contact the DMV site to further determine the required corrective action. As required, the support engineering project lead shall draw upon software, systems and database engineering technical staff to resolve the issue. If required, a field service technician or engineer shall be dispatched to the problem site. The technician or engineer shall be fully briefed and prepared by the Contractor's DMV Support Help Desk and/or engineering project lead before taking the call, in this way significantly decreasing required repair times.

All data captured within the Contractor call-handling system shall be continuously tracked to ensure that the repairs are made in a timely manner, and any potential systemic problems are identified and rectified as early as possible. The data shall be catalogued and maintained by the Contractor's Service Department as the source for periodic service and performance reports. The archived data shall also provide the basis for historical performance analysis which shall be used to improve Contractor maintenance and equipment performance levels.

2.3.13.2 Bug Report Fixes

Contractor shall use an online tracker to compile a report of any bugs/issues raised for the deployed version of the product, and shall have dedicated staff members to respond to these problems, and to take proactive measures to prevent similar or related problems in the future. All acknowledged and reproducible bugs shall be scheduled for fixes, and made available for deployments in the form of patches or software upgrades, based on the severity of the issues. All bug reports shall be tracked until the closure of the issue, (as defined by DMV).

2.3.13.3 Remote Problem Diagnostics and Resolution

Contractor shall also support remote problem diagnostics and resolution capability using remote management software components. Any trouble call or issue query, after passing through a review process, shall be assigned to the dedicated staff member for resolution, and shall be tracked in Contractor's system support log.

2.3.13.4 On-Site Support

On-Site Software Services support shall be provided when phone and dial-in support fails to resolve the issue.

2.3.13.5 Software Update Support

Software updates shall be published regularly to support any operational issues with detailed documented release notes.

2.3.13.6 Escalation Procedures

The following procedure shall be used to report system problems and to solve them in the shortest possible time.

- 1. The site should first contact the Contractor's DMV Support Help Desk by toll free (800) telephone number.
- 2. The call shall be opened at the Contractor's DMV Support Help Desk, and assigned an incident number that can be used to reference the call.
- 3. If call queue avoidance was selected and a voicemail message left, the Contractor's DMV Support Help Desk shall call the site back within 15 minutes to determine the exact nature of the problem.
- 4. If the call can be diagnosed and remedied with the help of the end-users, the call shall be closed.
- 5. If the call needs the attention of a support engineer, the Contractor's DMV Support Help Desk shall contact the Engineering Project Lead to inform him/her of the incident, and to provide all relevant information.

- 6. The Engineering Project Lead shall determine the required corrective action with the support of software, systems and/or database engineering support staff, as required.
- 7. If the call is determined to need the attention of a Contractor support field technician or engineer, the Contractor's DMV Support Help Desk shall contact the Contractor technician/engineer, and dispatch the technician/engineer to the call with all materials required to fix the problem.
- 8. The Contractor's DMV Support Help Desk shall call the site and inform them of the estimated time of response by the Contractor technician/engineer.
- 9. The Contractor technician/engineer shall call the Contractor's DMV Support Help Desk to report what was done, and that the person at the site who called in the problem is satisfied that it is fixed.
- 10. The Contractor's DMV Support Help Desk shall keep a complete record of each call, including event times, notes, the degree of urgency, locations, persons involved, and the problem resolution.
- 11. If the site has not received an ETA/VPN login within an hour, they should call the Contractor's DMV Support Help Desk to ascertain the ETA.
- 12. If the technician is late for the ETA/VPN Login, the site should call the Contractor's DMV Support Help Desk and Contractor shall contact the responsible technician or software/systems engineer. Whenever possible Contractor shall be proactive, and shall notify the site if they expect to be late.
- 13. If the above steps do not result in a satisfactory result, the site can escalate the call by calling the Contractor's DMV Support Help Desk Manager.
- 14. If contacting the Contractor's DMV Support Help Desk Manager fails to resolve the matter to DMV's satisfaction, the site should then contact the designated Contractor Project Manager.
- 15. If contacting the Contractor Project Manager fails to resolve the matter to DMV's satisfaction, the site should then contact the Contractor Vice President of Technical Services.

Any individual at the DMV, at any time, is always free to escalate any concern or issue. Contractor shall address all concerns and issues promptly and professionally.

2.3.13.7 Issue Escalation Path

Name	Title	Contact Number
leif Hamel	SVP, Global Services	(978) 932-2200
Walter Krepcio	VP, DMV Service	(978) 932-2293

2.3.13.8 System Maintenance Tasks

The following table outlines FRS maintenance designated as Contractor-tasks and DMV-tasks.

System Maintenance Tasks	Contractor Tasks	DMV Tasks
Backups	Contractor shall provide the plan	DMV to provide tape rotations
	for backups and verify process	and off site storage
Operating System	Contractor shall work with DMV	DMV to install OS patches
(OS) Patches	to schedule approved OS patches	·
Anti-Virus	Contractor shall work with DMV	DMV to provide anti-virus
	to confirm the anti-virus update	_
Network/Security	Contractor shall comply with the	DMV to provide network and
	DMV network security polices	security infrastructure
VPN Access	Contractor shall comply with the	DMV to provide VPN Access
	VPN access security polices	_
Production Hardware	Contractor provided hardware	DMV to provide hardware and
/ Support	specifications	hardware support
3rd Party Software /	Contractor provided 3rd party	DMV to provide 3rd party
Support	software specifications	software and software support
Software System	Contractor to provide weekly	
Maintenance	software system maintenance	
Updates	Technology Updates	
	FRS System Updates	

2.3.14 FRS Upgrades

At DMV's request, Contractor shall upgrade the database, operating system, and related software to supported levels. Contractor shall assist in the migration of the FRS to any new hardware components. Contractor shall have six months from DMV's request for an upgrade to prepare for such upgrade.

Contractor has a dedicated team to introduce new features and technology into the L-1 ABISTM (Automated Biometric Identification System) search engine and FaceEXPLORER application suite. In-version upgrades shall be tested on the test system at Contractor's facility, using DMV test data/images. The test system shall be comprised of the initial legacy enrollment components plus additional servers, to simulate the DMV production environment in Albany. As new engine technology is developed and introduced to the market, Contractor shall work with the DMV to plan a migration path for any out of version major release. Often major releases require a new comparison template to be created. For this type of upgrade, Contractor shall leverage the existing test environment at its facility in order to re-template the existing database and to requalify the new system, before introducing it to the DMV Albany production environment.

Contractor shall work with the DMV team to ensure that new system technology is introduced in a seamless manner, with a process similar to the initial rollout. It is anticipated that upcoming versions will decrease the hardware requirements for this system. If available, one out of version major upgrade shall be introduced over the three-year contract term, at no additional cost to DMV.

2.3.15 Documentation

Contractor shall supply high-level documentation, including detailed documentation of the connections between the FRS and DMV's IT systems. This documentation shall be provided on a media that is agreeable to DMV.

At a minimum, this documentation shall include:

- Overview of the facial recognition system;
- Overview of the Central Image Database Server;
- Overview of the automatic image enrollment process;
- Automated Image Quality Assessment;
- Overview of the manual image enrollment process;
- Overview of the 1:1 comparison process;
- Overview of the 1:N comparison process;
- Detailed functional requirement specifications;
- Detailed interface specifications;
- Acceptance test documentation.

Contractor shall provide updates to the documentation as needed, or upon request by the DMV. Original documentation and any updates shall be provided in WORD 2003 format, or any other standard format designated by DMV.

Contractor shall use a web-based document management portal where all documents shall be kept updated and made available for access by authorized DMV personnel.

Contractor shall use a staged documentation development, labeling (Draft, Final, Approved) and versioning number (major and minor revision) approach for all documents to ensure efficient control of manuals. A change history section at the beginning of each document shall reflect the complete history of document for changes and revisions.

2.3.16 Installed Software Inventory

Contractor shall maintain a list of all software installed on the FRS through the term of the Contract. This inventory shall be regularly updated to reflect any changes, and the inventory shall be provided to DMV.

All installations, whether for initial rollout or subsequent updates, shall be routed via Contractor's Quality Assurance (QA) and release, which shall ensure that only authorized configuration changes are included in the installation by verifying that there is traceability between approved changes, new development, and the content of the installation. In addition, QA shall check the completeness of the installation by ensuring all impacted deliverables (i.e., hardware, software and documentation) are appropriately updated. Once the installation is

approved, it shall be registered in the Configuration Management Repository and deployed at the DMV site. Deployment may consist of a field installation or an automated system update.

Contractor uses the following Software Configuration Management Tools to ensure the availability of updated inventory of software and documents:

- Oracle Installed Base/ Oracle Inventory: Installed software inventory. The inventory is maintained and managed using Oracle Part Numbers. Each release to DMV shall be assigned a part number in this system;
- <u>AccuRev or similar</u>: Centralized repository of all project software, code and configuration items, fundamentally used for source code control and document version control;
- AccuBuild Manager or similar package: Used to Manage Software Releases;
- <u>Privia or similar repository</u>: Centralized repository of the project document throughout the life cycle of the project and during the operations phase; proposals, contracts, deliverables and related artifacts are maintained and tracked in the Project Portal.

2.3.17 Training

Contractor agrees to work closely with DMV to establish a training schedule which coincides with the installation schedule.

Contractor agrees to provide the required number of training sessions to DMV trainers in use of the facial recognition system to enroll and compare images at a time or times determined by the DMV. The training session shall provide adequate preparation and materials for DMV trainers to train other DMV staff members.

Contractor agrees to provide training in the use of the investigative browser and all of its functions, at a time or times determined by DMV. Contractor shall provide detailed step-by-step instructions for investigative browser to DMV's License Production Bureau (LPB) and Division of Field Investigation (DFI) staff.

Contractor shall provide paper copies as well as electronic copies of the training materials. Contractor shall provide 20 paper copies, and additional electronic copies in the required format, to DMV for the first round of training. The latest electronic copies shall also be available on the project web portal for the life of the contract.

The Contractor User Manuals and Job Aids shall provide detailed step by step instructions to end-users for executing any functionality of the application. Part of the Job Aid shall include a Getting Started Guide to introduce end-users to the product. Similar to a tutorial, this manual shall explain important concepts that new users will need in order to become productive quickly.

The user manual shall include the following sections at a minimum:

- A cover page;
- A title page and copyright page;
- A preface, containing details of related documents and information on how to best use the user guide;
- A contents page;
- Overview of the system;

- Sample screens and reports;
- Step-by-step guide on how to manually enroll a document;
- Description of the different sub-menus;
- Step by step guide on how to perform 1:1 and 1:N comparisons;
- Step by step guide on printing reports;
- System reports and a description of the data elements;
- Adding users and setting permissions and passwords;
- Preventative maintenance program;
- Troubleshooting guide for equipment problems and where to call for resolution;
- Reference tables;
- Error messages;
- Index;
- An FAQ (Frequently Asked Questions);
- Where to find further help and contact details.

The user manuals shall be organized in chapters, the first one giving an overview of what the other chapters contain, so that people can readily find what they need.

Contractor agrees to retrain DMV trainers on an as-needed basis, and shall be available for consultation during the term of the Contract.

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3 PAYMENT AND DELIVERY INFORMATION

3.1 Purchase and Cost

DMV shall purchase the FRS as provided by the terms of this Agreement.

FaceE	Milestone Deliverable XPLORER Implementation Services	Acceptance Criteria	<u>Payable</u>
1	Legacy Data Conversion and Enrollment	Delivery of 17M converted images to NY	\$206,658
FaceE	XPLORER Software Licenses		
2	FaceEXPLORER Database License - 21.5 million images	Installation of converted database - pre UAT Installation of converted	\$860,000
	FR Concurrent Licenses - Qty 50 Custom Implementation, Installation, and	database - pre UAT	\$75,000
3 Mainte	Integration Services nance and Support	Completion of UAT	\$307,088
4	Three (3) Software Maintenance Term (10x5)	Completion of UAT	\$504,654
•	•	TOTAL	\$1,953,400

Payments for each milestone will be made after DMV Business Leads have signed off that the requirements for each milestone, as defined in the RFP and this contract, have been met.

During initial enrollment, design and development phases and subsequent enhancement phases, changes, if any, to the scope of the project shall be made by written mutual agreement pursuant to Section 4.8.1 hereof. In the event these changes are material, a written contract amendment shall be negotiated and shall be subject to the approval of Contractor, the Division of the Budget, Office of the Director of State Operations, Office of the Attorney General, and the Office of the State Comptroller.

The payment price for the FRS includes all of the Contractor's costs to implement the Facial Recognition System, including but not limited to: upfront development costs, delivery, installation, and software interface for the enrolled legacy image database (with embedded software and software licensing), installation, testing, and software interface for the Daily Operations Facial Recognition System (with embedded software and software licensing), and Cleansing of Legacy Image Database System (with embedded software, software interface, and software licensing), training, manuals, ongoing maintenance, system updates, enhancements, and testing, network, Help Desk and service staff, insurances. Also included in the payment price are all licensing costs associated with the use of Oracle as the database platform for the system; and all costs associated with one out of version major upgrade to be introduced over the three year contract term. Furthermore the costs for the above includes the warranty set forth in Section 4.11, and maintenance and support for three years. The three-year period for maintenance and support for the system begins on the date the system is installed.

3.2 Delivery

The first critical task following contract finalization shall be the planning phase in which Contractor shall meet with NY DMV staff and draft a final Project Plan reflecting the actual implementation dates as required by the DMV and as accepted by Contractor. The final Project Plan shall supersede the dates set forth in this Section 2.2.1. The delivery dates shall change subject to mutual agreement.

Once the enrolled legacy image database, Milestone 1, is received, DMV shall sign a "Delivery Acceptance Form" acknowledging the receipt as detailed in the form. Once the FRS is ready for UAT acceptance by the customer, DMV shall sign a second "Delivery Acceptance Form" acknowledging the receipt as detailed in the form and therefore initiating the release of Milestone 2 in Section 3.1. When operational for daily use and accepted by DMV, DMV shall sign a third "Delivery Acceptance Form" acknowledging the receipt as detailed in the form, and thereafter final payment shall be dispersed for Milestones 3 and 4.

3.3 Payment for Products and Services

For Products, Services and Deliverables provided by Contractor, DMV agrees to pay Contractor the amounts set forth in the Payment Section 3.1 ("Purchase and Cost"). Subject to NYS Finance Law, DMV shall make payment within 30 days following the date of Contractor's invoice. Contractor shall invoice DMV after delivery and acceptance.

34 Achievement of Milestones

If achievement of any particular milestone is dependent upon performance and/or completion of tasks within the control of the DMV or within the control of a third party outside Contractor's control, the projected dates for accomplishing such milestones and the Project Schedule shall be appropriately adjusted to reflect the actual performance and/or completion of such tasks.

3.5 Taxes

Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases shall be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

3.6 Late Payments

The payment of interest on certain payments due and owed by DMV may be made in accordance with Article 11-A of the State Finance Law (SFL §179-d, et seq.), and Title 2 of the New York Code of Rules and Regulations, Part 18 (Implementation of Prompt Payment Legislation -2 NYCRR §18.1, et seq.).

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4 ADDITIONAL CONTRACTUAL PROVISIONS

Additional contractual provisions are contained in this Section 4. Capitalized terms not otherwise defined shall have the meanings ascribed to them in Appendix J, "Terms and Definitions."

4.1 Title and License

Title to the hardware Products shall vest in the DMV upon installation of the hardware Products. The license to the software included in the Products shall be granted to DMV upon installation of the software Products.

4.2 Ownership of Software, etc.

Notwithstanding any other provision set forth in this Agreement, DMV acknowledges and agrees that Contractor is the sole and exclusive owner of all Contractor Technology incorporated in the Products (including all Contractor application software incorporated in the Products) and any and all intellectual property (IP) rights arising under the Products, and of any corrections, modifications, updates, enhancements, and new or revised versions thereof, and of any subsequently derived and/or successor technologies that may be developed therefrom.

4.3 Services

4.3.1 Provision of Services

DMV shall pay Contractor in accordance with the terms hereof, subject to the provisions of State Finance Law, and Contractor shall provide to DMV the Services and Deliverables described in the Statement of Work (as described Section 2 of this Agreement).

4.3.2 Manner and Means

Contractor shall provide such resources and utilize such employees and/or design and technical consultants, as it deems necessary to perform the Services. The manner and means used by Contractor to perform the Services are in the sole discretion and control of Contractor. Depending on the tasks to be performed, work may be performed at Contractor's designated facilities or at DMV's site. Contractor shall ensure that all Contractor personnel involved in the performance of the Services on DMV's premises shall comply—and require any subcontractors performing Services on the DMV's premises to comply—with DMV's reasonable security procedures and other workplace regulations. The Services shall be performed in a manner calculated to minimize interference with DMV's business, but Contractor cannot guarantee that there shall be no such interference or that DMV shall suffer no inconvenience as a result of Contractor's performance of the Services.

4.3.3 Subcontracts and Subcontractors

For the purposes of this agreement, Contractor is the primary contractor. The primary contractor shall be held responsible for the performance of any and all subcontractors. DMV shall have the right to approve all subcontractors. DMV further reserves the right to review and approve subcontractor agreements between the primary contractor and any subcontractor. Contractor shall provide DMV with copies of such agreements.

Drivers Privacy Protection Act 4.4

Contractor acknowledges that it is subject to the applicable provisions of the Driver's Privacy Protection Act of 1994 ("DPPA") (18 U.S.C. 2721, et seq.). Contractor is responsible for submitting in writing, to DMV, within five (5) business days following its receipt of knowledge of such violation, notification of any violations of this section by Contractor's employees or its subcontractors. Intentional failure to submit such notification may result in penalties punishable under the appropriate provisions of the DPPA.

The Contractor shall indemnify and hold harmless the State of New York, its employees and agents, from and against any claims, demands, loss, damage or expense related solely to a knowing violation of the DPPA committed by an employee(s) of Contractor or its subcontractor(s). Contractor shall indemnify the State of New York even if the Contractor did not have knowledge of its employee's or subcontractor's knowing violation of the DPPA at the time such violation occurred. By signing the Contract, the Contractor acknowledges that all DMV records containing personal information, as well as DMV-related processing information is confidential and is the property of the Department and the State of New York, and should this information be used in violation of the DPPA, the Contractor may be liable under the applicable provisions of the DPPA and may be required to indemnify DMV as set forth herein, subject to the terms and conditions of Section 4.12. The Contractor shall sign the "Memorandum of Understanding for the DPPA" (Appendix C).

Information Security Breach and Notification Act



Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (specifically as set forth in General Business Law Section 899-aa and State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach, if caused by the negligent or willful acts or omissions of Contractor, its agents, officers, employees or subcontractors.

The form to be filed, in accordance with the New York State Information Security Breach and Notification Act, is attached as Appendix H.

Items Provided by DMV 4.6

DMV Provided Materials, Facilities, etc. 4.6.1

DMV agrees to provide Contractor with the DMV-Provided Materials, as well as site availability, suitable working space and facilities, network connection, and such other items as may be set forth on the Statement of Work, or reasonably requested by Contractor from time-totime in the course of providing the Services. DMV shall provide access to DMV's data and systems to Contractor and its subcontractors, in a timely manner, during DMV's normal business hours, as may be reasonably requested by Contractor to perform the Services.

DMV Personnel 4.6.2

DMV shall make its personnel available to Contractor and its subcontractors as specified by mutual agreement. DMV shall appoint a qualified project manager ("Project Manager") who shall serve as DMV's primary liaison to Contractor throughout the course of providing the Services hereunder. The Project Manager shall be authorized by DMV to answer all questions posed by Contractor, and to communicate all decisions made by DMV during the term of this

Agreement; and Contractor shall be entitled to rely on such information as conveyed by the Project Manager. DMV's appointed Project Manager is set forth in the Statement of Work.

4.7 Project Schedule

Contractor shall use commercially reasonable efforts to meet the project task schedule set forth in the Statement of Work, if any, and DMV agrees to cooperate in good faith to allow Contractor to achieve completion of Services in a timely and professional manner. DMV understands and agrees that Contractor's provision of Services may depend on DMV's timely decision-making, completion of certain DMV tasks, availability of DMV's facilities and work site, including availability of DMV's networks or systems with pre-installed and operable Third Party Components, adherence by DMV to DMV schedules, all within DMV's control. Consequently, the Project Schedule, time of performance, and Services may require adjustments if such DMV tasks or schedules change, are modified, or are not completed as required or such personnel are not available when reasonably required. Contractor shall not be liable for delays in performance occasioned by Third Party Components outside the control of Contractor or by DMV's failure to provide any item or personnel or to timely complete any DMV-specific task (including, providing answers to questions and making decisions on a timely basis) as required by this Agreement including the Statement of Work.

4.8 Compliance with Specifications

In performing the Services, Contractor shall design, develop and/or make for DMV the Deliverables as required in the Statement of Work. Contractor shall use commercially reasonable efforts in order to ensure that the Deliverables meet the specifications for such Deliverables, if any, set forth in the Statement of Work or as may otherwise be developed during the course of performance of the Services.

4.8.1 Change Orders

The DMV and Contractor may, from time to time during the term of the Contract, make modifications to the design and implementation of the Deliverables. Such changes shall be managed in accordance with Appendix K, "Change Control Process."

4.9 Intellectual Property Rights

4.9.1 DMV-Provided Materials

The DMV-Provided Materials, to the extent known, shall be identified in the Statement of Work, including materials proprietary to DMV or licensed by DMV from third parties. DMV hereby grants Contractor a royalty-free, non-exclusive, non-transferable worldwide license to use the DMV-Provided Materials, solely in order for Contractor to perform the Services and develop and prepare the Deliverables. DMV hereby represents and warrants that to the extent DMV provides to Contractor any third party data, software, hardware, information or other materials ("Third Party Materials") as part of the DMV-Provided Materials, DMV shall have obtained all necessary permissions, licenses, and consents and shall have the authority to provide such Third Party Materials to Contractor.

4.9.2 Retained Ownership Rights

Except as expressly set forth herein, neither this Agreement, nor the provision of any Services hereunder, shall give either Contractor or DMV any ownership interest in or rights to the IP

Rights of the other party. All IP Rights that are owned or controlled by a party at the commencement of this Agreement shall remain under the ownership or control of such party throughout the term of this Agreement and thereafter.

4.10 License To Contractor Technology

4.10.1 License

Subject to compliance with the terms and conditions hereof, Contractor grants to DMV a perpetual, worldwide, non-exclusive, non-transferable license under the Contractor IP Rights to lise the Contractor Technology incorporated into the Deliverables solely for DMV's internal business purposes and in connection with any Services obtained from Contractor, and not for any other purposes. Without limiting the foregoing, DMV is prohibited from creating derivative works of, or selling, licensing, or otherwise transferring, or distributing to third parties, or commercializing in any respect whatsoever, any Contractor Technology.

4.10.2 Rights Reserved

Contractor hereby retains all rights not expressly granted to DMV in Section 4.10.1. Without limiting the foregoing, DMV does not have the right to reproduce (except for the limited purpose of disaster recovery and back-up), manufacture, have manufactured, modify, create derivative works of, license, sublicense, sell, offer to sell, transfer, import or otherwise distribute any Contractor Technology or Contractor IP Rights.

4.10.3 No Reverse Engineering

DMV may not reverse engineer, decompile, or disassemble the Contractor Technology, and in the case of software provided by Contractor otherwise attempt to derive the source code thereof, nor permit or encourage any third party to do any of the foregoing.

4.10.4 Escrow

At the request of DMV, Contractor shall enter an agreement ("Escrow Agreement") with a third-party escrow agent ("Escrow Agent") under which the Escrow Agent would hold the Escrowed Materials (as identified in Appendix L, "Software Escrow Agreement"). Under the terms of the Escrow Agreement, which would be subject to the approval of DMV, (a) the Escrow Agent would be instructed to release the Escrowed Materials in the event of a material breach by Contractor relating to Contractor's obligations to maintain the software Products as required under this Agreement and failure to cure such material breach in accordance with Section 4.17.3.1 (Early Termination of Contract Due to Contractor's Default) and (b) upon release of the Escrowed Materials, DMV would have a non-exclusive, non-transferable right and license to use the Escrowed Materials, subject to the terms and conditions of this Section 4.10, for the sole purpose of maintaining the Products. DMV's right and license to so use the Escrowed Materials shall exist for the originally stated, 3-year term of this Agreement, plus any mutually agreed to extensions thereof, and shall not end upon early termination of this Agreement pursuant to Section 4.17.3.1 (Early Termination of Contract Due to Contractor's Default).

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4.11 Limited Warranties and Exceptions

4.11.1 Contractor Limited Warranty

Contractor warrants that, for three years following delivery of the relevant Services or installation of the relevant Products (the "Warranty Period") (a) the Services provided hereunder shall be performed in a professional manner meeting or exceeding industry standards and consistent with the quality of performance of services for similar types of engagements; (b) the software Products when delivered shall substantially conform to, and substantially perform in accordance with, the functional specifications contained in this Agreement and as may be mutually agreed to in writing during the contract period and any extensions thereto, and (e)—Contractor warrants that the hardware Products shall be free-from-defects in-material and workmanship under normal use and service. Contractor's obligation for the failure of any Services or Products to satisfy any warranty during the Warranty Period shall be for Contractor to repair or replace the relevant Product or to correct the relevant Services. If, despite repeated effort, Contractor is unable correct any failure of the Services or Products to satisfy any warranty during the Warranty Period, then, at the option of DMV, DMV may return the affected Product or component thereof and receive a full refund for such Product. To the extent permitted, Contractor shall pass through all third-party warranties to the DMV.

The warranty set forth in this section 4.11.1 is exclusive and in lieu of all other warranties, whether express <u>or</u> implied, or statutory, including any implied warranties concerning the services only, including the implied warranties of merchantability, fitness for a particular purpose, or non-infringement, except that contractor may not disclaim warranties of title. To the extent Contractor may not as a matter of law disclaim any warranty, the parties agree that the scope and duration of any such warranty shall be for the minimum permitted under applicable law. Contractor makes no representation or warranties of any kind with respect to the third party components, and DMV agrees that DMV shall look solely to the third party licensors or manufacturers of such components in the event of any defect or failure to perform as warranted by the third party licensor or manufacturers or such components in the event of any defect or failure to perform as warranted by the third party licensor or manufacturers or such components in the event of any defect or failure to perform as warranted by the third party licensor or

4.11.2 Disclaimer

THE PRODUCTS ARE DESIGNED AS AN AID TO DMV AND ITS EMPLOYEES AND AGENTS IN MAKING DETERMINATIONS REGARDING THE IDENTITY OF PERSONS, THE VALIDITY OF CERTAIN IDENTIFICATION DOCUMENTS AND/OR RELATED DETERMINATIONS. DMV AND ITS EMPLOYEES AND AGENTS ARE SOLELY RESPONSIBLE FOR MAKING ALL SUCH DETERMINATIONS, AND IN NO EVENT SHALL CONTRACTOR BE RESPONSIBLE OR OTHERWISE LIABLE FOR ANY ERRORS, DAMAGES, LOSSES, INACCURACIES OR OMISSIONS ARISING FROM SUCH DETERMINATIONS.

4.12 Indemnification

4.12.1 By Contractor

Subject to the provisions of this Section 4.12, Contractor hereby agrees to indemnify, keep and hold harmless the DMV and the State of New York, its officials and employees, from any and all claims for (a) personal injury or property damage to person or property, arising out of the service to be performed under this Agreement, including any personal injury or property damage arising 542/20/2009

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out of negligence, active or passive, or wrongful or improper conduct of the contractor, its agents, subcontractors or employees, and Contractor remains liable, without monetary limitation, for direct damages for personal injury, death or damage to real property or tangible personal property attributable to the negligence or other tort of Contractor, its officers, employees or agents; (b) infringement of any currently existing and validly issued third party U.S. patent, copyright, trade secret or other intellectual property right by the Products.

Contractor-shall-not-be-obligated to defend or be liable for any-losses to the extent the

infringement claim-arises out of: (i) Contractor's compliance with DMV's specifications or requirements requiring modifications to the Contractor Technology; (ii) any addition to or modification to the Products not made by Contractor (unless authorized by Contractor); or (iii) third-party software. Notwithstanding-the-foregoing, should any Products become or in Contractor's opinion be likely to become, the subject of any such suit or action for infringement, Contractor-may, at Contractor's-expense, and upon-agreement between Contractor and DMV (1) procure for DMV the right to continue using such Products, (2) replace or modify such Products so that they become non-infringing, or (3) terminate this Agreement.

The Contractor shall defend, protect, and save harmless the State, its officers, agents and employees, against all suits at law or in equity and from all damages, claims or demands for actual or alleged infringement of any protected intellectual property right (including patent, trademark, or copyright) resulting from Contractor's performance hereunder.

The Contractor will assume liability for injuries, deaths, losses, damages, claims or suits resulting from the Contractor's operations. Notwithstanding any provision to the contrary, Contractor shall remain liable, without monetary limitation, for direct damages for personal injury, death or damage to real property or tangible personal property attributable to the negligence or other tort of Contractor, its officers, employees or agents.

The Contractor shall indemnify and hold harmless the State, its employees and agents, from and against any third party claims, demands, loss, damage or expense related to the Contractor's violation of the federal Driver's Privacy Protection Act of 1994 and/or the New York State Information Security Breach and Notification Act,

DMV's acceptance or approval of Contractor's performance hereunder, including Contractor's order or procedure method, structure or equipment submitted or employed by the Contractor will not relieve Contractor of its liability for damages resulting therefrom.

By DMV 4,12.2

DMV represents and warrants that the DMV Provided Materials and any other information disclosed by DMV pursuant to the terms of this Agreement (including without limitation the use or practice by Contractor or its subcontractors of such materials and information for the purpose of performing any obligations required under the terms of this Agreement) shall not violate the patent, copyright, trademark, trade secret, or other intellectual property right of any third party at the time of such disclosure. The DMV-hereby-agrees to indemnify, keep and hold harmless the Contractor and its officers, employees, and agents from any and all-claims arising out of or related to a breach of the representations and warranties in this Section 4.12.2. Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, DMV shall hold the Contractor harmless from and indemnify it for any final judgement of a court of competent jurisdiction to the extent attributable to the negligence of DMV or of its officers or employees when acting within the course and scope of their employment.



Procedure

If any claim or action (a "Claim") is commenced against a party entitled to indemnification for any losses under this Section 4.12 resulting from such Claim, such party shall give written notice to the indemnifying party within 10 days of receiving notice of such Claim, provided, however, that the failure to provide such notice shall not release the indemnifying party from any of its obligations under this Section 4.12 except to the extent that the indemnifying party is materially prejudiced by such failure. The indemnified party shall cooperate in all reasonable respects in such investigation and defense (and any related settlement negotiations). If such party receiving notice is obligated under this Section 4.12 to defend the party-against such Claim, then the indemnifying party shall take control of the defense (and any related settlement & negotiations) and investigation of the Claim. The indemnified party shall-cooperate in all-reasonable respects in such investigation and defense (and any related settlement negotiations); provided that such party may participate with counsel of its choosing, at its own expense. The indemnifying party shall not enter into the settlement of any Claim without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, NYS Attorney General shall defend, and control the defense, of any Claim against DMV subject to indemnification under Section 4.12.1(a) (relating to personal injury or property damage). The foregoing states DMV's and Contractor's sole and exclusive remedies with respect to claims of infringement of third party proprietary rights of any kind.

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4.13 Commercial General Liability and Property Damage Insurance

Insurance requirements as detailed herein must be obtained and kept in force for the term of the contract at the expense of the Contractor. The Contractor must furnish to the Department certificates of insurance for all insurance required, with the Department and the State of New York as an additional insured for Commercial General Liability Policy. Contractor must provide such evidence of insurance upon notice of and acceptance of contract award. Additionally, Contractor is responsible for providing renewed evidence of such insurance coverage at least five (5) business days after expiration of current evidence of insurance provided, and may be required to furnish the Policy Declarations Page and the entire Insurance Policy, at Contractor's expense, at any time the Department so requests within 5 business days from Contractor's receipt of a written request from the Department. The Contractor shall notify the Department by certified mail if the Contractor has failed to make all required premium payments and if the insurance policy is subject to an early termination, or change in coverage. Further, if the Contractor changes any insurance carrier, the Department must be notified in writing within five business days and provided with a new Certificate of Insurance. Failure to comply may result in termination of the Agreement Pursuant to Section 4.17.3.1 (Early Termination of Contract due to Contractor's Default). Stipulated evidence of all required insurance should be sent to:

NYS Department of Motor Vehicles ATT: Maureen Younkin, Contracts Administrator Contract Administration 6 Empire State Plaza Swan Street Bldg., Room 138 Albany, New York, 12228

An insurance company licensed to conduct business under the laws of the State of New York shall issue all policies.

The minimum amount is \$5,000,000 in the aggregate, unless otherwise agreed to by the Department. The Department has no obligation to agree to different policy limits. The following endorsement shall be on this policy: "The Department of Motor Vehicles and the State of New York and its agents, officers and employees are additional insureds." The naming of the New York State Department of Motor Vehicles and the State of New York as additional insureds does not exclude the liability of anyone acting by, through or for the Contractor, for damages to the property or facilities of the Department of Motor Vehicles or the State of New York.

The Contractor shall also maintain and provide evidence of worker's compensation and disability insurance as required by law, as well as any public liability and property damage insurance. Such evidence must be presented within thirty (30) days of the effective date of this Contract.

4.14 Letter of Credit; Limitations on Liability

4.14.1 Letter of Credit

The contractor shall furnish, concurrent with the signing of this contract, an irrevocable letter of credit for one million dollars (\$1,000,000). However, DMV reserves the right to require Contractor to increase the amount of the Letter of Credit, or to furnish an additional Letter of Credit, for an additional one million dollars (\$1,000,000) at DMV's expense, for a total of two million dollars (\$2,000,000). The irrevocable letter of credit must be executed by a bank

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licensed to do business in New York State. The letter of credit shall be held by the Department of Motor Vehicles and used, in part or whole, in the event damages are suffered by the State due to a material breach of this Agreement, which material breach Contractor fails to cure pursuant to Section 4.17.3.1 (Early Termination of Contract Due to Contractor's Default). The letter of credit shall be renewed, as appropriate, but shall remain in effect for the entire period of the contract and any extensions thereto. If assessed, liquidated damages may be drawn down on the letter of credit. DMV shall not make use of the letter of credit unless it has first provided Contractor with written notice of material breach and opportunity to cure such material breach pursuant to Section 4.17.3.1., and made a demand for payment due hereunder and failed to receive such payment within 30 days following such demand. In the event that Contractor is unable or unwilling to cure a material breach within the cure period set forth herein, then the time of breach shall be calculated from the date written notice of such breach was sent to Contractor.

4.14.2 Limitation on Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS, HOWEVER CAUSED, EXCLUDING THOSE DAMAGES CAUSED BY CONTRACTOR'S WILLFUL MISCONDUCT, EXCEPT THAT THE PARTIES HERETO MAY NOT SEEK TO LIMIT LIABILITY FOR CONSEQUENTIAL DAMAGES AS RELATES TO PERSONAL INFORMATION PROTECTED UNDER THE NEW YORK STATE GENERAL BUSINESS LAW, SECTION 899-AA (KNOWN AS THE INFORMATION SECURITY BREACH AND NOTIFICATION ACT), AND ANY ATTEMPT TO LIMIT LIABILITY THEREFOR SHALL BE DEEMED NULL AND VOID.

4.14.3 Liability of Contractor Secure Credentialing Division

Contractor acknowledges that L-1 Identity Solutions Operating Company shall be primarily responsible for any liability of its Secure Credentialing Division.

4.15 Confidentiality

4.15.1 Confidential Information

By virtue of this Agreement, each party hereto may disclose to the other party information that is Confidential Information. Each party agrees to use the Confidential Information of the other party solely to the extent necessary to fulfill its obligations or exercise its right hereunder, and not for any other purpose. Information in earlier sections of this contract, which address the handling of confidential information shall not be superseded by this section.

4.15.2 Obligations

Each party agrees to hold the other party's Confidential Information in confidence, not to disclose such Confidential Information to third parties not authorized by the disclosing party to receive such Confidential Information, and to disclose such Confidential Information only to its employees and contractors with a need to know such Confidential Information and who have obligations of confidentiality to the receiving party. Each party agrees to take reasonable steps using at least the same degree of care that it uses to protect its own Confidential Information, but no less than reasonable care, to protect the other party's Confidential Information to ensure that FRS Contract #000665

such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Agreement. The foregoing prohibition on disclosure of Confidential Information shall not apply to the extent certain Confidential Information is required to be disclosed by the receiving party as a matter of law or by order of a court, provided that the receiving party uses reasonable efforts to provide the disclosing party with prior notice of such obligation to disclose and reasonably assists in obtaining a protective order therefor.

4.15.3 Return or Destruction

Within fifteen (15) days after the party's receipt of the other party's written request for the return of Confidential Information, or the completion of the Services hereunder, all of the other party's Confidential Information and all copies thereof in such party's possession or control shall be returned to the other party or destroyed by such party at the other party's instruction. The party shall then certify the same in writing and that no copies have been retained by the party, its employees or agents.

4.15.4 Injunctive Relief

Each party acknowledges that unauthorized disclosure or use of the Confidential Information may cause irreparable harm to the other party for which recovery of money damages would be inadequate, and the other party shall therefore be entitled to obtain timely injunctive relief, without the necessity of posting a bond, to protect its rights under this Agreement, in addition to any and all remedies available at law.

4.16 Right To Perform Similar Services

Nothing in this Agreement shall restrict or limit Contractor from performing the Services, or other services to any other entity in any industry, including the industry in which DMV is engaged, and including services similar to those provided to DMV hereunder.

4.17 Term and Termination

4.17.1 Duration of Term

This Agreement shall become effective on the date it is approved by the New York State Office of the State Comptroller and shall continue for a period of three years from that date. Contractor and DMV may extend the contract up to two additional one-year periods through a written amendment, subject to the approval of the Division of the Budget, Office of the Director of State Operations, Office of the New York State Attorney General, and the Office of the State Comptroller.

4.17.2 Early Termination of Contract Without Fault of Contractor

DMV may terminate the Contract if it is ordered to do so by a court of competent jurisdiction; if the Program is repealed or substantially amended by statute; if the Program is invalidated by a court of competent jurisdiction; or in the occurrence of a Force Majeure event where the Contractor is unable to return in a timely manner to a level of operation required by this Agreement. If the Contract is terminated by DMV prior to the end of the Contract term for any reason, DMV agrees to compensate the Contractor for property used or intended to be used in the performance of this Contract, offset by any funds owed to DMV by Contractor. In addition, DMV reserves the right to cancel the complete Contract or any portion thereof, at any time, by giving the Contractor 30 days written notice.

4.17.3 Early Termination of Contract Due to Contractor's Default

Subject to Section 4.18.14 hereof, DMV may terminate the Contract at any time if the Contractor commits one or more of the following "Events of Default":

- 1. The Contractor fails to remedy a material breach of any provision, or provisions of this Contract within thirty (30) calendar days following receipt by the Contractor of written notification of such breach by DMV (if the alleged breach cannot reasonably be cured within the 30-day cure period, then DMV may approve a reasonable additional amount of time to cure the alleged breach), or if the Contractor has not in good faith commenced a reasonable effort to cure such breach in a timely manner. The Contractor shall be notified in reasonable detail of a material breach by certified mail, return receipt requested. However only one such written notice shall suffice for repeating, substantially similar breaches occurring in succession over a short period of time, provided that DMV describes in detail the nature of such repeating and substantially similar breaches.
- 2. The Contractor makes a general assignment for the benefit of creditors, admits in writing its inability to pay debts as they mature, institutes proceedings to be adjudicated a voluntary bankruptcy, consents to the filing of bankruptcy proceeding against it, files a petition, or answer or consent seeking reorganization, readjustment, arrangement, composition, or similar relief under the federal bankruptcy laws or other similar applicable law, consents to the filing of any such petition, consents to the appointment of a receiver, liquidator, trustee, or assignee in bankruptcy or insolvency of the Contractor or of a substantial part of its property; or
- 3. A decree or order by a court of competent jurisdiction has been entered which determines that the Contractor is bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, readjustment, arrangement, composition, or similar relief for the Contractor under the federal bankruptcy laws or any other similar applicable law, and such decree or order of a court of competent jurisdiction for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency of the Contractor or of a substantial part of its property, or in the winding up or liquidation of its affairs, is entered, and such decree or order remains in force undischarged or unstayed for a period of sixty (60) days; or any substantial part of the property of the Contractor is sequestered or attached and is not returned to the possession of the Contractor or released from such attachment within sixty (60) days thereafter.

4.17.4 Early Termination of Contract by Contractor

The Contractor may terminate this Contract if DMV fails to remedy a material breach of any provision, or provisions of this Contract within thirty (30) calendar days of receipt by the DMV of written notification of such breach from Contractor (if the alleged breach cannot reasonably be cured within the 30-day cure period, then Contractor may approve a reasonable additional amount of time to cure the alleged breach). The DMV shall be notified in reasonable detail of each breach by certified mail, return receipt requested.

4.18 Miscellaneous

4.18.1 Independent Contractors

Contractor shall perform the Services as an independent contractor, and nothing contained in this Agreement shall be construed to create or imply a joint venture, partnership, principal-agent or FRS Contract #000665 39 2/20/2009

employment relationship between the parties. Neither party shall take any action or permit any action to be taken on its behalf which purports to be done in the name of or on behalf of the other party and shall have no power or authority to bind the other party to assume or create any obligation or responsibility express or implied on the other party's behalf or in its name, nor shall such party represent to any one that it has such power or authority.

4.18.2 Compliance With Laws

Each party must comply with all laws, statutes, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under this Contract and shall pay, at its sole expense, all applicable permits, licenses, tariffs, tolls and fees and give all notices in connection therewith. The laws include, but are not limited to terms of condition of employment, building and fire codes, zoning laws, privacy, and requirements for use by the handicapped and occupational safety and health rules. Where practicable, the State shall provide Contractor with prompt notice of any new or proposed programs, laws, regulations, rules and/or the like that may have an impact on the Program or Products, however Contractor shall at all times be solely responsible for its compliance with applicable laws, statues, ordinances, rules and regulations of any governmental entity in conjunction with the performance of its obligations under this Contract.

4.18.3 Notices

Notices to be given or submitted by either party to other pursuant to this Agreement shall be in writing and directed to the addresses below:

If to <u>DMV</u>:

New York State Department of Motor Vehicles 6 Empire State Plaza Contracts Administration, Room 138

Albany, New York 12228

If to Contractor:

L-1 Identity Solutions Operating Company Secure Credentialing Division 296 Concord Road Billerica, Massachusetts 01821 Attention: Chief Financial Officer

4.18.4 Severability

The parties agree that if any provision of this Contract or the application of this Contract to any person or circumstances shall be adjudged by any New York State Court to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Contract or its application to other persons or circumstances, unless so provided by the Court or unless the severance of the invalid provision alters the basic intent or purpose of this Contract, causes a material increase in either party's financial obligations, or prevents compliance with an applicable statute, regulation, limitation, guideline or policy.

4.18.5 Force Majeure (Events Beyond Control)

The term "force majeure" shall include acts of nature; work stoppages due to labor disputes or strikes; fires; explosions; epidemics; riots; acts of terrorism; utility or power failures or outages
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not isolated to the Contractor's system; war; rebellion; other catastrophic events; or sabotage. Subject to the conditions enumerated in this subsection, if a delay or failure of performance by either party results from the occurrence of a force majeure event, the delay shall be excused and the time fixed for completion of the work extended by a period equivalent to the time lost because of the force majeure event, and the extent that:

- a) The delay or failure are beyond the control of the party affected and not due to its fault or negligence; and
- b) The delay or failure was not extended because of the affected party's failure to use all reasonable diligence to overcome the obstacle or to resume performance immediately after the obstacle was overcome.

The party seeking relief under this subsection shall notify the other party in writing within ten (10) calendar days following the time of commencement of the force majeure event, that it seeks the protection of this subsection. The notice shall describe the nature of the force majeure event for which it is seeking the protection of this subsection. The notice shall describe the nature of the force majeure, its anticipated affect on the performance of the Contract, and the anticipated length of the delay. If appropriate, the notice shall also include a description of the measures taken or to be taken to minimize the delay, and the timetable by which these measures are to be taken. The party seeking relief under this section shall also give written notice of the end of the force majeure event within five (5) calendar days after the event has ended. These notices may be combined if the force majeure event lasts for less than five (5) calendar days.

The party seeking relief under this subsection shall bear the burden of proving that force majeure has occurred.

Neither party shall have any claim to damages against the other resulting from delays caused by force majeure.

Assignment 4.18.6

Subject to Appendix A, "Standard Clauses for all NYS Contracts", neither party shall assign any portion of its rights, duties, or obligations under this Agreement without the prior written consent of the other and any attempt to do so shall be null and void. The agreement may only be assigned pursuant to the requirements of State Finance Law Section 138.

4.18.7 Complete Agreement

This Agreement, including the Exhibits and Appendices attached hereto, is the complete and exclusive statement of the agreement between the parties regarding the subject matter hereof, which supersedes all prior agreements, negotiations or proposals, oral or written, and all other communications between the parties relating to such subject matter.

Modification

The Contract shall be amended only by mutual consent of DMV and the Contractor and with approval from the Attorney General and the Office of the State Comptroller.

No Waiver 4.18.9

The failure of a party to enforce any provision of this Agreement shall not constitute a waiver of such provision or the right of such party to enforce such provision or any other provision.

FRS Contract #000665 2/20/2009 110211 **GULaw Privacy F**

4.18.10 Language

The language of this Agreement is English and the English version shall take precedence over any translation of this Agreement into any other language, even when the parties have signed a copy of such translation.

4.18.11 Survival

Sections 4.2, 4.9.2, 4.10.2, 4.10.3, 4.14.2, 4.14.3, 4.15, 4.16, 4.18.3, and 4.19, of this Agreement shall survive the expiration or earlier termination of this Agreement.

4.18.12 Public Statements

Any news releases, public announcements, advertisements or publicity released by either party concerning this Agreement, shall be subject to the prior written approval of the other party. In the case of DMV, approval must be obtained from DMV's Associate Commissioner, Office of Communications.

4.18.13 Conflict of Interest; Non-solicitation

For the term of the contract, and for one year after contract termination, neither party shall offer employment to any employee of the other party without the express written consent of the other party. DMV will not solicit the Contractor's employees for the term of this contract. In no event shall this provision apply to any public solicitation or employment announcement. The Contractor shall notify DMV in writing immediately if it becomes aware of a relationship that constitutes a conflict of interest concerning the subject matter of this Agreement in accordance with the NYS Public Officer's Law, Chapter 51, Article 4, Section 74 in the Code of Ethics.

WY.

4.18.14 Termination For Cause

For a material breach of this Agreement that remains uncured for more than thirty (30) days after written notice to the Contractor, the Contract may be terminated by the DMV. Such termination shall be upon written notice to the Contractor. In such event, the DMV may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

4.18.15 Requirements Regarding Women and Minority Owned Business Development

The Contractor must comply with the requirements, rules and regulations of Article 15-A of the Executive Law regarding minority and women business participation in state contracts. It is the policy of the State of New York to promote equality of economic opportunity for minority and women-owned business enterprises (M/WBEs) in State contracting. In order to comply with the State's objectives, the contractor shall use "good faith efforts" to provide meaningful participation by M/WBE subcontractors or suppliers in the performance of this contract.

4.18.16 Procurement Lobbying Act Termination Clause

The Department reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Department may exercise its termination right by providing thirty (30) days written notification to the Contractor.

4.19 Disputes

New York DMV

DMV and Contractor agree to first enter into negotiations to resolve any controversy, claim or dispute ("Dispute") arising under or relating to this contract as follows:

- a) The parties' project managers in association with their business staffs shall first attempt resolution.
- b) If the issues are not resolved at the level of project manager, the parties may raise the remaining issues through their respective chains of authority up to top management.

The parties agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within thirty (30) calendar days from when the matter is submitted for resolution. If good faith negotiations are unsuccessful, DMV and Contractor agree to resolve the dispute in a court of competent jurisdiction located within the State of New York.

4.20 Procurement Lobbying Requirement

State Finance Law §§139-j And 139-k New York State Finance Law § 139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, a Contractor must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. State Finance Law §139-j sets forth detailed requirements about the restrictions on contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible contact during the restricted period.

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether a Contractor fails to timely disclose accurate and complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Contractor that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Contractor is necessary to protect public property or public health safety, and that the Contractor is the only source capable of supplying the required Article of Procurement with the necessary timeframe.

The Department's policy and procedures for implementing these sections of the State Finance Law is attached herein as Appendix D, "State of New York Procurement Lobbying Policy and Procedures." The required forms for the Contractor to complete and submit as part of the Contract are attached as Form C and Form D.

4.21 Contractor Certification

Contractor Certification (Forms ST-220-TD & ST-220-CA) Contractors are required to complete and sign, under penalty of perjury, the "Contractor Certification Form", ST-220-TD (Appendix G), in accordance with § 5 – a of the NYS Tax Law, and to file such form with the NYS Department of Taxation and Finance. Contractors must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, any subcontractors and any affiliates of subcontractors required to register to collect state sales and compensating use tax.

Pursuant to Tax Law Section 5-a, Contractors are also required to complete and sign, under penalty of perjury, the "Contractor Certification Form ST-220-CA" (Appendix F) at time of contract execution.

Tax Law Section 5-a applies to all Agreements in excess of \$100,000 for the sale of goods or services as defined in Article XI of the State Finance Law and/or tangible personal property or taxable services as defined by the Tax Law.

The Department of Motor Vehicles is not authorized to address questions regarding the Tax Law or its interpretation. Any questions regarding the Tax Law must be directed to the New York State Department of Taxation and Finance.

- A COMPLETED ST-220-CA MUST ACCOMPANY THE AGREEMENT.
- IF REQUIRED, THE CONTRACTOR IS RESPONSIBLE FOR FILING THE ST-220-TD WITH THE NYS DEPARTMENT OF TAXATION & FINANCE.

4.22 Consultant Disclosure Legislation

Chapter 10 of the Laws of 2006 (Appendix I) requires Contractors to annually report certain employment information every year that the Contract is in effect, on or before May 15 for the previous state fiscal year. The state fiscal year runs from April 1 through the next March 31. It is the Contractor's responsibility to ensure timely filings.

Contractor shall disclose, by employment category, the number of persons employed to provide services under this Contract, the number of hours to be worked, and the amount paid to the Contractor by the State as compensation for work performed by such employees. This disclosure shall include information concerning any person(s) working under any subcontracts of the Contractor.

Contractors must submit Form A, "Contractor's Planned Employment from Contract Start Date through End of Contract Term" at the time of contract execution. Form A must accompany the Contract.

The Contractor agrees to meet this requirement by completing three original copies of the attached Form B, for each of the New York State fiscal years spanned by the term of this Agreement, with a state fiscal year being defined as the period beginning April 1 and ending March 31.

One original copy of the report shall be sent via mail or overnight service to:

NYS Department of Civil Service Alfred E. Smith Office Building Albany, NY 12239

One original copy of the report shall be sent via mail or overnight service to:

NYS Department of Motor Vehicles Contract Administration – Room 138 6 Empire State Plaza Albany, NY 12228

One original copy of the report shall be sent via mail or overnight service to:

NYS Office of the State Comptroller Bureau of Contracts 110 State Street, 11th Floor Albany, NY 12236 Attn: Consultant Reporting

Notwithstanding the foregoing, the NYS Office of the State Comptroller will accept a facsimile report, in lieu of an original, faxed to: (518) 474-8030 or (518) 473-8808.

The first report shall be due to the aforementioned entities on or before May 15, 2009. Thereafter, the State Consultant Services Contractor's Annual Employment Reports will be due no later than May 15th of each succeeding year.

By submitting its bid, Bidder agrees to comply with these filing requirements if awarded a contract. Further the Bidder agrees and acknowledges that it shall be its sole responsibility to comply with these reporting requirements.

CONTRACT NUMBER C000665 23000

Agency Certification

"In addition to the acceptance of This contract, I also certify that original copies of this signature page shall be attached to all other exact copies of this contract."

L-1 IDENTITY SOLUTIONS OPERATING COMPANY

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

Signed Solution Signed Maure Youthing

Dated 2/19/09 Dated 2/25/09

NEW YORK STATE ATTORNEY GENERAL NEW YORK STATE OFFICE OF THE STATE COMPTROLLER

APPROVED AS TO FORM NYS ATTORNEY GENERAL

Signed___

MAR 0.5 2009

Signed

APPROVED DEPT. OF AUDIT & CONTROL

MAR 25 2009

Dated -

LOURNAINE I. REMO ASSOCIATE ATTORNEY

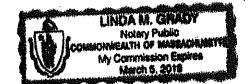
Dated

FOR THE STATE COMPTROLLER

STATE OF MASSACHUSETTS } SS: COUNTY OF MIDDLESEX }

On the day of which, 2009, before me personally came be solved. She works in 296 Concord Rd, 3rd Fl, Billerica, MA 01821; that (s) he is an officer of L-1 Identity Solutions Operating Company, Acting through its Secure Credentialing Division; namely, the Division President of L-1 Identity Solutions Operating Company, Acting through its Secure Credentialing Division. That (s) he did sign the foregoing instrument on behalf of, and with authority to bind said corporation.

Notary Public



Appendix A Standard Clauses For All NYS Contracts

New York DMV 110218 GULaw Privacy F

APPENDIX A: Standard Clauses For All New York State Contracts

Revised June 2006

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The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

- 1. **EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
- 2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.
- 3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).
- 4. <u>WORKERS' COMPENSATION BENEFITS.</u> In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- 5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring

- against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
- 6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
- 7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.
- 8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).
- 9. <u>SET-OFF RIGHTS.</u> The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices, including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
- 10. **RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State

Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. <u>IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION</u>.

- (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.
- (b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.
- 12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the

acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

- (a) the Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and
- (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

- 13. <u>CONFLICTING TERMS.</u> In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
- 14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
- 15. <u>LATE PAYMENT.</u> Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

- 16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
- 17. <u>SERVICE OF PROCESS</u>. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
- 18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law § 165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

- 19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
- 20. <u>OMNIBUS PROCUREMENT ACT OF 1992.</u> It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business 30 South Pearl St -- 7th Floor

Albany, New York 12245 Telephone: 518-292-5220

Fax: 518-292-5884 FRS Contract #000665

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2/20/2009

http://www.empire.state.ny.us

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Division of Minority and Women's Business Development 30 South Pearl St -- 2nd Floor Albany, New York 12245

Telephone: 518-292-5250

Fax: 518-292-5803

http://www.empire.state.ny.us

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and womenowned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
 - (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
 - (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
 - (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.
 - 21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
 - 22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

Appendix B Driver's Privacy Protection Act (DPPA)

110226

MV-15DPPA (5/02)

DRIVER'S PRIVACY PROTECTION ACT

(18 U.S.C. δ2721 et seq.)

PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

SEC. 2721, PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

- a) In General. A State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity:
 - 1) personal information, as defined in 18 U.S.C. §2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or
 - 2) highly restricted personal information, as defined in 18 U.S.C. §2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): Provided, that subsection (a)(2) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.
- b) Permissible Uses. Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alternation, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti-Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. §1231 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), and chapters 301, 305, and 321-331 of title 49 (49 U.S.C. §30101 et seq., §30501 et seq., §32101 et seq. §33101 et seq.), and, subject to subsection (a)(2), may be disclosed as follows:
 - For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any
 private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.
 - 2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicle product alternations, recalls, or advisories: performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.
 - 3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only -
 - A. to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - B. if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
 - 4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and others, or pursuant to an order of a Federal, State, or local court.
 - 5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.
 - 6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.
 - 7) For use in providing notice to the owners of towed or impounded vehicles.
 - 8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.
 - 9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under Chapter 313 of title 49 [49 U.S.C. §31301 et seq.].
 - 10) For use in connection with the operation of private toll transportation facilities.
 - 11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.
 - 12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.
 - 13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

- 14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.
- c) Resale or Redisclosure. Authorized recipient of personal information {except a recipient under subsection (b)(11) or (12)} may resell or redisclose the information only for a use permitted under subsection (b) {but not for uses under subsection (b)(11) or (12)}. An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient {except a recipient under subsection (b)(11)} that resells or rediscloses personal information covered by this chapter [18 U.S.C. §2701 et seq.] must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.
- d) Waiver procedures. A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.
- e) Prohibition on conditions. No State may condition or burden in any way the issuance of an individual's motor vehicle record as defined in 18 U.S.C. §2725(1) to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

Sec. 2722. Additional unlawful acts

- a) Procurement for Unlawful Purpose. It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.
- b) False Representation. It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

Sec. 2723. Penalties

- a) Criminal Fine. A person who knowingly violates this chapter shall be fined under this title.
- b) Violations by State Department of Motor Vehicles. Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.

Sec. 2724, Civil action

- a) Cause of Action. A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.
- b) Remedies. the court may award -
 - 1) actual damages, but not less than liquidated damages in the amount of \$2,500;
 - 2) punitive damages upon proof of willful or reckless disregard of the law;
 - 3) reasonable attorneys' fees and other litigation costs reasonably incurred; and
 - 4) such other preliminary and equitable relief as the court determines to be appropriate.

Sec. 2725. Definitions

In this chapter -

- 1) "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;
- 2) "person" means an individual, organization or entity, but does not include a State or agency thereof; and
- 3) "personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.
- "highly restricted personal information" means an individual's photograph or image, social security number, medical or disability information; and
- 5) "express consent" means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106-229 [15 U.S.C. §7006(5)].

Appendix C Memorandum of Understanding – DPPA

New York DMV 110229 GULaw Privacy FF

	lemorandum	of Understanding ("M	MOU") is made and entered into this day of						
(mo	onth)	(year)	(1st, 2nd, 3rd)						
y and	between								
			(Name of Organization)						
erein	referred to as	the "Contractor", loca	cated at						
			(Address of Organization)						
ting l	herein by		thorized to execute contracts), its duly						
		(Person auti	thorized to execute contracts)						
thori	zed	(T'(L)	and the New York State Department of Motor Vehicles,						
		(Title)							
presei ents,	nt itself as au partners, ow	agent or employee on ners and employees of							
			by the Department to the contractor hereby mutually agree as follows:						
1)	The contra	ector represents and womply fully with terms	warrants that it has read the Driver's Privacy Protection Act (18 U.S.C. Sec. 2721 et seques of such Act regarding access and use of motor vehicle records.						
2)	that is sp document.	ecifically authorized → (Append	nall only request and use information provided by the Department pursuant to the MO by the Driver's Privacy Protection Act, as indicated in APPENDIX "1" of the ndix "1" must be completed.) The Contractor shall notify the Department in writing ded use of information to be provided by the Department.						
3)	Information Departme The contract have a time, place	on from the Depart nt shall have the rig actor agrees to make an office location in e and location design	p, (for a period of 5 years), records identifying each person or entity that receive them and the permitted purpose for which the information will be used. The ight to audit and examine such records upon reasonable notice to the contractor does not necessary to the contractor does not necessary the contractor does not necessary to the performant at the contractor of the Department. The Contractor shall notify the Department in writing the physical address where the Contractor's records will be maintained.						
4)	The parties furnished t	s hereto mutually agre the Contractor by th	ree that the State shall not be responsible for any omissions or errors in the information he State.						
5)	The Contractor agrees to defend, hold harmless and indemnify the Department and its employees or agents from any and all claims, actions, damages, or losses which may be brought or alleged against its employees or agents for the negligent, improper, or unauthorized use or dissemination by the Contractor of information provided by the Department to the Contractor.								
6)	The Commissioner of the Department shall, in his/her discretion, terminate this agreement at any time if he/she finds that the Contractor has made a material false statement, or concealed a material fact, in connection with this agreement, or has violated any of its terms.								
	and all suc	h duplicates shall con:	several duplicate copies each of which so executed shall be deemed to be an original institute but one MOU binding on all parties hereto, notwithstanding that all parties are to the same duplicate copy.						
7)	not organico								
7)		shall govern the Contr	stractor's use of DMV accounts listed in Appendix "B" on page 2 of this document						
			atractor's use of DMV accounts listed in Appendix "B" on page 2 of this document. DMV USE ONLY						
8)	This MOU	Contractor (Name							

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New York DMV

Appendix "1"

Contractor's Use(s) For Motor Vehicles Records

Contractor will limit its use to the items initialed below.

• Use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-331 of title 49. (49 U.S.C. 30101 et seq., 30501 et seq., 32101 et seq., 33101 et seq.)

Use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions. [18 U.S.C. Sec. 2721 (b)(1)]

Use in connection with matters of:

- motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alternations, recalls, or advisories;
- performance monitoring of motor vehicles, motor vehicle parts and dealers;
- motor vehicle market research activities, including survey research; and
- removal of non-owner records from the original owner records of motor vehicle manufacturers. [18 U.S.C. Sec. 2721 (b)(2)]

Use in the normal course of business by a legitimate business or its agents, employees, or contractors in the normal course of business **ONLY**:

- to verify the accuracy of personal information submitted by the individual to the business; AND
- if such information as so submitted is not correct or is no longer correct, to obtain the correct information, BUT ONLY for the purposes of preventing fraud by, pursuing legal remedies or recovering on a debt or security interest against the individual. [18 U.S.C. Sec. 2721 (b)(3)]

Use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulating body, including:

- the service of process; investigation in anticipation of litigation; the execution or enforcement of judgments and orders; OR
- pursuant to an order of a Federal, State or local court. [18 U.S.C. Sec. 2721 (b)(4)]

Use in research activities; and in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals. [18 U.S.C. Sec. 2721 (b)(5)]

Use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors in connection with: claims investigation activities; antifraud activities; rating; or underwriting. [18 U.S.C. Sec. 2721 (b)(6)]

Use in providing notice to the owners of towed or impounded vehicles. [18 U.S.S. Sec. 2721 (b)(7)]

Use by a licensed private investigative agency or licensed security service for any purpose permitted under the Driver's privacy Protection Act. [18 U.S.C. Sec. 2721 (b)(8)]

Use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under Chapter 313 of Title 49.

Use in connection with the operation of private toll transportation facilities. [18 U.S.C. Sec. 2721 (b)(10)]

Use by any requester if the requester demonstrates that it has obtained written consent of the individual to whom the information pertains. [18 U.S.C. Sec. 2721 (b))13)]

Use specifically authorized under NYS law if such use is related to the operation of a motor vehicle or public safety. [18 U.S.C. Sec. 2721 (b)(14)]

Vehicle and Traffic law Sec. 509(a) et seq. (Article 19A - Special Requirements for Bus Drivers)

Vehicle and Traffic Law Sec. 509(p) et seq. (Article 19B - Special Requirements for Commercial Motor Carriers) Other - Cite the law here:

ACKNOWLEDGMENTS TO BE COMPLETED BY CONTRACTOR'S NOTARY

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Appendix D NYS Procurement Lobbying Policy and Procedures

March 2006

FORM – **A** - Summary of Policy and Procedure of the Department of Motor Vehicles Relating to State Finance Law §§139-j and 139-k

Pursuant to State Finance Law §§139-j and 139-k, the Department of Motor Vehicles (hereinafter "DMV") imposes certain restrictions on communications between DMV and all potential bidders during the procurement process. A bidder is restricted from making contacts from the earliest notice of intent to solicit bids through final award and approval of the Procurement Contract by DMV and the Office of the State Comptroller ("restricted period")² to other than designated staff³ unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a).

Designated staff are identified in each bid solicitation.⁴ DMV staff also obtain certain information from bidders⁵ when contacted during the restricted period and make a determination of the responsibility⁶ of the bidder pursuant to these two statutes. Certain findings of non-responsibility⁷ may result in not awarding a contract to a bidder⁸ and in the event of two findings within a four-year period; the bidder shall be debarred⁹ from obtaining any New York State Procurement Contracts. DMV shall provide complete information about these requirements in every procurement package it issues.¹⁰

Generally, the law restricts communications between a potential vendor or a person acting on behalf of the vendor, including its lobbyist, to communications with the officers and employees of the procuring agency designated in each solicitation to receive such communications. Further, the law prohibits a communication (a "Contact") which a reasonable person would infer as an attempt to **improperly influence** the award, denial or amendment of a contract. These restrictions apply to each contract in excess of \$15,000 during the "restricted period" (the time commencing with the earliest written notice of the proposed procurement and ending with the later of approval by the agency, or, if applicable, the State Comptroller, of the final contract). The agency must record all Contacts 14, and,

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1 139-j (3)

2 139-j (1)(f)

3 139-j (2)(a)

4 Id.

5 139-j (6)(b); 139-k (2), (4)

6 139-j (7)

7 Id.

8 139-j (10)(b); 139-k (3)

9 Id.

10 139-j (6)(a)

11 139-j (6)(a)

12 139-j (1), (2), (3)(a)

13 Id.

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generally, must deny an award of contract to a vendor involved in a knowing and willful impermissible Contact. Each agency must develop guidelines and procedures regarding Contacts and procedures for the reporting and investigation of impermissible Contacts. The agency's procurement record must demonstrate compliance with these requirements.

Accordingly, neither a potential vendor nor a person acting on behalf of the vendor should contact any employee of DMV other than the person designated in this solicitation as DMV's Designated Contact, nor attempt to improperly influence award of the contract. ¹⁸ DMV will make a record of all Contacts ¹⁹, and such records of Contact will become part of the procurement record. ²⁰ A determination that a vendor or a person acting on behalf of the vendor has intentionally made an impermissible Contact or provided inaccurate or incomplete information as to its past compliance with State Finance Law §§139-j and 139-k is likely to result in denial of the award of contract to such vendor. ²¹ Additional sanctions may apply.

GULaw Privacy

¹⁴ 139-k (4)

¹⁵ 139-j (10(b)

¹⁶139-j (2)(b), (6)(a), (8), (9), (10)(a) & (b)

¹⁷ 139-j (10)(b); 139-k (4), (5)

¹⁸ 139-j (1), (3); 139-k (1) ¹⁹ 139-j (1)(b); 139-k (4)

²⁰ Id.

²¹ 139-j (10)(b); 139-k (3)

²² 139-j (10(b); 139-k (4) FRS Contract #000665

FORM B Policy and Procedure of the Department of Motor Vehicles Relating to

State Finance Law §§139-j and 139-k

I. Policy:23

It is the policy of DMV to comply with the provisions of State Finance Law §§139-j and 139-k and related guidance offered by the Advisory Council on Procurement Lobbying and the Office of the State Comptroller.²⁴

II. Procedure: 25

The procedure set forth hereafter applies to Governmental Procurements by DMV.

III. Definitions:

Capitalized terms used but not defined herein shall have the meaning ascribed to them in State Finance Law §§139-j and 139-k (copies attached). In addition, the following terms have the following meanings:

"Contact" means an oral, written or electronic communication made with respect to the related Governmental Procurement by the bidder, or person acting on behalf of the bidder, during the Restricted Period to an employee of DMV or of a Governmental Agency other than the DMV, who reasonably infers that the bidder intended to influence the related Governmental Procurement in any manner, including a manner which violates Public Officers Law §73(5) [offer of a gift of \$75 or more] or §74 [code of ethics for public officers and employees].

The term "Contact" does not include (a) a communication described in State Finance Law §139-j(3)(a)(1)submission of written proposal²⁶, (2) submission of written questions²⁷, (3) participation in bidders conference²⁸, (4) complaints²⁹, (5) contract negotiations subsequent to notice of tentative award³⁰, (6) review of contract award³¹, and (7)(a) protests, appeals or other review proceedings³²; (b) a communication described in Legislative Law §1-t(e) by a bidder or subcontractor to a bidder qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement, who provides information to a Designated Contact to assist the Designated Contact in understanding and assessing the

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<sup>23</sup>139-j (2)

<sup>24</sup> 139-j (5)

<sup>25</sup> 139-j (1); 139-k (1)

<sup>26</sup> 139-j (3)(a)(1)

<sup>27</sup> 139-j (3)(a)(2)

<sup>28</sup> 139-j (3)(a)(3)

<sup>29</sup> 139-j (3)(a)(4)

<sup>30</sup> 139-j (3)(a)(5)

<sup>31</sup> 139-j (3)(a)(6)

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qualities, characteristics or anticipated performance of such article of procurement and who does not recommend or advocate contract provisions³³; or (c) a communication by which the bidder seeks generally available information, including clarification and interpretation, with respect to the solicitation documents or the Governmental Procurement process, including the status or timing of steps in the process³⁴.

"Designated Contact" means one or more employees of DMV identified in the solicitation for the related Governmental Procurement, or thereafter designated by the DMV's Contract Manager³⁵.

IV. Solicitations:

Each written solicitation by DMV for a Procurement Contract shall contain the following³⁶:

- (1) The name of each Designated Contact, and a statement substantially in the following form: "Prior to approval by DMV, or, if applicable, the State Comptroller, of the contract for which this solicitation has been issued, a bidder shall not communicate with DMV other than with the person identified in this solicitation as Designated Contact, or with a person who the Designated Contact has advised the bidder is also a Designated Contact."
- (2) A summary of the policy and prohibitions regarding Contacts, in the form attached as **Form "A"**, and a copy of this statement of policy and procedure, in the form attached as **Form "B"**³⁸;
- (3) The requirement that each bidder shall submit with its Proposal a written affirmation of its understanding of DMV's procurement lobbying procedures and agreement to comply with such procedures, in the form attached as Form "C"³⁹; and
- (4) The requirement that each bidder shall submit with its Proposal, in the form attached as **Form "D"**, written disclosure whether the bidder has been determined to be "non-responsible" within the previous four years by reason of having violated State Finance Law §139-j ⁴⁰or having intentionally provided false or incomplete information⁴¹ to a Governmental Entity with respect to its compliance with State Finance Law §139-j; and certification and that the bidder has provided accurate and

³² 139-j (3)(a)(7)

³³ 139-j (1), (3); 139-k (1)

³⁴ 139-j (3)

³⁵ 139-j (1), (2); 139-k (1)

³⁶ 139-j (2); 139-k (2)

³⁷ 139-j (6)

³⁸ Id.

³⁹ 139-j (6)(b); 139-k (2)

⁴⁰ 139-k (2)

⁴¹ Id.

complete information with respect to the bidder's compliance with State Finance Law §§139-j and 139-k within the previous four years⁴².

V. Contracts:

Each Procurement Contract shall contain the following statement in substantially the following form: "DMV reserves the right to terminate this contract in the event it is determined that the certification filed by the Contractor in accordance with State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete⁴³. Upon such determination, DMV may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the contract."

VI. Records of Contacts: 45

Each DMV employee shall make a record of each Contact which such person receives or, in the case of a Contact made to another Governmental Entity, of which such person becomes aware, promptly upon the receipt of such Contact. Such record shall be made in the form attached as Form "E". With respect to multiple Contacts by the same person within five business days, only one record of Contact need be made and forwarded. The recipient shall forward such record of Contact to the Contract Manager or employee authorized for such purpose. All records of Contact shall be made part of the procurement record⁴⁶. If a bidder makes an impermissible contact to a DMV employee, such employee shall record such contact and immediately forward it to the Contracts Manager. The Contracts Manager shall promptly forward the record of such contact to the Office of the Deputy Commissioner and Counsel for review, as provided for in section VII.

VII. Review and Investigation:⁴⁷

Upon receipt of a record of an impermissible Contact, the Deputy Commissioner and Counsel or her or his designee ("Reviewer") shall, within 15 days of receipt of such information, review and investigate⁴⁸. The Reviewer shall notify the bidder that an investigation is ongoing, give notice of the allegations of misconduct, and give the bidder an opportunity to respond in writing within 10 days of receipt of notification of the alleged violation⁴⁹. The bidder shall not be entitled to representation by counsel. The Reviewer shall determine whether the bidder has made an impermissible Contact willfully and knowingly. The Reviewer shall advise the bidder and the Contracts Manager, or employee authorized for such purpose, of the final determination⁵⁰. In the event the Reviewer determines that the bidder has made an impermissible Contact with a Governmental Entity other than

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42 Id.
43 139-j (10(b); 139-k (5)
44 Id.
45 139-j (8), (10)(b); 139-k (4)
46 Id.
47 139-j (9)
48 Id.
49 139-j (10)(a)
FRS Contract #000665
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GULaw Privacy

DMV, the Reviewer shall so notify the ethics officer⁵¹, inspector general or other appropriate official of such other Governmental Entity⁵². In the event the Reviewer determines that as the result of an impermissible Contact an employee of DMV has violated the provisions of Public Officers Law §73(5) [prohibition of acceptance of a gift of \$75 or more] or §74 [code of ethics], the Reviewer shall so advise the Commissioner of Motor Vehicles, the State Ethics Commission and the Office of the Inspector General⁵³.

VIII. Determinations of Non-Responsibility:54

The Reviewer, or employee authorized for such purpose, shall determine whether a bidder has been non-responsible either because (1) the bidder has made an impermissible Contact willfully and knowingly⁵⁵, or (2) the bidder has failed intentionally to make accurate and complete disclosure of prior findings of non-responsibility with respect to Governmental Procurements made within the previous four years⁵⁶. Upon making a determination of non-responsibility, the Contracts Manager, or employee authorized for such purpose, shall so notify the bidder and the Commissioner of Motor Vehicles⁵⁷. A finding of non-responsibility under this section shall result in DMV not awarding the contract to such bidder unless DMV determines that the award of the contract is necessary to protect public property or public health or safety, and that the bidder is the only source capable of supplying the required article of procurement within the necessary timeframe provided.

⁵⁰ 139-j (10)(a)

⁵¹ 139-j (8)(a), (c)

⁵² 139-j (8)(c), (10(b)

⁵³ Legislative Law: POL §73(5); §74 (Code of Ethics)

⁵⁴139-j (7)

⁵⁵ 139-j (10)(b)

⁵⁶ 139-j (10)(b); 139-k (5)

⁵⁷ 139-j (10)(a)

FRS Contract #000665

FORM - C AFFIRMATION 58 With respect to State Finance Law §§139-j and 139-k Procurement Description/ID No.: Name of Bidder: Address: Person Submitting Form: Name: Title: Bidder AFFIRMS that it has received, reviewed and understands the Policy and Procedure of the Department of Motor Vehicles (DMV), relating to State Finance Law §§139-j and 139-k, and agrees to comply with DMV's procedure relating to Contacts with respect to this procurement. In Witness Whereof. Dated: ______, 20__ , Bidder Title:

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FRS Contract #000665

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FORM – D - DISCLOSURE and CERTIFICATION ⁵⁹ With respect to State Finance Law §§139-j and 139-k	
Procurement Description/ID No.: Name of Bidder: Address: Person Submitting Form: Name: Title:	
Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination non-responsibility with respect to the Bidder within the previous four years where such fin was due to a violation of State Finance Law §139-j or the intentional provision of falsincomplete information with respect to previous determinations of non-responsibility?	nding
No Yes	
If yes, provide the following details: Governmental Entity which made the finding: Date of finding: Basis of finding:	
Has a Governmental Entity terminated or withheld a procurement contract with the Bibecause of violations of State Finance Law §139-j or the intentional provision of fals incomplete information with respect to previous determinations of non-responsibility?	ldder e or
No Yes	
If yes, identify the Governmental Entity, the date of termination or withholding, and reprocurement contract:	lated
Bidder CERTIFIES that all information provided by Bidder with respect to its compliance State Finance Law §§139-j and 139-k is complete, true and accurate.	with
In Witness Whereof. Dated:, 20	
x, Bidder Title:	
⁵⁸ 139-j (6)(b); 139-k (5) ⁵⁹ 139-k (2) FRS Contract #000665 70 2/20	/2009

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New York DMV

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State Finance Law §§ 139-j & 139-k State Finance Law §139-j

- § 139-j. Restrictions on contacts during the procurement process
- 1. For the purposes of this section, the following terms will have the following meanings unless specified otherwise.
- a. "Governmental entity" shall mean: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (7) a subsidiary or affiliate of such a public authority.
- b. "Article of procurement" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.
- c. "Contacts" shall mean any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.
- d. "Proposal" shall mean any bid, quotation, offer or response to a governmental entity's solicitation of submissions relating to a procurement.
- e. "Governmental procurement" shall mean: (i) the preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.
- f. "Restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a governmental entity and ending with the final contract award and approval by the governmental entity and, where applicable, the state comptroller.
- g. "Procurement contract" shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, program contracts between not-for-profit organizations, as defined in article eleven-B of this chapter, and the unified court system, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement

contracts.

- h. "Offerer" shall mean the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.
- i. "Revenue contract" shall mean any written agreement between a governmental entity, as that term is defined in subparagraphs one, four, five, six or seven of paragraph a of this subdivision, and an offerer whereby the governmental entity gives or grants a concession or a franchise.
- j. "Unified court system" shall, for the purposes of this section only, mean the unified court system of the state of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under fifty thousand, when it acts solely in an administrative capacity to engage in governmental procurements and shall not include the unified court system or any court of the state judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.
- 2. Every governmental entity that undertakes a governmental procurement shall:
- a. designate, with regard to each governmental procurement, a person or persons who may be contacted by offerers relative to the governmental procurement;
- b. make any determinations on any governmental procurement: (1) in a manner consistent with the principles provided for under subdivision two of section one hundred sixty-three of this chapter, or, if the governmental entity is a public benefit corporation, as that term is defined in section sixty-six of the general construction law, and the majority of the members consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, the procurement guidelines adopted pursuant to section twenty-eight hundred seventy-nine of the public authorities law, and (2) free from any conduct that would be prohibited by subdivision five of section seventy-three or section seventy-four of the public officers law, or of other applicable ethics code provisions that are equivalent to subdivision five of section seventy-three or section seventy-four of the public officers law where the public officials that are involved in the governmental procurement are not subject to subdivision five of section seventy-three or section seventy-four of the public officers law;
- 3. Each offerer that contacts a governmental entity about a governmental procurement shall only make permissible contacts with respect to the governmental procurement, which shall mean that the offerer:
- a. shall contact only the persons [person] [n1] or persons who may be contacted by offerers as designated by the governmental entity pursuant to paragraph a of subdivision two of this section relative to the governmental procurement, except that the following contacts are exempted from the provisions of this paragraph:
- (1) the submission of written proposals in response to a request for proposals, invitation for bids or any other method for soliciting a response from offerers intending to result in a procurement contract;
- (2) the submission of written questions to a designated contact set forth in a request for proposals, or invitation for bids, or any other method for soliciting a response from offerers

intending to result in a procurement contract, when all written questions and responses are to be disseminated to all offerers who have expressed an interest in the request for proposals, or invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;

- (3) participation in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;
- (4) complaints by an offerer regarding the failure of the person or persons designated by the procuring governmental entity pursuant to this section to respond in a timely manner to authorized offerer contacts made in writing to the office of general counsel of the procuring governmental entity, provided that any such written complaints shall become a part of the procurement record;
- (5) offerers who have been tentatively awarded a contract and are engaged in communications with a governmental entity solely for the purpose of negotiating the terms of the procurement contract after being notified of tentative award;
- (6) contacts between designated governmental entity staff of the procuring governmental entity and an offerer to request the review of a procurement contract award;
- (7) (a) contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or
- (b) complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or
- (c) written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or
- (d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office;

provided, however, that nothing in this subdivision shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process.

- b. shall not attempt to influence the governmental procurement in a manner that would result in a violation or an attempted violation of subdivision five of section seventy-three or section seventy-four of the public officers law, or of other applicable ethics code provisions that are equivalent to subdivision five of section seventy-three or section seventy-four of the public officers law where the public officials that are involved in the governmental procurement are not subject to subdivision five of section seventy-three or section seventy-four of the public officers law;
- 4. Violations of paragraph a of subdivision three of this section shall include any contacts during the restricted period of a governmental procurement between the offerer and any member, officer or employee of any governmental entity other than the entity conducting the governmental procurement; provided, however, that nothing in this section shall be deemed to prohibit an offerer from communicating with a member of the state legislature or legislative staff about a

governmental procurement being conducted by a governmental entity other than the state legislature, or a member of the state legislature or legislative staff contacting a governmental entity about a governmental procurement being conducted by a governmental entity other than the state legislature, provided that the member of the state legislature or legislative staff is acting in their official capacity.

- 5. Governmental entity staff may consult the model guidelines that may be established by the advisory council on procurement lobbying pursuant to section one-t of the legislative law in implementing this section.
- 6. a. Every governmental entity shall incorporate a summary of the policy and prohibitions regarding permissible contacts during a governmental procurement pursuant to subdivision three of this section, and copies of rules and regulations and applicable governmental entity guidelines and procedures regarding permissible contacts during a governmental procurement pursuant to subdivision three of this section into their solicitation of proposals or bid documents or specifications for all procurement contracts.
- b. Every governmental entity shall seek written affirmations from all offerers as to the offerer's understanding of and agreement to comply with the governmental entity's procedures relating to permissible contacts during a governmental procurement pursuant to subdivision three of this section.
- 7. Notwithstanding any law to the contrary, prior to conducting an award of a procurement contract, a governmental entity conducting a governmental procurement shall make a final determination of responsibility of the proposed awardee in accordance with paragraph f of subdivision nine of section one hundred sixty-three of this chapter, or, if the governmental entity is a public benefit corporation, as that term is defined in section sixty-six of the general construction law, and the majority of the members consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, according to the procurement guidelines adopted pursuant to subparagraph (iii) of paragraph (b) of subdivision three of section twenty-eight hundred seventy-nine of the public authorities law; provided, however, that nothing in this subdivision shall be construed as abrogating or diminishing any existing rights, duties or responsibilities of any governmental entity as it pertains to determinations of responsibility.
- 8. Any member, officer or employee of a governmental entity who becomes aware that an offerer has violated the provisions of subdivision three of this section with regard to permissible contacts during any governmental procurement shall immediately notify the ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters. If an offerer violates the provisions of subdivision three of this section with regard to permissible contacts at a governmental entity other than the governmental entity conducting the governmental procurement, the member, officer or employee who becomes aware of the violation shall notify the ethics officer, inspector general, if any, or other official of the governmental entity responsible for reviewing or investigating such matters where that member, officer or employee works, who shall in turn notify the ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters at the procuring governmental entity.
- 9. Every governmental entity shall establish a process for review by its ethics officer, inspector

general, if any, or other official responsible for reviewing or investigating any allegations of violations of the provisions of subdivision three of this section with regard to permissible contacts on governmental procurements, and for the imposition of sanctions if such violations have been found to exist.

- 10. a. Upon notification of any allegation of a violation of the provisions of subdivision three of this section with regard to permissible contacts on governmental procurements, the governmental entity's ethics officer, inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters shall immediately investigate such allegation and, if sufficient cause exists to believe that such allegation is true, shall give the offerer reasonable notice that an investigation is ongoing and an opportunity to be heard in response to the allegation.
- b. A finding that an offerer has knowingly and willfully violated the provisions of subdivision three of this section shall result in a determination of non-responsibility for such offerer, and such offerer and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this paragraph "offerer"), shall not be awarded the procurement contract, unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe. provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding. Any subsequent determination of non-responsibility due to violation of this section within four years of a determination of non-responsibility due to a violation of this section shall result in the offerer being rendered ineligible to submit a proposal on or be awarded any procurement contract for a period of four years from the date of the second final determination. Every governmental entity shall ensure that its solicitations of proposals for procurement contracts require offerers to disclose findings of non-responsibility due to violations of the provisions of subdivision three of this section within the previous four years by any governmental entity. The failure of offerers to timely disclose accurate and complete information or otherwise cooperate with the governmental entity in administering this provision shall be considered by the governmental entity in its determination of responsibility; provided, further, that the governmental entity shall not award a contract to an offerer who fails to timely disclose accurate and complete information or otherwise cooperate with the governmental entity in administering this provision unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding. Upon a determination of non-responsibility or debarment due to a violation of this section, the governmental entity shall notify the office of general services, which shall keep a list of all offerers who have been determined to be non-responsible bidders or debarred due to violations of this section; the office of general services shall make publicly available such list and shall publish such list on its web site.
- c. If a violation of the provisions of subdivision three of this section is found to have knowingly and willfully occurred, then the ethics officer or inspector general, if any, or other official of the procuring governmental entity responsible for reviewing or investigating such matters shall report instances of employee violation of the guidelines and procedures regarding

implementation of subdivision two of this section to the governmental entity's head.

- 11. Nothing in this section shall be deemed to prevent:
- (a) contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or
- (b) complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or
- (c) written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or
- (d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office;

provided, however, that nothing in this subdivision shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process.

- § 139-k. Disclosure of contacts and responsibility of offerers
- 1. For purposes of this section, the following terms will have the following meanings unless specified otherwise.
- a. "Governmental entity" shall mean: (1) any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary; (2) each house of the state legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) a public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the legislative law; or (7) a subsidiary or affiliate of such a public authority.
- b. "Article of procurement" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.
- c. "Contacts" shall mean any oral, written or electronic communication with a governmental entity under circumstances where a reasonable person would infer that the communication was intended to influence the governmental procurement.
- d. "Proposal" shall mean any bid, quotation, offer or response to a governmental entity's

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solicitation of submissions relating to a procurement.

- e. "Governmental procurement" shall mean: (i) the preparation or terms of the specifications, bid documents, request for proposals, or evaluation criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.
- f. "Restricted period" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a governmental entity with the final contract award and approval by the governmental entity and, where applicable, the state comptroller.
- g. "Procurement contract" shall mean any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article eleven-B state finance law contracts, program contracts between not-for-profit organizations, as defined in article eleven-B of this chapter, and the unified court system, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders and eminent domain transactions shall not be deemed procurement contracts.
- h. "Offerer" shall mean the individual or entity, or any employee, agent or consultant or person acting on behalf of such individual or entity, that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.
- i. "Revenue contract" shall mean any written agreement between a governmental entity, as that term is defined in subparagraphs one, four, five, six or seven of paragraph a of this subdivision, and an offerer whereby the governmental entity gives or grants a concession or a franchise.
- j. "Unified court system" shall, for the purposes of this section only, mean the unified court system of the state of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under fifty thousand, when it acts solely in an administrative capacity to engage in governmental procurements and shall not include the unified court system or any court of the state judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.
- 2. Each governmental entity shall ensure that solicitation of proposals or bid documents or specifications, or contract documents, as applicable, for procurement contracts shall require offerers to disclose findings of non-responsibility made within the previous four years by any governmental entity where such prior finding of non-responsibility was due to: (a) a violation of section one hundred thirty-nine-j of this article, or (b) the intentional provision of false or incomplete information to a governmental entity.
- 3. The failure of an offerer to timely disclose accurate or complete information to a governmental

entity pursuant to subdivision two of this section shall be considered by such governmental entity in its determination of the responsibility of such offerer. No procurement contract shall be awarded to any such offerer, its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this subdivision, "offerer"), unless the governmental entity finds that the award of the procurement contract to the offerer is necessary to protect public property or public health or safety, and that the offerer is the only source capable of supplying the required article of procurement within the necessary timeframe, provided, that the governmental entity shall include in the procurement record a statement describing the basis for such a finding.

- 4. Upon any contact in the restricted period, the governmental entity shall obtain the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact and inquire and record whether the person or organization making such contact was the offerer or was retained, employed or designated by or on behalf of the offerer to appear before or contact the governmental entity about the governmental procurement. All recorded contacts shall be included in the procurement record for the procurement contract.
- 5. Any procurement contract award subject to the provisions of this section and section one hundred thirty-nine-j of this article shall contain a certification by the offerer that all information provided to the procuring governmental entity with respect to this section is complete, true and accurate, and each such procurement contract shall contain a provision authorizing the governmental entity to terminate such contract in the event such certification is found [to] [n1] be intentionally false or intentionally incomplete. The governmental entity shall include in the procurement record a statement describing the basis for any action taken pursuant to such termination provision.
- 6. Any communications received by a governmental entity from members of the state legislature, or legislative staffs, when acting in their official capacity, shall not be considered to be a "contact" within the meaning of this section and shall not be recorded by a governmental entity pursuant to this section.

App	endix E	Compliance	or Non-ap	plicability	to § 5-A o	f the NY	S Tax	(Law
	affiliates)	he bidding entity, make sales deli property or taxabl	vered by an	y means to l	ocations wit	hin the sta		tangible
-OR-				·				
	affiliates	ing entity and an hold, to the best the NYS Departn	of the bidd	ler's knowled	dge, a valid	tors and s Certificate	ubcont of A	ractors' uthority
-AND	-							
	affiliates,	ractor shall providits subcontractor, act with the Depar	s' and its su	bcontractors'	affiliates pe	erforming s	service	s under
COM	PANY NAM	ME	_					
AUTH	ORIZED S	SIGNATURE						
On the		day of		, 2008, before	e me persona known, w		duly	sworn,
depose	d and said	that (s)he reside	es in					
(s)he is	s an officer	of					_;	
namely	, the			of				That
(s)he d	id sign the	foregoing instrum	ent on behal	lf of, and witl	n authority to	bind said	corpor	ration.

Appendix F

ST-220- CA



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

ST-220-CA

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

(6/06)

For information, consult Publication	on 223, Question	ns and Answer	s Concerning Tax La	nw Section 5-a (s	ee Need Help? on back),
Contractor name					For covered agency use only
					Contract number or description
Contractor's principal place of business		City	State	ZIP code	
Contractor's mailing address (# different th	an above)				Estimated contract value over the full term of contract (but not including renewals)
Contractor's federal employer identification	` ,		s tax ID number (nameæ	ni liom contractor's EIN)	- Including renewals) 8
Contractor's telephone number	Covered agency	name			
Covered agency address					Covered agency telephone number
that: (Mark an X in only one box) The contractor has filed Form ST contractor's knowledge, the inform	mation provided o	on the Form ST-	220-TD, is correct an	d complete.	
☐ The contractor has previously file	d Form ST-220-1	TD with the Tax	Department in conne	ction with	ort contract number or decoriation)
and, to the best of the contractor' as of the current date, and thus th	s knowledge, the	information pro	vided on that previou	isly filed Form ST-	220-TD, is correct and complete
Sworn to thisday of	, 20				
Girch d.	4 P - 1				
(sign before a note	агу ривпе)			(titl	e)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, Contractor Certification to Covered Agency, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See Need help? for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- The procuring entity is a covered agency within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a contractor within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a contract within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for commodities or services, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

FRS Contract #000665

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Page 2 of 2 ST-220-CA (6/06)

Individual, Corporation, Partnership, or LLC Acknowledgment
STATE OF }
COUNTY OF }
On the day of in the year 20, before me personally appeared
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say thathe resides at,
Town of
County of,
State of; and further that:
[Mark an $m{X}$ in the appropriate box and complete the accompanying statement.]
[(If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the
of, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and of behalf of said corporation as the act and deed of said corporation.
☐ (If a partnership): _he is a
of, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act-and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.
Notary Public
Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(e)(2)(C)(f).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to divit or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, MYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (516) 485-6800.

Need help?

Internet access: www.nystax.gov (for information, forms, and publications)

Fax-on-demand forms:

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time),

Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100

From areas outside the U.S. and outside Canada: Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only):

1 809 634-2110

(518) 485-6800

1 800 748-3676

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that

Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

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Appendix G

ST-220-TD



New York State Department of Taxation and Finance

ST-220-TD Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended. effective April 26, 2006)

For information, consult Pul	olication 223, Questic	ons and Answers Concerning	g Tax Law Section 5-a (se	ee Need help? below).
Contractor name				
Contractor's principal place of bu	siness	City	State	ZIP code
Contractor's mailing address (if di	fferent than above)			
Contractor's federal employer ide	ntification number (EIN)	Contractor's sales tax ID number	rl (il dilferent from contractor's EIN)	Contractor's telephone number
Covered agency name	Contract numb	er or description	Estimate the full to	() ed contract value over erm of contract including renewals) S
Covered agency address		-		including renewals) 8 agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006), available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYS TAX DEPARTMENT DATA ENTRY SECTION W A HARRIMAN CAMPUS **ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?



Internet access: www.nystax.gov (for information, forms, and publications)



Fax-on-demand forms:

1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications:

1 800 462-8100

Sales Tax Information Center:

1 800 698-2909

From areas outside the U.S. and outside Canada;

(518) 485-6800

Hearing and speech impaired (telecommunications

device for the deaf (TDD) callers only):

1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies. offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Pa	ge 2 of 4 ST-220-TD (6/06)
ı	
Ι, .	, hereby affirm, under penalty of perjury, that I am(title)
of	he above-named contractor, and that I am authorized to make this certification on behalf of such contractor.
Ma	ke only one entry in each section below.
Se	ction 1 — Contractor registration status
	The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating us taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule this certification.
	The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.
Se	ction 2 — Affiliate registration status
	The contractor does not have any affiliates.
	To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affilial exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
	To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered b any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess o \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.
Se	tion 3 — Subcontractor registration status
	The contractor does not have any subcontractors.
	To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of the certification.
	To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made
Swo	rn to thisday of, 20
	(sign before a notary public) (lifle)

FRS Contract #000665

2/20/2009

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New York DMV

Schedule A — Listing of each person (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such person exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Stylenstyle October Steelber	B Name	C Address	D Federal ID Number	E Sales Tax ID Number	F Registration in progress
			:		
					;

- Column A Enter C in column A if the contractor; A if an affiliate of the contractor; or S if a subcontractor.
- Column B Name If person is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If person is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If person has a different DBA (doing business as) name, enter that name as well.
- Column C Address Enter the street address of person's principal place of business. Do not enter a PO box.
- Column D ID number Enter the federal employer identification number (EIN) assigned to the person or person's business, as applicable, if the person is an individual, enter the social security number of that person.
- Column E Sales tax ID number Enter only if different from federal EIN in column D.
- Column F If applicable, enter an X if the person has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

Individual, Corporation, Partnership, or LLC Acknowledgment
STATE OF }
COUNTY OF }
On theday of in the year 20, before me personally appeared,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
Town of,
County of
State of; and further that:
[Mark an $m{X}$ in the appropriate box and complete the accompanying statement.]
(If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the
of, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a
of, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of
Notary Public
Registration No

Appendix H Information Security Breach and Notification Act

NYS General Business Law Section 899-aa

§ 899-aa. Notification; person without valid authorization has acquired private information

- 1. As used in this section, the following terms shall have the following meanings:
- (a) "Personal information" shall mean any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person;
- (b) "Private information" shall mean personal information consisting of any information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted, or encrypted with an encryption key that has also been acquired:
- (1) social security number;
- (2) driver's license number or non-driver identification card number; or
- (3) account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account;

"Private information" does not include publicly available information which is lawfully made available to the general public from federal, state, or local government records.

(c) "Breach of the security of the system" shall mean unauthorized acquisition or acquisition without valid authorization of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a business. Good faith acquisition of personal information by an employee or agent of the business for the purposes of the business is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, such business may consider the following factors, among others:

- (1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
- (2) indications that the information has been downloaded or copied; or
- (3) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.
- (d) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the state attorney general and furnished upon request to FRS Contract #000665

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any person or business required to make a notification under subdivision two of this section.

- 2. Any person or business which conducts business in New York state, and which owns or licenses computerized data which includes private information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of New York state whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision four of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system.
- 3. Any person or business which maintains computerized data which includes private information which such person or business does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.
- 4. The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this section shall be made after such law enforcement agency determines that such notification does not compromise such investigation.
- 5. The notice required by this section shall be directly provided to the affected persons by one of the following methods:
- (a) written notice;
- (b) electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the person or business who notifies affected persons in such form; provided further, however, that in no case shall any person or business require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction.
- (c) telephone notification provided that a log of each such notification is kept by the person or business who notifies affected persons; or
- (d) Substitute notice, if a business demonstrates to the state attorney general that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or such business does not have sufficient contact information. Substitute notice shall consist of all of the following:
- (1) e-mail notice when such business has an e-mail address for the subject persons;
- (2) conspicuous posting of the notice on such business's web site page, if such business maintains one; and

- (3) notification to major statewide media.
- 6. (a) whenever the attorney general shall believe from evidence satisfactory to him that there is a violation of this article he may bring an action in the name and on behalf of the people of the state of New York, in a court of justice having jurisdiction to issue an injunction, to enjoin and restrain the continuation of such violation. In such action, preliminary relief may be granted under article sixty-three of the civil practice law and rules. In such action the court may award damages for actual costs or losses incurred by a person entitled to notice pursuant to this article, if notification was not provided to such person pursuant to this article, including consequential financial losses. Whenever the court shall determine in such action that a person or business violated this article knowingly or recklessly, the court may impose a civil penalty of the greater of five thousand dollars or up to ten dollars per instance of failed notification, provided that the latter amount shall not exceed one hundred fifty thousand dollars.
- (b) the remedies provided by this section shall be in addition to any other lawful remedy available.
- (c) no action may be brought under the provisions of this section unless such action is commenced within two years immediately after the date of the act complained of or the date of discovery of such act.
- 7. Regardless of the method by which notice is provided, such notice shall include contact information for the person or business making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.
- 8. (a) In the event that any New York residents are to be notified, the person or business shall notify the state attorney general, the consumer protection board, and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.
- (b) In the event that more than five thousand New York residents are to be notified at one time, the person or business shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.
- 9. The provisions of this section shall be exclusive and shall preempt any provisions of local law, ordinance or code, and no locality shall impose requirements that are inconsistent with or more restrictive than those set forth in this section.

NYS Technology Law Section 208

§ 208. Notification; person without valid authorization has acquired private information

- 1. As used in this section, the following terms shall have the following meanings:
- (a) "Private information" shall mean personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:
- (1) social security number;
- (2) driver's license number or non-driver identification card number; or
- (3) account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.
- "Private information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- (b) "Breach of the security of the system" shall mean unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a state entity. Good faith acquisition of personal information by an employee or agent of a state entity for the purposes of the agency is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, such state entity may consider the following factors, among others:

- (1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or
- (2) indications that the information has been downloaded or copied; or
- (3) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.
- (c) "State entity" shall mean any state board, bureau, division, committee, commission, council, department, public authority, public benefit corporation, office or other governmental entity performing a governmental or proprietary function for the state of New York, except:
- (1) the judiciary; and

- (2) all cities, counties, municipalities, villages, towns, and other local agencies.
- (d) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the state attorney general and furnished upon request to state entities required to make a notification under subdivision two of this section.
- 2. Any state entity that owns or licenses computerized data that includes private information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of New York state whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision four of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. The state entity shall consult with the state office of cyber security and critical infrastructure coordination to determine the scope of the breach and restoration measures.
- 3. Any state entity that maintains computerized data that includes private information which such agency does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.
- 4. The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this section shall be made after such law enforcement agency determines that such notification does not compromise such investigation.
- 5. The notice required by this section shall be directly provided to the affected persons by one of the following methods:
- (a) written notice;
- (b) electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the state entity who notifies affected persons in such form; provided further, however, that in no case shall any person or business require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction;
- (c) telephone notification provided that a log of each such notification is kept by the state entity

who notifies affected persons; or

- (d) Substitute notice, if a state entity demonstrates to the state attorney general that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or such agency does not have sufficient contact information. Substitute notice shall consist of all of the following:
- (1) e-mail notice when such state entity has an e-mail address for the subject persons;
- (2) conspicuous posting of the notice on such state entity's web site page, if such agency maintains one; and
- (3) notification to major statewide media.
- 6. Regardless of the method by which notice is provided, such notice shall include contact information for the state entity making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.
- 7. (a) In the event that any New York residents are to be notified, the state entity shall notify the state attorney general, the consumer protection board, and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.
- (b) In the event that more than five thousand New York residents are to be notified at one time, the state entity shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.
- 8. Any entity listed in subparagraph two of paragraph (c) of subdivision one of this section shall adopt a notification policy no more than one hundred twenty days after the effective date of this section. Such entity may develop a notification policy which is consistent with this section or alternatively shall adopt a local law which is consistent with this section.

Security Breach and Disclosure Act Reporting Form

Pursuant to the Information Security Breach and Notification Act (General Business Law §899-aa; State Technology Law §208)

Street Address:			
Street Address:City:	State:	Zin Code:	
Sector (please select one): []Local Governm	nent[]State Go	vernment []Fede	ral Government
[] Not-for-profit []Commercial		Educational	
Type of Business (please select one): []Biotec []Health Care []Insurance []Retail []Other	/Internet []]	Telecom. []Tran	
Persons Affected: Total:	Dates:	Breach Occurred: _	
NY residents:		scovered:	
	Consumer N	Notification:	
Reason for delay, if any, in sending notice	e:		
Stolen computer, CD, tape, etc; []Lost []Insider wrongdoing; [] other (specify additional description if necessary] Information Acquired (please select all that apply []Account numbers []Credit or Debit	y): []Name; []SSN; []Driver's l	
[]Account number; []Credit or Debit			
Manner of Notification to Affected Personal Telephone; []Substitute notice (proval months) breach notifications:	vide justification	n). List dates of any	, ,,
Credit Monitoring or Other Service Of	fered: [] Yes;	[] No; Duration	
Service:	_ Provider:		
Submitted by:			
Firm Name (if other than entity):			
Telephone:		Email:	
Dated:			

EACH OF THE THREE STATE AGENCIES LISTED BELOW:

Fax or E-mail this form to:

New York State Attorney General's Office:

SECURITY BREACH NOTIFICATION

Consumer Frauds & Protection Bureau

120 Broadway - 3rd Floor

New York, NY 10271

Fax: 212-416-6003

E-mail: breach.security@oag.state.ny.us

New York State Office of Cyber Security & Critical Infrastructure Coordination (CSCIC)

SECURITY BREACH NOTIFICATION

30 South pearl Street, Floor P2

Albany, NY 12207

fax: 518-474-9090

E-mail: info@cscic.state.ny.us

New York State Consumer Protection Board (CPB):

SECURITY BREACH NOTIFICATION

1740 Broadway, 15th floor

New York, NY 10019

fax: 212-459-8855

E-mail: security_breach_notification@consumer.state.ny.us

Consultant Disclosure Legislation Appendix I -

Chapter 10, Laws of 2006

LAWS OF NEW YORK, 2006

CHAPTER 10

AN ACT to amend the civil service law and the state finance law, in relation to reporting and disclosure about contracts for consulting services

Became a law March 21, 2006, with the approval of the Governor. Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 97 of the civil service law is amended by adding a new subdivision 3 to read as follows:

3. The department shall maintain records documenting the employment of persons pursuant to contracts for consulting services issued by state agencies as defined in subdivision seventeen of section eight of the state finance law. No later than one hundred eighty days after the end of each fiscal year, the department shall submit to the governor, the senate finance committee, the assembly ways and means committee and the department of audit and control a report summarizing the following information for each state agency:

a. the number of contract employees performing such consulting services; and

b. the types of services provided by such contract employees.

- § 2. Subdivision 17 of section 8 of the state finance law, as added by chapter 992 of the laws of 1983, is amended to read as follows:
- 17. Report annually to the legislature on or before May first on the contracts issued by state agencies during the previous fiscal year for consulting services. The report shall include the following information for each agency:
 - a. The number of contracts issued for consulting services;
 - b. The name and address of the vendor to whom each contract is issued;
 - c. The total dollar value of each contract;
 - d. The consulting services for which each contract is issued;
 - e. Whether competitive bidding was used in awarding each contract[7];

f. The number of employees, by employment category within the contract, employed to provide services under the contract, the number of hours they work and their total compensation under the contract.

For the purposes of this report, a contract for consulting services shall mean any contract entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services. This report shall be available for public inspection and copying pursuant to section eighty-seven of the public officers law provided that in disclosing such reports pursuant to the public officers law, the agency making the disclosure shall redact the name or social security number of any individual employee that is included in such document.

§ 3. Subdivision 3 of section 22 of the state finance law is amended by adding three new paragraphs a-1, a-2 and a-3 to read as follows:

EXPLANATION-Matter in <u>italics</u> is new; matter in brackets [-] is old law to be omitted

- a-1. For each state agency, the appropriations, including reappropriations, made for the current fiscal year and recommended for the ensuing fiscal year for contracts for services made for state purposes.
- a-2. For each state agency, the disbursements estimated to be made before the close of the current fiscal year and proposed to be made during the ensuing fiscal year for contracts for services made for state purposes.
- a-3. For each state agency, the estimated number of employees hired for the current fiscal year and anticipated to be hired during the ensuing fiscal year pursuant to contracts for services made for state purposes based upon annual employment reports submitted by contractors pursuant to section one hundred sixty-three of this chapter.
- § 4. Subdivision 4 of section 163 of the state finance law is amended by adding a new paragraph g to read as follows:
- g. All state agencies shall require all contractors, including subcontractors, that provide services for state purposes pursuant to a contract, to submit an annual employment report for each contract for services that includes for each employment category within the contract the number of employees employed to provide services under the contract, the number of hours they work and their total compensation under the contract. Employment reports shall be submitted to the agency that awarded the contract, the department of civil service and the department of audit and control and shall be available for public inspection and copying pursuant to section eighty-seven of the public officers law provided that in disclosing such reports pursuant to the public officers law, the agency making the disclosure shall redact the name or social security number of any individual employee that is included in such document.
- § 5. Subdivision 14 of section 163 of the state finance law is amended by adding two new paragraphs (v) and (vi) to read as follows:
- (v) for each contract for services for state purposes: the number of employees, by employment category within the contract, employed to provide services under the contract, the number of hours they work and their total compensation under the contract;
- (vi) all reports required under this paragraph shall be available for public inspection and copying pursuant to section eighty-seven of the public officers law provided that in disclosing such reports pursuant to the public officers law, the agency making the disclosure shall redact the name or social security number of any individual employee that is included in such document.
- § 6. This act shall take effect on the ninetieth day after it shall have become a law, provided, however, that the amendments to section 163 of the state finance law made by sections four and five of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO

Temporary President of the Senate

SHELDON SILVER

Speaker of the Assembly

FORM A

OSC Use Only:	
Reporting Code:	
Category Code:	
Date Contract Approved:	

State Consultant Services - Contractor's Planned Employment From Contract Start Date Through The End Of The Contract Term

State Agency Name:	Agency Code:
Contractor Name:	Contract Number:
Contract Start Date: / /	Contract End Date: / /

Employment Category	Number of Employees	Number of hours to be worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
Grand Total			

Name of person who prepared this report:

Title:

Phone #:

Preparer's Signature:

Date Prepared: / /

(Use additional pages, if necessary)

Page of

Form B

OSC Use Only:	
Reporting Code:	
Category Code:	

State Consultant Services Contractor's Annual Employment Report			
	•	to March 31,	
Contracting State Agency Name:	<u> </u>	Agency Code:	
Contract Number:	,	Agency Code.	
Contractor Name:	1 1		
Contractor Address:			
Description of Services Being Prov	. d al = al .		
Scope of Contract (Choose one tha	*···	7	
Analysis Evaluation Rese Data Processing Computer Pro Engineering Architect Services Health Services Mental Health Services Accounting Auditing Para	Surveying Services	er IT consulting Environmental Service Other Consulting	es 🗌
Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this page	0	0	\$ 0.00
Grand Total			
Name of person who prepared t Preparer's Signature:	his report:		
Title:	Ph	one #:	
Date Prepared: / /			
Use additional pages if necessary)			Page of

FRS Contract #000665

2/20/2009

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New York DMV

Appendix J **Terms and Definitions**

Interpretation. For purposes of this Agreement:

- "Absolute match" A set of reviewable FR matches that will have a very high likelihood of one or more images being the same person as the probe.
- "Absolute non match" A set of reviewable FR non matches that will have a high likelihood of one or more images being a different person than the probe.
- "Affiliate" means any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Contractor owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Contractor. In addition, if a Contractor owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, that entity will be an Affiliate.
- "Agency or Agencies" means the State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.
- "Business Days" means Monday through Friday excluding the following holidays: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.
- "Brightness" Used to determine if there are any overexposed parts of the subject's face.
- "Candidate" means an image and an associated match score returned by the search process.
- "Candidate List" means the images displayed in a gallery format with match scores above the probability threshold.
- "Change Orders" means the supplementary change orders agreed to in writing by DMV and Contractor as described in Appendix P, "Change Control Process."
- "Client Identification Number (CID)" means the unique number that is assigned to each DMV holder of a NYS Permit/License/Non-Driver Identification Card.
- "Commissioner" means the Commissioner of the New York State Department of Motor Vehicles.
- "Commissioner's Regulations" means the rules and regulations promulgated by a state agency in interpretation of existing legislation authorizing specific functions and duties.
- "Comparison" means the process of comparing a biometric template with a previously stored reference template.
- "Comptroller" means the Comptroller of the State of New York.

FRS Contract #000665

- "Confidential Information" means any information written or otherwise disclosed in any medium by one party to the other under this Agreement and marked or otherwise designated as "Confidential" or is clearly by its nature confidential. However, Confidential Information shall not include any information that: (a) is or becomes a part of the public domain through no act or omission of the other party or otherwise available to the public other than by breach of this Agreement; or (b) as in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; or (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (d) is independently developed by the other party without access to the Confidential Information.
- "Contractor Technology" means Contractor's proprietary information, data, hardware and software technology, methods and methodologies, source code, object code, documentation, tools, software and interfaces, trade secrets, works of authorship and other proprietary materials, and all other information, inventions, materials, data, software, hardware, technology, trademarks and works of authorship that are protected by IP Rights held by Contractor and incorporated in the Products or used by Contractor in the performance of the Services, including, without limitation, any and all Innovations.
- "Contrast" Used to measure the contrast in the face region of the image. A poor value indicates that the face may lack detail from too little or too much contrast in the image.
- "Cropping" Used to ensure that the entire head is safely within the picture. If the head is touching the boundary or, is partly outside the boundary (cropped), the result is 0. The score improves as the subject's head moves away from the boundary.
- "Darkness" Used to determine if there are any underexposed parts of the subject's face.
- "Deliverables" means the Products and Services and other tangible deliverable items described in the Statement of Work to be delivered by Contractor to DMV.
- "Delta" refers to the set of images collected in between the time of the legacy database handoff to the contractor and the beginning of daily operations.
- "DMV Mainframe License Files" means the License Files containing information about a customer's driving history including document information.
- "DMV-Provided Materials" means the materials and technology owned, licensed or otherwise controlled by DMV that Contractor reasonably requires to perform the Services including, without limitation, those items described as DMV-Provided Materials in the Statement of Work.
- "Documentation" means any and all technical, engineering and user documentation, and all training materials and tools, whether in printed or electronic form, proprietary to Contractor and provided by Contractor to DMV regarding the Deliverables.
- "Duplicate" means a candidate image, determined by an investigator, to match the probe image. A duplicate image may be in the database as a result of operator error, computer error or fraud.

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- "Effective Date" means the date the contract was approved by the Office of the State Comptroller.
- "Enrollment" means the process of converting biometric data into a template.
- "Equal Error Rate" means the error rate occurring when the threshold of a system is set so that the proportion of false rejections will be approximately equal to the proportion of false acceptances.
- "Exposure" Measures the degree of overexposure and underexposure on the subject's face.
- **"Faceness"** Measures the likelihood that a face is unobstructed and suitable for face recognition. An obscured face will have a low quality score and therefore will likely degrade face recognition performance. Non-faces will give a low score.
- "Facial Image" means the stored digitized image of a customer's face.
- "Failure to Enroll" (FTE) means the inability to enroll in a biometric system.
- "False Acceptance" refers to when a biometric system incorrectly identifies an individual or incorrectly verifies an imposter against a claimed identity.
- "False Acceptance Rate" (FAR) means the probability that a biometric system will incorrectly identify an individual or will fail to detect an imposter.
- "False Rejection Rate" (FRR) means the probability that a biometric system will fail to identify an enrollee, or verify the legitimate claimed identity of an enrollee.
- "Filtering" refers to the process of classifying biometric data according to information that is unrelated to the actual biometric data itself. Examples of this are information about the enrollee such as sex, age, etc.
- **"Finding confidence"** Measures of how well the software has resolved the face in the sample image.
- "Focus" Used to determine how good the focus of the image is. A blurred image will score with a low value.
- "Glasses" Quality value that determines if glasses were detected, and the amount of glare if glasses were detected.
- "Gallery" means a visual display of images and demographics for probes with one or more matches.
- "Global Reference Number" (GRN) refers to a number used by DMV and the Contractor to uniquely identify a facial and/or signature image. This number consists of the processing date in the format 'CCYYMMDD', a three (3) position office code, a one (1) position camera number, and a three (3) digit sequence number.

- "Identification" means the process of searching though a list of face images to match against an input image. One-to-many (1:N) searching.
- "Image Capture Device" (ICD) means the device or camera which receives the facial portrait information in order to digitize it.
- "Image Capture Workstation" (ICW) refers to the PC and ICD used by DMV to view, capture, and store a customer's image.
- "Image Compare" refers to a process by which DMV manually compares old and new facial images for a client to determine if these images are of the same individual.
- "Image Compare Request" means a request from DMV to the Contractor to retrieve identified facial images so that DMV staff may examine and compare them.
- "Image Control Number" means the number printed on the Signature/Image Control Slip.
- "Image Retrieval Workstation" (IRW) means the PC workstation(s), located in DMV's Central Office, equipped with a software package that allows LPB, DFI, and/or the FOIL Subpoena Unit to view images and compare images.
- "Innovations" means any invention, development or innovation to, related or arising from the Contractor Technology that may be conceived or developed during the term of this Agreement and in the performance of the Services, and whether or not forming part of a Deliverable, including, but not limited to, software tools, methods and methodologies, algorithms, libraries, design flows, processes, databases, mechanical and electronic hardware, electronic components, computers and their parts, computer languages, programs and their documentation, encoding techniques, articles, writings, compositions, works of authorship and improvements.
- "IP Rights" means all intangible, intellectual, proprietary and industrial property rights, and all tangible embodiments of such rights, wherever located, including but not limited to the following: (i) all trademarks, trade names, service marks or logos, including all registrations and applications therefore; (ii) all copyrights, moral rights, and other rights in works of authorship including all registrations and applications therefore; (iii) all patents and patent applications, and all ideas, concepts, inventions and innovations, whether or not patentable; (iv) all know-how and trade secrets; and (vi) all other rights covering intangible property recognized in any jurisdiction.
- "Issuing Office" means one of New York's approximately 140 State or County Issuing Offices, any one of which could be the site of customer image capture and DL/ID transaction processing.
- "Issuing Office System" means the DMV-written and maintained system that issues a temporary document and provides information to the DMV Mainframe License Files.
- "Issuing Office Workstation" (IOW) means the workstation with a networked DMV PC where the License Issuance Transaction is processed by State or County Issuing Office staff. The IOW has limited image retrieval capabilities.
- "Landmark" means the reference point(s) in a face image used to create a face recognition algorithm, e.g. position of the eyes.

- "Licensed Software" means software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).
- "Licensee" means one or more Authorized Users who acquire Product from Contractor in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User(s) who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by DMV, the Licensee shall be the State of New York.
- "License Effective Date" means the date Product is delivered to an Authorized User/DMV. Where a License involves Licensee's right to copy a previously licensed and delivered Master Copy of a Program, the license effective date for additional copies shall be deemed to be the date on which the Purchase Order is executed.
- "License Production Bureau" (LPB) means the DMV office which is responsible for overseeing all of the processes involved in producing New York's DL/ID documents.
- "Licensor" means a Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.
- "Match" means the comparison software assigned a candidate image a score above the configured probability threshold.
- "Match Score" means the level of similarity from comparing a biometric template against a previously stored template.
- "MQ Series" means a proprietary messaging middleware developed by IBM that allows programs to communicate with each other across all IBM platforms, Windows, VMS and a variety of UNIX platforms. Introduced in 1994, it provides a common programming interface (API) that programs are written to.
- "New Product Releases" (Product Revisions) means any commercially released revisions to the licensed version of a Product as may be generally offered and available to Authorized Users/DMV. New releases involve a substantial revision of functionality from a previously released version of the Product.
- "One-To-Many" (1:N) is a synonym for "Identification".
- "One-To-One" (1:1) is a synonym for "Verification".
- "Probe" means the image used to search for possible matches.
- "Products" means the Contractor commodities, services and/or technology solutions purchased by DMV from Contractor and identified in the Statement of Work. The term "Product" includes Licensed Software.

- "Progressive Search" refers to the situation where an investigator finds one or more interesting candidate images and uses one of these candidates to initiate a new search.
- "Project Schedule" means the timetable relating to the performance of the Services and delivery of Deliverables that is set out in the Statement of Work.
- "Proprietary" means protected by secrecy, patent, copyright or trademark against commercial competition.
- "Purchase Order" means DMV's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, electronic Purchase Order, or other authorized instrument).
- "Receiver Operating Curves" (ROC) means a graph that shows how the false rejection rate and false acceptance rate vary according to threshold.
- "Resolution" Quality value used to determine whether the head is suitably large. With a live subject, you should be able to obtain a perfect 10.
- "Search" means use of a biometric engine to compare a probe against all (or selected) templates within a database.
- "Services" means those services to be provided by Contractor to DMV pursuant to the terms of this Agreement, and as more fully described on the Statement of Work, which services are related to the design, development, installation, implementation and maintenance of the Products.
- "Signature Image" means the stored digitized image of a customer's signature.
- "Signature/Image Control Slip" refers to a pre-barcoded slip, currently supplied by DMV, which includes a preprinted Image Control Number and a barcode which includes this number. The customer signs the slip. This slip is then scanned by the ICW equipment to capture the client's signature to store it digitally. The Image Control Number is associated with the signature and image stored in the Image Data Base on the Local Issuing Office Server.
- "Site" means the location (street address) where Product will be executed or services delivered.
- "Source Code" means the programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.
- "State" means the State of New York.
- "Statement of Work" means the description of the Services and Deliverables to be provided hereunder attached hereto as Section 2.

- "Subcontractor" means any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.
- "Template" means a proprietary mathematical representation of biometric data which represents the biometric measurement of an enrollee. Any graphical representation is reduced to a numerical representation. The template is then used by the biometric system as an efficient method to make comparisons with other templates stored in the system.
- "Terms of License" means the terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.
- "Texture" Measures the effective resolution of the subject face for use with high-resolution face recognition algorithms. Low resolution, poor focus, or over compression will lower the score.
- "Third Party Components" means those items of hardware or software comprising the DMV's network that are proprietary to or manufactured by the DMV or third parties not under the control of Contractor, and that may interface in any respect with the Products during or following installation.
- "Threshold" means an adjustable means by which biometric system operators can be more or less strict in how efficient a match score is used to accept or reject matches.
- "Throughput Rate" means the number of enrollment records that a biometric system can process within a given time interval.
- "Verification" means the process of ascertaining that two images or image inputs represent the same person. One-to-one (1:1) matching.
- "Virus" means any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

Appendix K Change Control Process & Procedures

Purpose of the Change Control Process

The Change Control Process is intended to guarantee that the common understanding of the project and commitment to it that the DMV and the Contractor have at the beginning is sustained throughout the term of the contract.

The Change Control Process is used to:

- Identify change.
- Determine the effect on function, cost, schedule and terms and conditions.
- Agree upon a resolution.
- Provide a process through which DMV and Contractor personnel may agree to any
 project change request not requiring an amendment to the contract and recommend any
 project change request that requires an amendment.

Change Control Team

DMV and the Contractor shall establish a Change Control Team with representatives from DMV and the Contractor. The DMV project manager shall chair the team. The team shall meet on an agreed schedule to both decide on outstanding change requests and review system problems in order to address any trends.

Identification of Change

Either DMV or Contractor Personnel may submit a change request to be reviewed by the Change Control Team. The change request will include the work product to be changed, a description of the aspect of the work product to change, and description of the impact.

Change Control Process

The Change Control Team shall evaluate each change request to determine whether the change should be made. The Change Control Team will be responsible for evaluating change requests to determine whether they should be pursued, by assigning appropriate personnel to prepare estimates, and by obtaining authorization to proceed.

The Contractor shall indicate feasibility and describe the effort that the change would entail and any effect of the change on the contract in terms of function, cost, schedule and terms and conditions. The more extensive changes may be documented by preparing a more formal impact statement, including how much time the change will require to implement, revised project timelines and costs. The DMV project manager shall review information provided by the Contractor with appropriate technical and managerial personnel.

DMV and the Contractor shall agree whether the change is a correction or an improvement that is not a material change to the contract or the change is a material change to the contract. A contract amendment is required to address material changes to the contract.

If the change is a material change to the contract, the Contractor shall again review the change, and estimate the effects of implementing the proposed change on function, cost, schedule, resources and terms and conditions.

If both parties accept the change and a contract amendment is not required, the appropriate project/system documents will be updated. If an amendment to the contract is required, such amendment shall be drafted, signed by both parties and approved by the Attorney General and the Office of the State Comptroller prior to updating project documentation.

If one or both parties do not accept the change and cannot agree to a timescale in which the disagreement will be resolved then the Disputes process defined below will control.

The Change Control Process will be used to provide the DMV with feasibility analysis and cost estimates for the business decisions of DMV related to this contract. The Contractor will provide a response to these requests within 10 business days. These responses will not be binding unless agreed to by the Contractor and DMV.

Baseline Control

The project documents that have been approved by both the DMV Project Manager and the Contractor will form the baseline against which change is measured.

Logging of Changes to the Baseline

The DMV project manager shall keep a log of change requests and their disposition.

The Contractor's project documentation will include a specific section that will be a change control log, used to record the scope of changes that occur. This log will identify each revision of the document, the date it was completed and the change request that caused the revision.

Problem Control Process

Either DMV or Contractor personnel may identify and report a processing problem within the system. Problems will be reported using a process that is mutually agreeable to both DMV and the Contractor and which enables each reported problem to be tracked.

The problem control process is intended to ensure that problems are recorded and analyzed so that any individual problems and trends are identified and addressed.

The problem control mechanism is used to:

- Identify and record problems.
- Rectify problems.
- Analyze and address trends.

The Change Control Team may decide that action is required in which case the team shall decide which members will complete a change request.

Once the Change Order is accepted and approved, Contractor's Program Manager shall engage the necessary engineering and testing resources to implement the agreed to change order per the estimated time frame. Contractor agrees to follow the timelines specified by DMV. Any changes to the completion schedule of the change order due to unforeseen problems shall be immediately communicated to the DMV, and the Contractor shall work closely with the DMV to identify the reason for the delay and the steps being taken to minimize the delay.

The Change Order Process outlined is intended to provide a formal framework to enter and track change requests and not intended to increase the response time required to effect changes or unnecessarily burden the process with work overhead. Contractor's Program Manager will work closely with the DMV to "fast-track" any issues that have the potential of seriously disrupting the operations of the DMV in order to maintain the response times specified by DMV.

Logging of Problem Information

Regardless of how a problem is identified, the Contractor shall maintain a log of all problems raised and of the problem analysis reports.

The Contractor shall prepare a summary of reported problems including resolution and a problem trend analysis report for review by the Change Control Team.

Appendix L Software Escrow Agreement

Pursuant to section 4.10.4 of this agreement, at the request of DMV, Contractor will enter into a software escrow agreement, subject to DMV approval, which will include, at a minimum, the following terms and conditions:

- 1. Appointment of Escrow Agent and Escrow fees. Upon request by the DMV, Contractor will enter into an agreement with an Escrow agent, and shall be responsible for escrow agent fees.
- 2. Term of the Agreement. If requested by DMV, Contractor will use commercially reasonable efforts to cause the term of the agreement to commence prior to the shipment of the enrolled legacy database and shall continue in full force and effect so long as the agreement remains in effect, including contract amendments.
- 3. Materials Deposited in Escrow. Contractor agrees to deposit with the Escrow Agent one copy of all the constituent elements of the proprietary software owned by Contractor including but not limited to L-1's FaceEXPLORER Facial Recognition Application Suite built upon L-1's ABIS multi-biometric platform with L-1's G8 facial recognition engine, text, data, images, animation, graphics, video and audio segments and source and object code and user and system documentation of all Contractor delivered software to DMV in connection with the Facial Recognition System.
- 4. Modifications to the Materials Deposited. Contractor agrees to deposit, at the time such updates, improvements, or modifications are made, one copy of such modified Materials, which shall be deemed part of the Materials deposited in escrow under this agreement.
- 5. Release and Delivery of Materials. The occurrence of any of the events identified in Section 4.10.4 of the Agreement shall provide DMV the right to request the Escrow Agent to release and deliver materials held in escrow to DMV:
- 6. Release of Materials. Upon release of the materials to DMV, DMV shall have a non-exclusive, non-transferable right and license to use the escrow materials for the purposes set forth in Section 4.10.4.
- 7. Notices. DMV shall be notified by the Escrow Agent in the event of:
 - a. Termination of the agreement by Contractor,
 - b. Non-payment by Contractor for a period greater than 60 days,
 - c. Changes to the agreement between Contractor and the escrow agent,
 - d. Deposits, including modified materials, made to the Escrow Agent.
- 8. Termination. In the event Contractor or the Escrow Agent wish to terminate the agreement, the Escrow Agent shall notify DMV within three (3) business days of the notice.

Appendix M NYS Cyber Security Policies

 $\underline{http://www.cscic.state.ny.us/lib/policies/documents/Cyber-Security-Policy-P03-002-V3.1.pdf}$

Appendix N Sample Project Plan

This a <u>sample</u> project plan for this project. The final project plan will be completed during the Planning Phase.

NY DMV FRS Project				
1,	Tasks	Duration	Start Date	End Date
2,	Contract Phase	113 days	Tue 10/14/08	Fri 3/27/09
	Contractor selection/ Contractor			
3.	negotiations begin	93 days	Tue 10/14/08	Fri 2/27/09
	Contract negotiations complete/Control			
4.	Agency review begins	20 days	Fri 2/27/09	Fri 3/27/09
5.	Contract approved	0 days	Fri 3/27/09	Fri 3/27/09
6.	Planning Phase	4 days	Mon 3/02/09	Thu 3/05/09
7.	Internal project planning	2 days	Mon 3/02/09	Tue 3/03/09
8.	Work Session w/Contractor	2 days	Wed 3/04/09	Thu 3/05/09
9.	Project Plan completed	0 days	Thu 3/05/09	Thu 3/05/09
10.	Requirements Phase	15 days	Mon 3/09/09	Fri 3/27/09
11.	Develop requirements/SOW documentation	8 days	Mon 3/09/09	Wed 3/18/09
12.	Requirements/SOW review	6 days	Thu 3/19/09	Thu 3/26/09
13.	DMV approves Final Requirements document	1 day	Fri 3/27/09	Fri 3/27/09
14.	Documentation Phase	10 days	Mon 3/30/09	Fri 4/10/09
	Documentation prepared for DMV audit of	J		
15,	Contractor facility	5 days	Mon 3/30/09	Fri 4/03/09
16.	DMV audit and documentation review	4 days	Mon 4/06/09	Thu 4/09/09
17.	DMV audit and documentation approval	1 day	Fri 4/10/09	Fri 4/10/09
18.	Setup and Enrollment of Legacy Database		N 4/40/00	
10,	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	63 days	Mon 4/13/09	Fri 7/10/09
19.	Purchase server hardware for enrollment and internal development/testing	4 40.4	Mars 4/12/00	Main 4/40/00
20.	Receive server hardware	1 day 9 days	Mon 4/13/09 Tue 4/14/09	Mon 4/13/09 Fri 4/24/09
21.	Setup server hardware at Contractor facility	2 days	Mon 4/27/09	Tue 4/28/09
	Install and configure FaceEXPLORER	2 days	141011 4721700	140 4/20/03
22.	system base at Contractor facility	2 days	Wed 4/29/09	Thu 4/30/09
	Install and configure FaceEXPLORER web		77.00 11.20,00	1114 170700
23.	server at Contractor facility	5 days	Fri 5/01/09	Thu 5/07/09
24.	Receive data/images from DMV	1 day	Fri 5/08/09	Fri 5/08/09
	Import legacy data into FaceEXPLORER			
25.	database at Contractor facility	2 days	Mon 5/11/09	Tue 5/12/09
	Install and configure FaceEXPLORER			
26.	enrollment software	1 day	Fri 5/15/09	Fri 5/15/09
27.	Legacy template and bitmap creation for DMV legacy image database	26 days	Mon 5/18/09	Tue 6/23/09
	Develop/Configure FaceEXPLORER			
28.	Application Suite customizations	5 days	Wed 5/20/09	Wed 5/27/09
29.	Install FEConsole, QC Viewer, and FR Web Reports	3 days	Mon 6/15/09	Wed 6/17/09
	Backup and encrypt FaceEXPLORER	· ·		3.1
30.	database	1 day	Wed 6/24/09	Wed 6/24/09
31.	Backup FaceEXPLORER Applicartion Suite	1 day	Wed 6/24/09	Wed 6/24/09

Deliver FaceEXPLORER database with 1 day Thu 6/25/09 Thu 6/25/09		Detter Frankling Open details and the	T		T
33	32	Deliver FaceEXPLORER database with	1 day	The 0/05/00	TI :: 0/05/00
34					
36. DMV Acceptance of Deliverables					
Testing of Legacy Database Setup and 27 days					
36. Enrollment	აე.		1 day	Fri 7/10/09	Fri 7/10/09
Test ported data in FaceEXPLORER 2 days	20	Testing of Legacy Database Setup and			State of the state
37. database 2 days Wed 5/13/09 Thu 5/14/09	30. 3		27 days	Wed 5/13/09	Fri 6/19/09
Install and configure FaceEXPLORER recognition software on Test System	27		0 -1	15/10/00	
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69. DMV testing/acceptance 3 days Thu 7/23/09 Mon 7/27/09					
	<u>69. j</u>	DMV testing/acceptance	3 days	Thu 7/23/09	Mon 7/27/09

70.	Daily Operations System Testing complete	0 days	Mon 7/27/09	Mon 7/27/09
71.	Training	2 days	Tue 7/28/09	Wed 7/29/09
72.	System Administrator Training	1 day	Tue 7/28/09	Tue 7/28/09
73.	End-User Training	2 days	Tue 7/28/09	Wed 7/29/09
74.	Training Complete	0 days	Wed 7/29/09	Wed 7/29/09
75.	System Rollout	14 days	Tue 7/28/09	Fri 8/14/09
76.	Ongoing FR Duplicate Analysis of Legacy Image Database begins	1 day	Tue 7/28/09	Tue 7/28/09
77.	Ongoing Daily Operations for 1:N Duplicate Analysis and 1:1 IntraID Analysis begins	1 day	Thu 7/30/09	Thu 7/30/09
78.	DMV Acceptance of Deliverables Review	10 days	Fri 7/31/09	Thu 8/13/09
79.	DMV Acceptance of Deliverables	1 day	Fri 8/14/09	Fri 8/14/09
80.	System Rollout complete	0 days	Fri 8/14/09	Fri 8/14/09
81.	Contractor Support and Maintenance of Installed System begins	0 days	Fri 8/14/09	Fri 8/14/09

Appendix O Hardware & Software Summary

Hardware & Software Specified/Detailed	# Required
HARDWARE (NON Virtualized System)	
FR Engine	33 + 1 spare
Type: Blade Server	22 (1 spare
Make: Dell PowerEdge	
Model: M600	
Processor: Dual Quad Core Intel® Xeon® E5450, 2x6MB Cache,	
2.66GHz, 1333MHz FSB	
Processing Speed: 2.66Ghz	
Memory: 8GB	
Storage Capacity: Dual (2) 146GB SAS drives in RAID1	
Operating Software: Windows Server 2003 Std. x64	
Other Features and/or Software Requirements:	
BioApplication Server	11
Type: Blade Server Make: Dell PowerEdge	
Model: M600	
Processor: Dual Core Intel® Xeon® E5450, 2x6MB Cache,	~
2.66GHz, 1333MHz FSB	
Processing Speed: 2.66Ghz	
Memory: 4GB	
Storage Capacity: Dual (2) 146GB SAS drives in RAID1	
Operating Software: Windows Server 2003 Std. x64	
Other Features and/or Software Requirements:	
TOTAL CONTRACTOR OF THE CONTRA	
Template Creator Server	2
Type: Blade Server	
EDS Contract #000885	3/20/20

Hardware & Software Specified/Detailed	# Required
Make: Dell PowerEdge	
Model: M600	
Processor: Dual Quad Core Intel® Xeon® E5450, 2x6MB Cache,	
2.66GHz, 1333MHz FSB	
Processing Speed: 2.66Ghz	
Memory: 8GB	
Storage Capacity: Dual (2) 146GB SAS drives in RAID1	
Operating Software: Windows Server 2003 Std. x64	
Other Features and/or Software Requirements:	
o mor reaction and of Bottmare Requirements.	
Blade Enclosure	3
Type: Blade Enclosure	
Make: Dell PowerEdge	
Model: M1000e	
Processor: N/A	
Processing Speed: N/A	
Memory: N/A	
Storage Capacity: N/A	
Operating Software: N/A	
Other Features and/or Software Requirements:	
Will hold up to sixteen (16) M600 series Blades	
·	
Web Server	2
Type: 1U Rack server	
Make: Dell PowerEdge	
Model: 1950 III	
Processor: Dual Core Intel® Xeon® L5240, 6MB Cache, 3.0GHz,	
1333MHz FSB	
Processing Speed: 3.0Ghz	
Memory: 4GB	
Storage Capacity: Dual (2) 146GB SAS drives in RAID1	1 1372 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Operating Software: Windows Server 2003 Std. x64	
Other Features and/or Software Requirements:	
Advanced Host Monitor (system outage/problem monitoring and	
reporting tool)	
AVA. ARTIST	
	C
Database Server	2
Type: 2U Rack server	2
	2

Hardware & Software Specified/Detailed	# Required
Processor: Two (2) Dual Core Intel® Xeon® L5240, 6MB Cache,	
3.0GHz, 1333MHz FSB	
Processing Speed: 3.0Ghz	
Memory: 8GB	
Storage Capacity: Six (6) 146GB SAS drives in RAID10	
Operating Software: Windows Server 2003 Std x64	
Other Features and/or Software Requirements:	
Oracle 11g Enterprise Edition (64 bit) with partitioning	
Oracle Diagnostic, Tuning, Change Management, Provisioning packs	
Oracle Data Guard and Data Guard Broker	
Oracle Enterprise Manager Grid Control	
L-1 at NO ADDITIONAL COST to DMV Backup software such as Veritas	
Storage Array	2
Type: Direct Attach SCSI	
Make: Dell PowerEdge	
Model: MD1000	
Processor: N/A	
Processing Speed: N/A	
Memory: N/A	·
Storage Capacity: (15) 500GB SAS drives in RAID10	
Operating Software: N/A	
Other Features and/or Software Requirements:	
Other reactives and/or bottware requirements.	

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Revision History

Date	Revision	Revision Items
	0	Sample Draft
Aug 12, 2008		
Feb 18, 2009	1	Updated for contract
	2	
	3	

Introduction

L-1 is proposing to provide a high performance facial recognition system for NY DMV. For true disaster recovery wherein all of the equipment hosted at the NY DMV data center is lost, NY DMV has required that the vendor make the system functional and available within 48 hours after NY DMV has acquired and set up all the hardware and copied the data files from tape on to hard disk storage. At the same time, NY DMV has required that a fault-tolerant, highly available system be provided at the primary data center such that single component failures do not disrupt system availability or functionality.

In light of L-1's vast experience in setting up high availability systems, we are proposing to provide a system architecture with redundant servers in a highly available, fault-tolerant configuration. Our team understands the importance of protecting the system and data from unscheduled downtime. The solution was designed to prevent this type of outage, and to respond to any catastrophic disaster in a managed fashion to restore services at the backup facility location. This document describes the components, technology and configuration choices and rationale that went into the design of the system that provides high availability and fault tolerance at the primary site. The Business Continuity Plan outlines activities necessary to ensure the availability of the NY FRS as per the objectives stated in your RFP. The Disaster Recovery Plan is a separate document that outlines how, in a true disaster where the primary site is completely lost, services will be restored at the backup site.

Scope

The Business Continuity Plan contains the following sections to ensure the continuity of business in the event of a system failure.

Goals for the Business Continuity Plan

- Solution Architecture Overview
- Contingency Planning
- Business Recovery
- Business Continuity Plan Exercises

Goals for the Business Continuity Plan

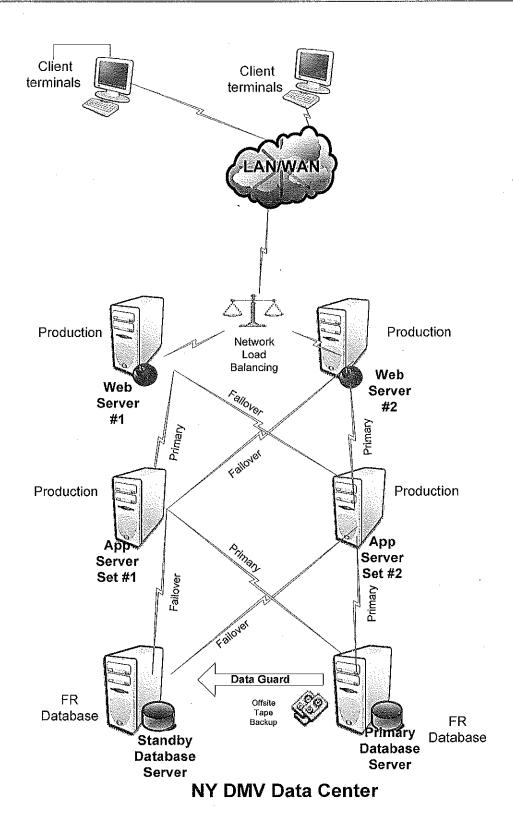
Following is a list of objectives for the Business Continuity Plan;

- Ensure correct recovery procedures and information exist in the BCP
- Ensure the integrity of the DL/ID data resource
- Ascertain all risks and vulnerabilities are covered in the BCP
- Ascertain all necessary controls to mitigate risks are established
- Ascertain that the BCP and the procedures are adequate for current and changing future needs
- Establish change control procedures
- Provide a training experience for the recovery teams
- Coordinate with DMV
- Once the BCP is established, exercise the plan periodically.

System Architecture

Our team understands the importance of protecting the system and data from unscheduled downtime. The solution was designed to prevent this type of outage, and to respond to any catastrophic disaster in a managed fashion to restore services at the backup facility location. The DMV will manage the facility and ensure the security of the system and infrastructure such as power and external connectivity. Our proposed solution was configured with full redundancy for high-availability and failover to prevent loss of functionality due to the loss of primary solution components at that facility. This design promotes redundancy and eliminates any single point of failure. We also intend to maintain a test system at our Billerica MA facility to aid in troubleshooting and QA of new software versions. We are also proposing the server operating systems and DMV data will be fully backed up to disk and then to tape and sent offsite for secure storage.

Our solution is provided using relational database schema design methodology and all system data is stored within the database structures. All data is stored on RAID 10 storage devices and can be archived to magnetic media in cases of disaster recovery. Our product is tested and certified on the Oracle database management system. L-1 will use Oracle Data Guard to maintain synchronous data between the primary and backup database servers. Based on NY's RFP, L-1 is proposing as a system solution the following configuration:

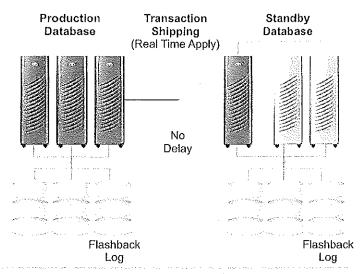


As outlined in the above diagram, the system consists of only the one site where all the equipment is hosted. If a true disaster strikes which makes either the data center or most of the equipment unavailable, NY DMV will acquire and prepare the necessary hardware, copy the data from tapes onto the hard disk storage and will then call upon L-1 to install the applications and make the system available within 48 hours.

Primary Site Configuration:

Note: All equipment, facilities and infrastructure including uninterruptible power, high bandwidth network, etc. are provided by NY DMV. L-1 is only responsible for configuring, setting up and administering the applications and systems.

- All server hardware is configured in a high performance, fault tolerant fashion with dual/quad processors, mirrored hard drives, redundant network cards and redundant power supplies with UPS backup. Redundant internal Gigabit Ethernet switches within the rack provide fast, high throughput communication within the rack components. At least one automated tape library unit is used at the primary site for backing up data.
- The web servers are in network load balanced mode, exposing only a single virtual IP address to the outside. Thus, when both nodes are operational, they share the load for improved throughput. Moreover, should one of the nodes in the pair go down, it is transparent to the clients as the other web server automatically picks up the load and the exposed IP address remains the same. *Microsoft's Internet Information Server 6.0* is used as the web server.
- Either web server can talk to any one of the two sets of application servers, which run L1's custom application software written using Microsoft .Net. Normally, one web server
 is connected to one set of application servers, and the other web server is connected to the
 other set of application servers. This optimizes the throughput. Should one set of the
 application servers go down, the web server normally connected to the failed application
 server switches over to the functional application server automatically (using a timeout to
 detect failure). After the failed server is fixed, the web server is switched back to the
 repaired server manually.
- Even though we have two database servers at the primary site, only one database server is active at any time. Each database server runs one or more instances of *Oracle 11g RDMBS Enterprise Edition* as needed for the facial recognition system. Each database server has its own direct-attached RAID storage (storage is not shared between the servers) where Oracle data is stored. Oracle's *Data Guard* product is used to synchronize the data between the active and the standby database servers (described in detail later). Oracle Data Guard *Broker*, a component of the Data Guard, runs on the application server and monitors the two database servers. Should the active server fail, the Broker detects the failure and automatically makes the standby database server active within a few minutes. Oracle's *Flashback Recovery* is enabled on the database servers to allow rolling back the database to a previous point in time, should the need arise.



Flashback provides Data Guard with an easy-to-use method to correct user errors. Flashback Database can be used on both the primary and standby database to quickly revert the databases to an earlier point in time to back out user errors. If the administrator decides to failover to a standby database, but those user-errors were already applied to the standby database (for example, because Real Time Apply was enabled), the administrator can simply flashback the standby database to a safe point in time.

Image Database System Flashback Technology

- Both sets of application servers connect to the active database server. Should that database server fail, the application automatically connects to the standby database server (based on a timeout) as soon as it becomes available. After the failed database server is fixed and synchronized with the active database server, the Database Administrator switches the server roles manually. The application servers automatically switch over to the active server again.
- The active database server is backed up to NY DMV's enterprise tape library using Oracle's RMAN backup feature and Symantec/Veritas/Oracle backup software. It is recommended that NY DMV do a full backup of the database once a week and incremental backups once daily. Four sets of tapes are used in rotation every Monday (or any other day) to make backups. The tape set taken out every Monday is sent to a secure, offsite location for safekeeping and the oldest backup set at the offsite location is returned to the primary site for loading the following week.

Separately, a server and network monitoring tool called the *Advanced Host Monitor* is installed on the web servers. This tool monitors all the servers, applications and databases (at both the primary and remote sites) to ensure that they are functioning properly. Should a failure be detected, Host Monitor immediately sends an email alert to a distribution list containing at least two tech support personnel. This way at least one of the technical support persons can look into the problems, take corrective action and restore the system to its normal state. With two Advanced Host Monitor installations, they can monitor each other and thus prevent the rare, but real possibility that the monitoring from one server has failed for one reason or another.

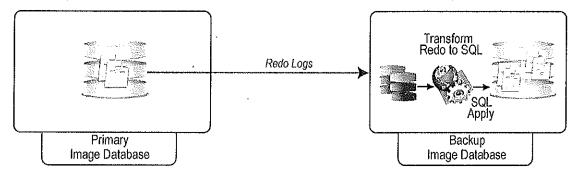
Given the above description, it is clear how the entire system comprised of web, application and database components continues to function even when multiple components fail simultaneously as long as at least one each of web, application, database servers are functioning properly. In addition, the installation of Advanced Host Monitor makes it possible to detect problems quickly and resolve them, before problems worsen.

Data Storage

A scalable, high-availability, load-balanced and exceptionally fault-resilient Primary Image Database System and Backup Image Database System will be configured to accommodate a minimum of 32-million images over the term of the contract, which includes migrated legacy images and all images enrolled during the contract. To provide redundant storage of these images two identical storage frames are proposed.

The primary objectives of the data storage solution design is to provide data integrity, data security, high availability with real-time synchronization and transparent fail over capability along with the highest level of operations recovery, security and performance. At present we propose using RAID 10 and a mix of drives for disk storage. Usable disk storage capacities are estimated based on record size and volume data provided by NY DMV. This disk storage will accommodate the migration requirements of the existing data to the new system as well as the ongoing growth outlined in the RFP. The storage volume is also provided to support the archive logs and disk backup files required for Oracle RDBMS requirements which protect against data loss in the event of a database media corruption.

The Backup Image Database will be updated in real-time with the Primary Image Database using Oracle Data Guard (Described in detail below) in Maximum Availability mode to accomplish the highest level of data protection. This mode will ensure a comprehensive zero-data loss recovery solution and allow for a quick fail over configuration for a comprehensive business continuity solution. This will be accomplished by applying the database updates to the Backup Image Database in real-time.



Real-Time Apply of Redo Logs

A low-latency network, broad network bandwidth, an equally-configured Backup Image Database Server will support the performance demands required without impacting the performance of the Production Image Database System.

Disk Storage

RAID-10 for Online Database Data

Tape Storage

NY DMV will utilize their exiting tape backup system

Software

Oracle Relational Database System (RDBMS) Enterprise Edition version 11g

- Oracle Data Guard
- Optional Oracle Enterprise Manager Grid Control
- Diagnostic, Performance Tuning, Change Management, Configuration Management and Provisioning Packs
- Database Partitioning

This system architecture is configured for high-availability, redundancy and scalability (both vertical and horizontal) to meet or exceed the performance demands, Recovery Time Objective and Recovery Point Objective.

Contingency Planning

Recovery Time Objective

Recovery Time Objective (RTO) is defined as the maximum amount of time for which service can be down after a failure is declared.

Recovery Point Objective

The Recovery Point Objective (RPO) is defined as the maximum length of time for which data could be lost if a failure occurs.

Failover Strategy

Oracle Enterprise Edition Database 11g, Oracle Data Guard and Oracle Flashback Technology are critical components for providing the maximum available architecture. These database-specific products provide an extensive set of data protection and disaster recovery capabilities to sustain business in the event of a disaster (i.e. logical and physical data corruption, natural disaster and planned or unplanned outages) which can affect database availability.

Media-related Disaster Recovery scenarios are rectified utilizing the Oracle Data Guard Failover Strategy. On a daily basis, an incremental backup of the database and all archive logs are written to disk for online availability and tape for daily offsite storage.

A low-latency network will support the performance demands required for synchronizing Backup Image Database System with the Primary Image Database System without impacting the performance of the Primary Image Database System.

The Image Database System's RTO will be met by the Primary Image Database System failover capability using the Oracle Data Guard application. The database redundant solutions and recovery times attainable with Oracle Data Guard product features and the proposed network bandwidth between the Primary Image Database site and the Backup Image Database site will

facilitate the requirement to meet or exceed the DMV Recovery Time Objective for both planned and unplanned outages.

Table 1: System Recovery Times

Outage Type	Solution	Recovery Time*
Hardware/Network/Database Failure	Failover	Less than 5-minutes**
Site Failure	Failover	48 hours after hardware and data are ready.

^{*}Recovery Time applies to database and existing database connection failover.

System Fail Overs

DMV has required a high availability system without a specific RTO/RPO definition. However, DMV has specified a 48 hour disaster recovery window. In the absence of very specific requirements for high availability, L-1 has taken it up itself to configure a system comprising two complete sets of equipment which are practically mirror images of each other. These two systems, resident in the same physical location next to each other, provide limited disaster recovery, but are set up in such a way as to provide 100% availability of services should one or more of the components of one system or the other fail, as long as the counterpart of the failed components in the other system is fully functional.

Load balancing between the web and application servers, real-time data synchronization between the database servers, automatic failover to the standby should the primary database go down and setting up the web, application and database components to work with each other in any combination (i.e., a web server in one set can work with the application server in either set, the application server can work with the database server in either set, etc.) make this high availability possible. In the event of a failover the Backup Image Database System will accommodate 100% of the database update capability immediately upon failover. The Backup Image Database system will be updated and synchronized in real-time from the Primary Image Database. Therefore, the Backup Image Database data will be readily available to provide DMV update capability within a 5 minute Recovery Time Objective.

Since the two systems reside next to each other, failover capability is limited to failure of select equipment only. Should a major disaster strike, whereby the entire site and multiple components of the two sets of equipment are lost, then L-1 will provide disaster recovery within 48 hours of DMV providing the hardware and data as required. This disaster recovery plan is discussed in the following section.

^{**}The Data Guard Broker, an application process, will reside remote from the Primary and Standby Database. Data Guard Broker will provide for centralized management of the failover operations, configurations, monitor the data apply rates, runtime performance, diagnostic information, detecting problems and provide event notification. More importantly, the Data Guard Broker will estimate the amount of time required to failover to the Standby Database.

Oracle Data Guard

Oracle's Data Guard, a component of the Oracle 11g Enterprise Edition, is a sophisticated product specifically designed to enable smooth failover in the event of component failures and address other key aspects of high availability and disaster recovery.

After careful analysis of the needs of this project and costs associated with various solutions, the following RPO and RTO have been chosen as appropriate for the project. We can refine these objectives during project planning with the DMV

- Zero data loss RPO for database failure within the same site this means that if the active database server fails, at most no data could be lost.
- One day data loss RPO for disaster this means that if a true disaster strikes the data center and the database servers are completely lost, at most one day worth of data could be lost.
- 1 hour RTO for database failure within the same site this means that if the active database server fails, the other server should be brought online and the entire system from the end client perspective should be up and running in 1 hour or less.
- 48 hour RTO for disaster this means that if a major disaster strikes causing the data center and the database servers to be completely lost, the system must be made available within 48 hours after the hardware and data are readied by the DMV.

In order to understand how Data Guard in combination with redundant system components makes achieving these objectives possible, it is necessary to understand the different modes in which Data Guard can be configured to function.

- Maximum Performance: In this mode, data is committed to the active database server only, before the client resumes processing. A background process on the active server moves the data to the standby server and commits it in the standby database. This commit to the standby database generally happens in just a few seconds or less as long as the network connectivity between the servers is good and the servers are not operating at their peak capacity. Should there be an interruption in the network communication between the two servers or if the standby server is down/busy, the data will be held in the active server until the problem is resolved. Upon resumption of communications and the availability of the standby server, the data is then sent and committed. Should the active server fail completely (all hard drives destroyed permanently) while the data has not been transmitted to the standby server, the data could be lost forever, unless other arrangements are made to safeguard against data loss.
- Maximum Protection: In this mode, data is committed to both the active and at least one standby database servers in one granular transaction before the client resumes processing. If the standby server is busy or unable to be contacted, even if the active server is functional, all transaction processing stops and the clients hang. Obviously, this mode guarantees that data is committed to at least two servers, thus providing utmost protection to the data. But, clearly, this comes at a major inconvenience to the clients, as even minor planned or unplanned network or server outages will cause system unavailability.
- Maximum Availability: This mode is a compromise between the maximum performance and maximum availability modes. As long as both servers are available and can communicate with each other, Data Guard operates in Maximum Protection mode whereby data is committed to both servers before client resumes processing. Should the

standby server become busy/unavailable or network outages prevent it from being contacted, the active server reverts to Maximum Performance mode whereby data is only committed to the active server until the standby server is restored to full function and communication.

Since system availability is extremely important in this project, and because the servers share the same rack and network switch thus enabling reliable high speed communication between them, Data Guard will be set up in Maximum Availability mode. This gives the best balance of system availability and data loss prevention. In the remote event the standby server fails first and the active server fails afterward (before data could be synchronized), some data will be lost. However, the lost data can easily be recovered from the data source (NY DMV Driver License System) or the failed primary server hard disks which are engineered to protect data against failure of one disk.

Thus, zero data loss RPO is almost achievable, although it might take some time in the remote event data has to be recovered from the NY DMV Driver License System.

Even though automatic failover to the standby server at the primary site ensures continued system availability at the primary location within a few minutes, we need the 1 hour RTO to allow the database administrators to troubleshoot problems, if any. In that case, we will need to manually activate the standby server into production, redirect clients to connect to the standby, etc. This should normally take only a few minutes or less in automatic mode. But, the 1 hour RTO provides a comfort zone, in case unexpected problems arise.

Business Continuity Plan Exercises

As part of the operational acceptance of the new NY DMV system, the Business Continuity Plan will include the proving of the BCP, Recovery Time Objective and Recovery Point Objective including demonstrated failover to the disaster recovery sites.

BRP Exercise Guidelines

Following is a list of BRP Exercise Guidelines that will be followed in planning and executing the exercises.

- DMV will be a participant during all exercises
- For each scheduled exercise, DMV will define exercise objectives; and define predetermined measurement criteria.
- Document and distribute a test schedule. Time frames indicate the duration of each schedule exercise.
- Select participants based on increased awareness and training benefits.
- Generate and adhere to an exercise script. Evaluate exercise results using the original exercise script as a guideline.
- A record of the exercise proceedings is kept. An unbiased observer is recommended for this position to maintain separation of duties. Record events, times, actions, and results.
- Conduct a post-evaluation meeting. The evaluation will answer the following questions:
 - o Were the objectives of the exercise achieved?
 - Was the test accomplished in the prescribed time frame?
 - o Did exercise participants perform as instructed?

- Was the overall recovery approach, as set forth in the recovery plan, appropriate and effective?
- Define recovery plan updating instructions and responsibilities. Does the plan need to be updated after the exercise? Who has responsibility for updating the plans and what is the time frame?
- Create and distribute an exercise report to interested parties, including DMV Management.

Appendix Q NY Facial Recognition System Disaster Recovery Plan

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L-1 Security	Senthil Kumar		
L-1 Installation	Eric Hjerpe		
L-1 Training	Dave Scannell		
NY DMV			· · · · · · · · · · · · · · · · · · ·
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Revision History

Date	Revision	Revision Items
Aug 12, 2008	0	Sample Draft
Feb 19, 2009	1	Updated for contract
•	2	
	3	

Introduction

L-1 is proposing to provide a high performance facial recognition system for NY DMV. For true disaster recovery wherein all of the equipment hosted at the NY DMV data center is lost, NY DMV has required that the vendor make the system functional and available within 48 hours after NY DMV has acquired and set up all the hardware and copied the data files from tape on to hard disk storage. L-1, with its vast experience in putting together high availability and disaster recovery solutions, has put together a system architecture and processes that respond to any catastrophic disaster in a managed fashion to restore services at the backup facility location. This document describes the components, technology and configuration choices and rationale that went into the design of the system. The Disaster Recovery Plan outlines activities necessary to ensure the availability of the NY FRS as per the objectives stated in your RFP.

Scope

The Disaster Recovery Plan contains the following sections to ensure the continuity of business

in the event of a disaster

- Goals for the Disaster Recovery Plan
- Solution Architecture Overview
- Contingency Planning
- Disaster Recovery
- Disaster Recovery Plan Exercises

Goals for the Disaster Recovery Plan (DRP)

Following is a list of objectives for the Disaster Recovery Plan;

- Ensure correct recovery procedures and information exist in the DRP
- Ensure the integrity of the DL/ID data resource
- Ascertain all risks and vulnerabilities are covered in the DRP
- Ascertain all necessary controls to mitigate risks are established
- Ascertain that the DRP and the procedures are adequate for current and changing future needs
- Establish change control procedures
- Provide a training experience for the recovery teams
- Coordinate with DMV
- Once the DRP is established, exercise the plan periodically.
- Ensure a 48 hour system recovery as soon as the DMV hosted hardware and infrastructure is operational.

Disaster Recovery

In the event of a major disaster whereby both sets of servers at the primary data center are lost, NY DMV is requiring that L-1 make the system fully operational within 48 hours after NY DMV has readied the hardware and copied data from tapes on to the hard disks. L-1 requests that NY DMV notify L-1 as soon as a disaster occurs, even while the hardware and data are getting readied. As soon as L-1 is alerted, L-1 will take the following steps for full system recovery.

- 1. Assemble all the key technical resources in a war room, analyze and understand the scope of the disaster, what can be salvaged (if any) and the optimal path for full system recovery.
- 2. Retrieve and review all the current documentation and software necessary for system configuration and setup from source code control system, make multiple copies of the media and test to ensure readability.
- 3. Assist NY DMV in acquiring the hardware and copying data from the tapes on to the hard disk.
- 4. Arrive at NY DMV's disaster recovery site in a timely manner and prepare for system restore.
- 5. As soon as the hardware and data are readied by DMV, the L-1 team will simultaneously get to work on the web, application and database servers in parallel.
- 6. The database is brought up and checked. The application servers are configured and checked. Application servers are then loaded with data from the database. The web servers are set up and checked. L-1 engineers will work around the clock with DMV infrastructure personnel in resolving network and other problems as necessary.
- 7. After all the servers are set up and tested individually, a system integration test is conducted whereby all aspects of the system are tested. Any problems noticed are immediately addressed.
- 8. After integration is completed, DMV will be notified that the system is ready and operational.

Image Database Backup Strategy

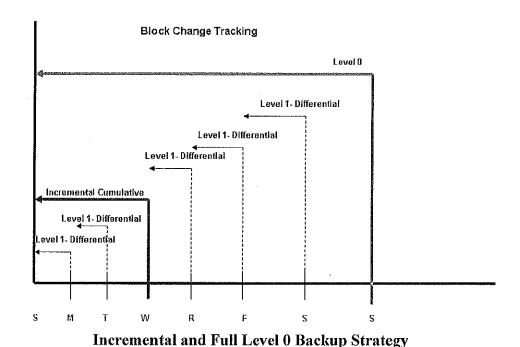
The Image Database System backup will be the source for recovery of the Image Database System. The Image Database System Backup strategy consists of both disk and tape storage. DMV has assumed responsibility for making tape backups using its Enterprise Tape Backup equipment and processes. L-1's tape backup strategy recommendations are given below. Upon contract award, L-1 will work with the DMV to configure, fine-tune and the tape backup strategy, policies and procedures to ensure that restores from tape are accomplished reliably, quickly and securely

A Full (Level-0) encrypted, compressed and password protected Oracle Recovery Manager (RMAN) backup of the Image Database System will be written to disk and tape on a weekly basis.

Incremental (Level-1 Differential and Level-1 Cumulative) encrypted and password protected Oracle RMAN backups baselined from the Weekly Level-0 backup of the Primary Image

Database System are written to disk and tape via RMAN on a daily basis (e.g. Sunday through Friday).

For added data integrity and assurance, the Image Database System backup writes will be scanned for logical and physical corruption.



The disk-resident backups are retained local to the Image Database System disk storage for online availability throughout the backup rotation.

The Image Database System Full Level-0 and Incremental Cumulative and Differential backups are also written to tape media, which contains the 256-bit key encrypted and password protected database backup. The tape backup will be transferred, daily, to a DMV-approved offsite secured vault for a proposed 30-day retention and onsite rotation.

We recommend that the Database Archive Logs generated from the Primary Image Database System updates are written to:

- 1) Disk and retained for 30-days
- 2) Tape concurrently and applied to the Backup Image Database System in real time to ensure 100% redundancy, accuracy and recoverability of the database to minimize any Recovery Point lag.

The RMAN Backup Status logs are reviewed daily. In the event the backups are not successful, the DMV is notified, risks are assessed and the appropriate actions will be agreed upon and taken. For example, the DMV may agree to allow a special backup to be accomplished out-of-schedule to ensure recoverability.

The DMV should ensure that the server operating systems and database are backed up to disk and tape as per the schedule below. The tape media should be sent offsite for secure storage.

Our tape solution includes a weekly and daily data archival plan of the Backup. NY DMV will be responsible to provide the tapes and conduct these backups. L-1 is proposing NY DMV implement the following backup schedule

- Weekly Backup Schedule: A Full (Level-0) encrypted, compressed and password protected archival of the FR Image Database System will be written to disk and tape on a weekly basis.
- Daily Incremental Backups: Incremental (Level-1 Differential and Level-1 Cumulative) encrypted and password protected backups baselined from the Weekly Level-0 archival of the Primary Image Database System are written to disk and tape on a daily basis (e.g. Sunday through Friday).

The figure below shows the proposed archival plan.

Barekujo Level	- Fraggeney	((<u>(10))</u> Zf3 <u>(</u> 9)	Backup ប្រទ្រទ Retention
Level 0 (Full)	Weekly	WKLY	15-Days
Level 1 Incremental	Dally	WKDY	15-Days
Archive Log Backup	Continuous	WKDY	15-Days



Weekly	Full Database Backups will be written to disk and tape media. The backup tape will be sent offsite to an escrow account/vault on a daily basis.
Daily	Incremental Database Backups, rotating differential and cumulative, will be written to disk, backup to tape and sent offsile to an escrow account/vault on a daily basis.
Continuous	The Database Archive Logs, which are a critical component for accomplishing Point-In-Time Recovery, are written to disk and then written to tape on a continuous basis throughout the day. The tape are sent offsite to an escrow account/vault at the end of each business day.

Database Archival Plan

A Full Level-0 Database backup of the Oracle RMAN Catalog Database located is written to both disk and tape on a daily basis. We recommend that the DMV sends these tape backups to a DMV-approval secure vault for offsite storage on a daily basis.

Disaster Recovery Plan Exercises

As part of the operational acceptance of the new NY DMV system, the Disaster Recovery Plan will include the proving of the DRP, Recovery Time Objective and Recovery Point Objective including demonstrated failover to the disaster recovery sites. These exercises will then be repeated periodically thereafter as desired by the DMV.

DRP Exercise Guidelines

Following is a list of DRP Exercise Guidelines that will be followed in planning and executing

the exercises.

- DMV will be a participant during all exercises
- For each scheduled exercise, DMV will define exercise objectives; and define predetermined measurement criteria.
- Document and distribute a test schedule. Time frames indicate the duration of each schedule exercise.
- Select participants based on increased awareness and training benefits.
- Generate and adhere to an exercise script. Evaluate exercise results using the original exercise script as a guideline.
- A record of the exercise proceedings is kept. An unbiased observer is recommended for this position to maintain separation of duties. Record events, times, actions, and results.
- Conduct a post-evaluation meeting. The evaluation will answer the following questions:
 - Were the objectives of the exercise achieved?
 - o Was the test accomplished in the prescribed time frame?
 - o Did exercise participants perform as instructed?
 - Was the overall recovery approach, as set forth in the recovery plan, appropriate and effective?
- Define recovery plan updating instructions and responsibilities. Does the plan need to be updated after the exercise? Who has responsibility for updating the plans and what is the time frame?
- Create and distribute an exercise report to interested parties, including DMV Management.

CONTRACT BETWEEN THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES AND MORPHOTRUST USA, INC.

This Contract, made this day of , 2014, between the New York State Department of Motor Vehicles, 6 Empire State Plaza, Procurement Services, Room 528B, Albany, New York 12228 (hereinafter referred to as the "Department" or "DMV"), and MorphoTrust USA, Inc., 296 Concord Road, Suite 300, Billerica, MA 01821 (hereinafter referred to as "MorphoTrust" or the "Contractor"). DMV and Contractor shall collectively be referred to herein as the "Parties".

The purpose of this Contract is to provide continued software maintenance and support for DMV's Facial Recognition System (FRS). The FRS was acquired from Contractor by DMV, pursuant to State Contract No. C000665, for the purpose of installing and maintaining a facial recognition system to protect the citizens of New York State from identity theft.

PARAGRAPH HEADINGS: Paragraph headings contained in this Contract are for convenience only and shall not be considered for any purpose in governing, limiting, modifying, construing or affecting the provisions of this Contract and shall not otherwise be given any legal effect.

The Parties agree as follows:

SECTION I - GENERAL INFORMATION:

1.1 Term:

The term of this Contract is three years, commencing on March 4, 2015, and expiring on March 3, 2018.

DMV reserves the option to extend the term of this Contract by amendment hereof for one (1) additional, one (1) year term, upon the same terms and conditions, excepting pricing as further described below, and subject to the approval and execution of such amendment by the Office of the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).

This Contract shall not be binding upon the State, or deemed to be fully-executed, until it is executed by OSC.

1.2 Amendment:

The Contract may only be amended in writing by the Parties to the Contract, and subject to approval by the Offices of the New York State Attorney General and State Comptroller.

1.3 Compensation:

DMV will make annual periodic payments to the Contractor for goods and services provided hereunder, in the amount of Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00), with payments due on March 4th of the applicable year, and upon Contractor's submission of annual billing invoices. Total costs incurred by DMV under the terms of this Contract shall not exceed Six Hundred Sixty Thousand and 00/100 Dollars (\$660,000.00), excluding the exercise of the optional twelve-month extension hereof.

In the event that DMV exercises the option to extend the term of this Contract for one (1) additional one (1)-year term, as provided above, the annual cost for goods and services provided thereunder shall be Two Hundred Twenty-Five Thousand and 00/100 (\$225,000.00), and such payment shall be due on March 4th, 2018, and upon Contractor's submission of a billing invoice for payment.

Contractor must provide complete and accurate billing invoices, in order to receive payment. Billing invoices must contain all information and supporting documentation required under the terms of this Contract, or as may be required by the State.

A) Submission of Billing Invoices:

New York State has implemented an enterprise shared service center, known as the "Business Service Center" (BSC), which is responsible for processing payments on behalf of the DMV. In order to receive payments, Contractor must submit its invoice to the BSC, as follows:

The State's preferred method for the submission of invoices is by e-mail, sent to the BSC at: AccountsPayable@ogs.ny.gov.

• PLEASE NOTE: Do not send a paper copy in addition to the electronic invoice.

As an alternate method for submitting invoices, Contractor may mail hard copy invoices to the BSC at the following address:

Department of Motor Vehicles Unit ID: 3700321 c/o NYS OGS Business Service Center PO Box 2117 Albany, NY 12220-0117

All invoices must include the following information:

- 1. Your organization's SFS Vendor Number: 1000053998
- 2. Your Invoice or Account Number
- 3. Indicate the **Department of Motor Vehicles** as the "Customer Agency"
- 4. DMV's Unit ID No. 3700321
- 5. The following NYS Purchase Order (PO) Number and/or Contract Number associated with the invoice: Contract #C000820
- 6. The following Description of Deliverables: Facial Recognition System Maintenance Services
- B) Payment of monthly invoices will be made in accordance with the provisions of Article XI-A of the New York State Finance Law, and further conditioned as follows:
 - A) Payments will be made upon the receipt of conforming performance of Contractor's obligations described in this Contract. Where DMV's satisfaction, approval, or acceptance of deliverables is required, making payments shall be further conditioned upon DMV's acknowledgement of the same, and written acknowledgement is required when specified.

C) Electronic Payment of Contractor's Billing Invoices:

The State will pay Contractor by electronic fund transfer. Payment by paper check will only be made, in the Commissioner's sole discretion, due to extenuating circumstances.

The Contractor must comply with the OSC's procedures for authorization of electronic payments.

Contractor may obtain electronic payment authorization forms at OSC's website, at: www.osc.state.ny.us/epay/index.htm or by email request made to epunit@osc.state.ny.us or by telephone, at 518-474-4032.

Contractor acknowledges that it will not receive payment for any invoices submitted under this Contract if it fails to strictly comply with the OSC's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

1.4 Late Payment:

The payment of interest on certain payments due and owed by DMV may only be made in accordance with Article 11-A of the State Finance Law (SFL §179-d, et seq.), and Title 2 of the New York Code of Rules and Regulations, Part 18 (Implementation of Prompt Payment Legislation -2 NYCRR §18.1, et seq.). Notwithstanding the foregoing, no late payment shall accrue for services rendered prior to the full execution hereof.

1.5 Conflict of Terms:

This Contract incorporates the terms of the following documents. Any conflicts between the terms contained in the main body of this Contract and the terms of such other documents shall be resolved in the following order of precedence, with Appendix-A being highest in order of priority:



- A) Appendix-A, "Standard Clauses for NYS Contracts";
- B) This Contract, including Appendices B, B-1, C, D, E, and F;
- C) State Contract No. C000665, previously entered into by the parties;
- D) Contractor's Price Quote, dated July 25, 2014.

1.6 Appendix-A:

The Contractor shall comply with and be bound by the provisions of Appendix-A, "Standard Clauses for New York State Contracts".

1.7 Notices:

All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- via certified or registered United States mail, return receipt requested;
- by facsimile transmission;
- by personal delivery;
- by expedited delivery service; or
- by e-mail.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate:

- by expedited delivery service; or
- by e-mail.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate:

TO: New York State Department of Motor Vehicles

Name: Micheleen Gregware

Title: Contract Management Specialist 1

Address: 6 Empire State Plaza, Rm. 528B, Albany, NY 12228

Telephone Number: (518) 474-5289 Facsimile Number: (518) 486-4541

E-Mail Address: Micheleen.Gregware@dmv.ny.gov

TO: MorphoTrust USA, Inc.

Name: Scott Boylan Title: General Counsel

Address: 1255 23rd Street NW, Suite 225, Washington, DC 20037

Telephone Number: (202) 688-4800 Facsimile Number: (202) 688-4801

E-Mail Address: LegalNotices@MorphoTrust.com

Notice shall be deemed to have been given upon receipt.

Each party must designate a specific employee to receive notices under this Contract. The parties may also designate specific staff members who are responsible for responding to issues involving contract implementation and administration, billing, and resolving problems and disputes.

SECTION 2 – CONTRACTOR RESPONSIBILITIES:

- 2.1 MorphoTrust shall provide the Department with continued software maintenance and support as described in State Contract No. C000665 previously entered into by the parties, which is incorporated herein by reference.
- 2.2 Service Level: MorphoTrust shall provide the Department with the following service level:
 - Phone Support Direct Software Services personnel phone support shall be provided to DMV. Services shall be provided 8am to 5pm Eastern Standard Time, Monday through Friday, excluding federal holidays.
 - Remote Dial-In Software Services support shall be provided through DMV provided VPN as a second step to phone support.
 - On-Site Software Services support shall be provided for remedial maintenance of software provided phone support and dial-in fail to resolve the issue. Travel shall commence within 48 hours of initial call for support.
 - Preventive Maintenance MorphoTrust shall provide a periodic maintenance plan for the required software systems. Hands-on Preventive Maintenance shall be provided by DMV personnel.

Upgrades – MorphoTrust shall provide in version upgrades to any and all supported software.
 Upgrade shall be via downloaded software patch or installed by MorphoTrust USA Services personnel for larger upgrades.

SECTION 3 - ADDITIONAL TERMS:

3.1 Telephone Accessibility:

In the event that the Department calls the Contractor to report a problem, the Contractor must provide a responsible individual who is authorized by the Contractor to return the call and take any action required to respond to the problem. Contractor must respond to the Department's call during the DMV office's regular business hours, and no later than the close of business on the first business day following DMV's call. Throughout the term of the Contract, such individual must be available to receive calls and/or respond to messages left on voicemail from 8:30 AM until 4:30 PM, Monday through Friday, exclusive of state holidays.

3.2 Cure & Cover:

In the event that that the Contractor's performance fails to conform to the terms of the Contract, the Department will provide Contractor with reasonable notice of such non-conformance, and will permit Contractor to cure such defective performance within the time prescribed in the Contract, or within any extension of such time which is expressly granted by DMV in its sole discretion. If Contractor fails to timely cure its defective performance, then the Department shall have the option to terminate the contract for Contractor's breach; and DMV reserves the right to thereafter obtain substitute performance (cover) from another vendor. In such event, Contractor shall reimburse the Department for any additional costs incurred to obtain substitute performance from another provider.

The Department reserves the right to collect such costs by adjusting invoices, and by any other means available by law.

3.3 Employees of Contractor:

The Contractor must certify that its employees performing services under the Contract are employable in accordance with all applicable New York State and federal laws. In the event that Contractor fails to so comply at any time during the term of the Contract, the Department reserves the right to immediately terminate the Contract without incurring any liability for breach thereof.

Contractor agrees, during the term of the Contract to maintain at Contractor's expense, all necessary insurance for its employees, including but not limited to, worker's compensation, disability and unemployment insurance and to provide the State with certification of such insurance upon request. The Contractor will be responsible for all applicable Federal, State and local taxes and all FICA contributions.

It is understood and agreed that the legal status of the employees is that of an employee of Contractor and in no manner will they be deemed employees of the State of New York and, therefore, are not entitled to any of the benefits associated with such employment.

3.4 Independent Contractor:

It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under the Contract shall be that of an independent Contractor, and in no manner shall they be deemed employees of the DMV or State of New York, and therefore are not entitled to any of the benefits

associated with such employment. The Contractor agrees, during the term of the Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the DMV or OSC with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

3.5 Subcontracting:

Contractor shall not use subcontractors in the performance of its obligations under the Contract, without prior written approval by DMV.

A subcontractor is any individual or legal entity who had entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor. The Contractor's use of subcontractors shall not diminish Contractor's primary responsibility for performing its obligations in accordance with the terms of the Contract. The Contractor shall be primarily responsible for the performance of its subcontractors, including controlling, coordinating, and assuming liability for the work of its subcontractors.

All subcontractors employed by the Contractor in the performance of its obligations hereunder must also comply with the applicable provisions of federal and New York State laws, rules and regulations, and must meet the same criteria as if they were the primary Contractor. The Contractor shall provide DMV with copies of contracts with its subcontractors employed for the purpose of this Contract. The Contractor shall notify DMV if it intends to use any subcontractor. DMV reserves the right to disqualify subcontractors who are unfit to perform state contracts. Contractor is responsible for informing subcontractors of all terms, conditions and requirements of the Contract.

3.6 Contractor Indemnification and Liability:

Contractor's obligation of indemnification and holding harmless specified hereunder shall survive the expiration of the Contract by termination or otherwise. Contractor shall remain primarily liable for the actions of its employees, officers, agents and subcontractors in the performance of the services hereunder.

A. Personal Injury, Property Damage, Wrongful Death, Violation of Intellectual Property Rights: Contractor shall indemnify, keep and hold harmless the State of New York, its agents, officials and employees, from any and all claims for injury or damage to person or property, deaths, losses, damages, suits arising out of the service to be performed under the Contract, including negligence, active or passive, or wrongful or improper conduct of the Contractor, its officers, employees, agents, or subcontractors, including infringement of any third-party's patents or copyrights. Contractor shall remain liable, without monetary limitation, for direct, actual damages for personal injury, death or damage to real property or tangible personal property, and intellectual property attributable to the negligence or other tort of Contractor, its officers, employees or agents. The Contractor will also indemnify and hold the DMV harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the DMV in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the DMV's gross negligence or willful misconduct, provided that the State shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the DMV the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided the DMV is given a refund for any amounts paid for the period during which Usage was not feasible.

The acceptance or approval by the Department of any order or procedure, method, structure or equipment submitted or employed by Contractor shall not in any manner relieve Contractor of any liability pertaining Contractor's negligence in performing such order or procedure, method, structure or providing equipment; provided, however, that if Contractor acts in strict accordance with a specific requirement, specification, instruction, order, mandate (or the like) from the Department, with respect thereto Contractor shall not have an indemnification obligation hereunder.

B. <u>Driver's Privacy Protection Act & New York State Information Security Breach and Notification Act</u>: By signing the Contract, the Contractor acknowledges that all DMV records containing personal information, as well as DMV-related processing information, is confidential and is the property of the Department and the State of New York, and should such information be used improperly, or become compromised the Contractor may be held liable for violating the federal Driver's Privacy Protection Act of 1994 (DPPA) (18 U.S.C. §2721, et seq.), and the New York State Information Security Breach and Notification Act (ISBNA) (General Business Law, §899-aa; State Technology Law, §208), and may be required to indemnify DMV for any such violation.

Contractor must report suspected or confirmed violations of the DPPA or ISBNA to the DMV Information Security Office, within one (1) business day of discovering any such violation:

- a. by email: InformationSecurity@dmv.ny.gov
- b. or by telephone: (518) 402-2676
- (1) <u>DPPA</u>. A person who knowingly violates the DPPA shall be subject to criminal fines and liability for civil remedies. Contractor shall indemnify and hold harmless New York State, its employees and agents, from and against any claims, demands, loss, damage or expense related solely to a knowing violation of the DPPA committed by Contractor, its employees, officers, agents or subcontractors. Contractor shall indemnify the Department and the State of New York even if Contractor did not have knowledge of such violation of the DPPA by its officers, employees, agents, or sub-contractors at the time such violation occurred.
- (2) <u>ISBNA</u>. Contractor shall be responsible for complying with the provisions of the ISBNA with respect to any private information (as defined in the ISBNA) received by Contractor its officers, employees, agents, or sub-contractors. In the event of a breach of security, Contractor shall immediately commence an investigation, in cooperation with DMV, to determine the scope of the breach, and Contractor shall assist DMV in restoring the security of the related system in order to prevent any further breaches. Contractor shall notify DMV of any breach of security immediately following discovery of such breach.

Under the ISBNA, DMV is required to notify any individuals whose records have been accessed for unauthorized purposes from a system maintained by DMV.

In furtherance of the investigation of any breach of the ISBNA, the Contractor must receive written authorization from DMV prior to providing notice of such breach to any other entity. Contractor shall be responsible for all costs associated with providing notices required under the ISBNA. The Contract shall not impair the authority of the New York State Office of the Attorney General (OAG) to bring an action against Contractor to enforce the provisions of the ISBNA, or limit Contractor's liability for any violations of the ISBNA. Additional information concerning the ISBNA and the notification process is available at: http://www.cscic.state.ny.us/security/securitybreach.

3.7 Savings/Force Majeure:

A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of nature, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the DMV in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented. Contractor shall provide the DMV with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor the DMV shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the DMV to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the DMV where the delay or failure will significantly impair the value of the Contract to the State, the DMV may:

- a. Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to DMV with respect to Product subjected to allocation; and/or
- b. Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State; or
- c. Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the DMV reserves the right, in its sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss.

3.8 Severability:

Should any one or more terms of the Contract be determined by a court of competent jurisdiction to be illegal or unenforceable, then such term(s) shall be conformed as required to so comply. If the term(s) is of such a nature that it cannot be amended without altering the purpose or nature of the Contract, then such term(s) shall be deleted from the Contract as if never included therein, and the remaining terms of the Contract shall remain in full force and effect, unless the deletion of the term(s) renders the Contract unenforceable or frustrates the purpose or intent of the Contract. In which case, the Contract shall be terminable by mutual consent of the Parties. If an ambiguity or question of intent arises, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of authorship of any of the provisions of this Agreement.

3.9 Right to Audit:

The Contractor shall maintain accurate records and accounts of services performed under the Contract and, as required by the Office of the State Comptroller or by the Department, shall furnish or make available such records. Contractor shall keep such records for at least six (6) years subsequent to date of final payment. The Parties acknowledge and consent to the extension of this record retention obligation, which exceeds the minimum standard set forth in Appendix-A hereof.

3.10 New York State Department of Motor Vehicles Standard Security Clauses for Sharing Data with External Entities:

Contractor must fully comply with all applicable provisions of Appendix-F, "New York State Department of Motor Vehicles Standard Security Clauses for Sharing Data with External Entities".

3.11 Termination:

- a. For Cause: DMV may terminate the Contract, upon written notice to the Contractor, in the event that any material breach thereof remains uncured for more than thirty (30) days, or any other period specified by DMV. Such termination for cause shall be at the Contractor's expense in the event that the Contractor is incapable of performing its contractual obligations or meeting any requirements or qualifications set forth in the Contract, or for non-performance, or upon a determination that the Contractor is non-responsible or non-responsive. Such termination shall be upon written notice to the Contractor. In such event, DMV may complete the contractual requirements in any manner it deems advisable, and DMV may avail itself of all remedies provided by law.
- **b. For Convenience**: The Contract may be terminated by DMV for convenience, at any time, upon thirty (30) days written notice (or other period specified) to the Contractor, without incurring any liability for breach of contract, or liability for payment of any charges beyond payment for conforming goods and/or services accepted by DMV up to and including the date of termination. Contractor shall use due diligence, and shall provide any outstanding deliverables up to the date in which such termination shall be effective.
- c. For Violation of the Sections 139-j and 139-k of the State Finance Law: The DMV reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, DMV may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

d. Termination without prior Notice in the Event of a Security Breach: Notwithstanding the foregoing, DMV reserves the right to immediately terminate this Contract in the best interests of the State, without providing prior notice of termination to Contractor, in the event DMV determines that a breach of security occurred or that a breach is imminent. In such event, DMV shall provide Contractor with written notice of cancellation within a reasonable time. However, termination of this Agreement will not affect Recipient's liability for breach of the terms hereof.

3.12 Policy Statement on Women and Minority-Owned Business Development:

It is the policy of the State of New York to promote equality of economic opportunity for minority and women-owned business enterprises (M/WBEs) in State contracting. In order to comply with the State's objectives, the Contractor must use "good faith efforts" to provide meaningful participation by M/WBE subcontractors or suppliers in the performance of this contract. Contractor must comply with the provisions of Appendix-E hereof, entitled "Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises, and Equal Employment Opportunities for Minority Group Members and Women".

Contractor must execute and submit MWBE Form-1 (attached hereto), as its EEO policy statement, within seventy-two (72) hours after DMV issues written notice of award of the Contract to the Contractor.

3.13 Summary of Policy and Prohibitions on Procurement Lobbying:

In order to facilitate transparency in the procurement process, and pursuant to NYS Procurement Lobbying Law (State Finance Law §§139-j and 139-k), this solicitation imposes certain restrictions on communications between DMV and an Offerer/Bidder made during the procurement process. An Offerer/Bidder is restricted to communicating with designated DMV staff ("designated contacts"), during the portion of the procurement process known as the "restricted period". The restricted period runs from DMV's earliest notice of its intent to solicit offers, through award of the Procurement Contract by DMV, and where applicable, the final approval of the Contract by the NYS Office of State Comptroller. Certain statutory exceptions are provided for in State Finance Law §139-j(3)(a).

The Designated Contacts for this solicitation are identified in Section 1.7 hereof.

When contacted during the restricted period, DMV staff members are required to document information, about the communication.

DMV must also make a determination of the "responsibility" of the Offerer/Bidder. Certain findings of non-responsibility can result in rejection of the Offerer/Bidder for contract award. In the event of two findings of non-responsibility made within a 4-year period, the Offerer/Bidder may be debarred from obtaining governmental Procurement Contracts.

Further information about the NYS Procurement Lobbying Law can be obtained from the Office of General Services Website, at:

http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html.

DMV's Policy and Procedures concerning compliance with NYS Procurement Lobbying Law is attached hereto as Appendix-B. Bidders must complete and submit Appendix B-1 with their bid.

3.14 Insurance:

Contractor must, at the Contractor's expense, maintain in full effect any policy of insurance required hereunder for the term of the Contract and any extensions thereof. Contractor's failure to maintain required insurance, or failure to provide DMV with satisfactory evidence thereof at any time during the term of the Contract or any extension thereof, shall constitute a material breach of contract for which DMV shall have the option to terminate the Contract without incurring any liability for breach thereof.

The Contractor must provide the Department with evidence of such continuing insurance coverage, as follows:

- 1. The **Department of Motor Vehicles and the State of New York** must be named as additional insureds on policies providing General Liability coverage.
- 2. All policies of insurance required hereunder must be issued by an insurance carrier licensed to do business in New York State.
- 3. Contractor must provide DMV with copies of certificates of insurance as evidence of insurance. However, DMV reserves the right and sole discretion to require further proof of insurance at any time during the term of the contract. In such event, Contractor must cooperate with such request and must promptly provide DMV with such other proof of insurance within five (5) business days from Contractor's receipt of DMV's request.

In contemplation of such request, Contractor hereby authorizes the insurance carrier named in the certificate of insurance issued hereunder to issue a copy of the Policy, or such other proof as DMV may require, directly to DMV upon request.

- 4. Contractor must provide such evidence of insurance upon notice and acceptance of the award of the Contract. Contractor is responsible for providing continuing proof of such insurance coverage, within ten (10) business days from the renewal of each policy.
- 5. In the event of any change, lapse, or termination of coverage, including change of insurance carrier, during the term of the Contract, Contractor must provide DMV with proof of coverage acceptable to DMV within five (5) business days from the effective date of any such change.
- 6. Contractor must ensure that insurance carriers issuing policies of insurance required hereunder directly notify DMV of any change, lapse, or termination of coverage.
- 7. Proof of insurance coverage must be provided to DMV at:

NYS Department of Motor Vehicles Attn: Maureen Younkin, Director, Procurement Services 6 Empire State Plaza Swan Street Bldg., Room 528B Albany, New York 12228

9. Contractor must provide the following insurance coverage:

Bodily Injury and Property Damage Insurance:

Policies of Bodily Injury Liability and Property Damage Liability Insurance, of the types specified herein each with limits of liability of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by one person in any one accident, and, subject to that limit for each person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, and not less than \$1,000,000 for all damages arising out of injury to or destruction of property in any one accident.

3.15 Contractor Certification:

Contractors are required to complete and sign, under penalty of perjury, the "Contractor Certification Form", ST-220-TD (Appendix-C), in accordance with § 5-a of the NYS Tax Law. Contractors must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, any subcontractors and any affiliates of subcontractors required to register to collect state sales and compensating use tax.

Pursuant to Tax Law, Section 5-a, Contractors are required to complete and sign, under penalty of perjury, the Contractor Certification Form ST-220-CA (Appendix-D) at time of contract execution.

Tax Law, Section 5-a applies to all Agreements valued in excess of \$100,000 for the sale of goods or services as defined in Article XI of the State Finance Law, and/or tangible personal property or taxable services as defined by the Tax Law.

The Department of Motor Vehicles is not authorized to address questions regarding the Tax Law or its interpretation. Any questions regarding the Law must be directed to the New York State Department of Taxation and Finance.

A COMPLETED FORM ST-220-CA MUST ACCOMPANY THE CONTRACT. IF REQUIRED, THE CONTRACTOR MAY ALSO BE RESPONSIBLE FOR FILING FORM ST-220-TD WITH THE NYS DEPARTMENT OF TAXATION & FINANCE.

3.16 Compliance with Laws:

In performing its obligations under the Contract, the Contractor shall comply with all applicable federal, state, and local statutes, ordinances, regulations, and rules, including, but not limited to, NYS printing law, laws regulating the terms and conditions of employment, building and fire codes, zoning laws, privacy, public building requirements for use by the handicapped, and occupational safety and health rules.

3.17 Vendor Responsibility:

Prior to awarding a contract, DMV must evaluate information provided in the Vendor Responsibility Questionnaire which must be completed by each bidder. Bidders are invited to file the required Vendor Responsibility Questionnaire online, via the New York State VendRep System. Bidders may elect to submit a completed hard-copy questionnaire, in lieu of using this electronic format.

To enroll in and use the New York State VendRep System, bidders should refer to the VendRep System Instructions available at www.osc.state.ny.us/vendrep, or they may access the VendRep System online, at https://portal.osc.state.ny.us. For assistance using the VendRep System, bidders may contact the OSC Help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk at 866-370-4672 or 518-408-4672, or by email at help Desk @osc.state.ny.us. Bidders electing to file a hard-copy questionnaire can obtain the questionnaire form at the VendRep website (https://www.osc.state.ny.us/vendrep), or they may contact DMV or the Office of the State Comptroller to obtain a copy.

DMV reserves the right to verify all information provided by the bidder to whom an award of contract is made. DMV reserves the right to disqualify a Bidder/Contractor as "not- responsible", in the event that the Bidder/Contractor has intentionally provided false or incomplete information, or has intentionally failed to disclose pertinent information. DMV reserves the right to make continuing responsibility determinations at any time during the term of the Contract.

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

Suspension of Work (for Non-Responsibility): The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as Commissioner or his or her designee issues a written notice authorizing the resumption of performance under the Contract.

Termination (for Non-Responsibility): Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate DMV officials or staff, the Contract may be terminated by Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by Commissioner or his or her designee to be non-responsible. In such event, Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

3.18 Iran Divestment Act:

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By entering into this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before DMV may approve a request for Assignment of Contract

During the term of the Contract, should DMV receive information that a person is in violation of the above-referenced certification, DMV will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then DMV shall take such action as may be

appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

DMV reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

3.19 Jurisdiction:

All controversies concerning this Contract must be resolved by a court of competent jurisdiction in New York State.

Signatures on following page

Signature Page

MORPHOTRUST USA, INC.	NYS DEPARTMENT OF MOTOR VEHICLES			
BY, (Flease Sign Here) ROBER ECKEL (Please Print Name) CHO	(Please SManreen Younkin Contract Administrator Please Primaryante) Motor Vehicles			
(Title)	(Title)			
Date: 9 / 23 / 14 (mm/dd/yyyy)	Date: 9 126 1 2014 (mm/dd/yyyy)			
Corporate Seal:	** I **			
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NYS OFFICE OF THE ATTORNEY GENERAL	OFFICE OF THE NEW YORK STATE COMPTROLLER			
BY,	BY,			
OVED AS TO FORM	APPROVED			
(Please Sign Here) FORM AS TO FORM NYS ATTORNEY GENERAL NYS ATTORNEY OR 2014	(Please Sign Here) DEPT. OF AUDIT & CONTROL			
(Please Print Name) OCT 0 9 2014	(Please Print Name) DEC 0-2 2014			
h margo	Quaghings			
(Title) ASSISTANT ATTORNEY GENERAL	(Title) FOR THE STATE COMPTROLLER			
Date:/	Date://			
(mmuaa yyyy)	(minutaryyyy)			
TO THE AGREEMENT)	PRATIONS MUST ALSO AFFIX THEIR CORPORATE SEAL			
STATE OF Massachusetts				
COUNTY OF Middlesex) SS.:				
On this 231C day of September , 2014 before me personally came ROBERT EXEL , to me known who being duly sworn, did depose and say that he resides in ANDOVER, MA ; that he is the				
INC., the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation;				
that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.				
Notary Public 2				
My Commission Expires: 7/9/21				

APPENDIX-A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

January 2014

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, the gen

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or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

- 3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
- 4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- 5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
- 6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.
- 7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the

time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

- 8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).
- 9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
- 10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
- 11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers. (b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the

Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

- 12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00 whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:
- (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and
- (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

- 13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
- <u>14. GOVERNING LAW.</u> This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
- **15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business Albany, New York 12245 Telephone: 518-292-5100

Fax: 518-292-5884 Email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Division of Minority and Women's Business Development 633 Third Avenue New York, NY 10017 212-803-2414

Email: <u>mwbecertification@esd.ny.gov</u>

https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.
- 21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
- <u>22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.</u> Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
- 23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.
- **24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.
- 25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written

notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX-B: STATE OF NEW YORK PROCUREMENT LOBBYING POLICY AND **PROCEDURES**

Revised March 2012

I. Policy:1

It is the policy of DMV to comply with the provisions of State Finance Law §§139-j and 139-k, and related guidance offered by the Advisory Council on Procurement Lobbying and the Office of the State Comptroller.²

II. Procedure:³

The procedure set forth hereafter applies to "Governmental Procurements" let by DMV.

III. Definitions:

Capitalized terms used but not defined herein shall have the meaning ascribed to them in State Finance Law §§139-j and 139-k (See, attached).

For the purpose of this procurement, the terms "Contact" and "Designated Contact" are ascribed the following meanings:

"Contact" as used herein is defined as (1) any oral, written or electronic communication that is (2) made by the Bidder, or a person acting on behalf of the Bidder, (3) to an employee of DMV or of a Governmental Agency other than the DMV, (4) concerning the related Governmental Procurement, (5) where such communication is made during the "Restricted Period"; and (6) where a reasonable person would infer that such communication was made by the bidder with the intention of improperly influencing the related Governmental Procurement [e.g., any violation of Public Officers Law §73(5) (offer of a gift of \$75 or more), or \$74 (code of ethics for public officers and employees)].

The term "Contact" does not include permissible communications such as (1) submission of a written proposal⁴, (2) submission of written questions⁵, (3) participation in a bidders' conference⁶, (4) complaints⁷, (5) contract negotiations subsequent to notice of a tentative award of contract⁸, (6) review of contract award⁹, and (7) protests, appeals or other review proceedings¹⁰; (8) a communication described in Legislative Law §1-t(e) which is (a) made by a bidder or subcontractor to a bidder qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement, who (b) provides information to a Designated Contact to assist the Designated Contact in understanding and assessing the qualities, characteristics or anticipated performance of such article of procurement and (c) who does not recommend or advocate contract provisions¹¹; or a communication by which the bidder seeks generally

¹139-j (2)

² 139-j (5)

³ 139-j (1); 139-k (1)

⁴ 139-j (3)(a)(1)

⁵ 139-j (3)(a)(2)

⁶ 139-j (3)(a)(3)

⁷ 139-j (3)(a)(4)

^{8 139-}j (3)(a)(5)

⁹ 139-j (3)(a)(6) ¹⁰ 139-j (3)(a)(7)

^{11 139-}j (1), (3); 139-k (1)

available information, including clarification and interpretation, with respect to the solicitation documents or the Governmental Procurement process, including the status or timing of steps in the process¹².

"Designated Contact" as used herein is defined as one or more employees of DMV identified in the solicitation for the related Governmental Procurement, or thereafter designated by the DMV's Contract Manager¹³.

IV. Solicitations:

DMV will include the following in every written solicitation for a Procurement Contract¹⁴:

- (1) The name of each Designated Contact person, and a statement which substantially complies with in the following form: "Prior to approval by DMV, or, if applicable, the Office of the State Comptroller, of the contract for which this solicitation has been issued, bidders must direct all communications concerning this solicitation to the person(s) identified as "Designated Contact(s)" 15;
- (2) A summary of DMV's policy and procedures regarding "contacts";
- (3) A form (See, Appendix B-1, attached) to be submitted by bidders, upon which each bidder affirms in writing (a) its understanding of DMV's procurement lobbying policy and procedures; and (b) that it will comply with such policy and procedures; and (c) discloses whether it has been determined to be "non-responsible" within the previous four (4) years for violating State Finance Law §139-j¹⁶, or for having intentionally provided false or incomplete information¹⁷ to a Governmental Entity concerning its compliance with State Finance Law §139-j; and (d) certifies that the bidder has provided accurate and complete information concerning the bidder's compliance with State Finance Law §\$139-j and 139-k within the previous four years¹⁸.

V. Contracts:

Each Procurement Contract will contain the following statement, substantially in the following form: "DMV reserves the right to terminate this contract in the event that it is determined that the certification filed by the Contractor in accordance with State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete¹⁹. Upon such determination, DMV may terminate this Contract by providing written notification to the Contractor, without incurring liability on the part of DMV or the State for breach of contract."²⁰

VI. Records of Contacts:²¹

In the event that DMV employees who are not Designated Contacts are contacted by bidders, or persons acting on the Bidder's behalf, during the restricted period, the employee will make a record of such Contact and will provide such record to the DMV's Contract Administrator. DMV employees who

¹² 139-j (3)

¹³ 139-j (1), (2); 139-k (1)

¹⁴ 139-j (2); 139-k (2)

¹⁵ 139-j (6)

^{16 139-}k (2)

¹⁷ Id.

¹⁸ Id.

¹⁹ 139-j (10(b); 139-k (5)

²⁰ Id

²¹ 139-j (8), (10)(b); 139-k (4)

become aware of impermissible contacts made to another Governmental Entity concerning this procurement will also make and provide records of any such contacts to Contract Administration. The DMV employee may make one (1) record covering multiple Contacts that are made by the same person within a period of five (5) business days. DMV will make all records of Contacts part of the procurement record²². Contracts Administration will promptly provide records of impermissible Contacts to DMV's Office of the Deputy Commissioner and Counsel for review.

VII. Review and Investigation:²³

Upon receipt of a record of an impermissible Contact, the Deputy Commissioner and Counsel or her or his designee ("Reviewer") will review and investigate, within fifteen (15) days from receipt of such information²⁴. The Reviewer will notify the Bidder that an investigation is ongoing; give notice of the allegations of misconduct; and give the Bidder an opportunity to respond in writing, within ten (10) days from receipt of notification of the alleged violation²⁵. The Bidder will not be entitled to representation by counsel. The Reviewer will determine whether the Bidder has willfully and knowingly made an impermissible Contact. The Reviewer will advise the Bidder and the Contracts Manager, or employee authorized for such purpose, of the final determination made²⁶. In the event the Reviewer determines that the Bidder has made an impermissible Contact with a Governmental Entity other than DMV, the Reviewer will so notify the ethics officer²⁷, inspector general or other appropriate official of such other Governmental Entity²⁸. In the event the Reviewer determines that, as the result of an impermissible Contact, an employee of DMV has violated the provisions of Public Officers Law §73(5) [prohibition of acceptance of a gift of \$75 or more] or §74 [code of ethics], the Reviewer will so advise the Commissioner of Motor Vehicles, the State Ethics Commission and the Office of the Inspector General²⁹.

VIII. Determinations of Non-Responsibility:³⁰

The Reviewer, or employee authorized for such purpose, will determine whether a bidder has been determined to be "non-responsible" because (1) the Bidder has willfully and knowingly made an impermissible Contact³¹, or (2) the Bidder has intentionally failed to make accurate and complete disclosure of prior findings of non-responsibility with respect to Governmental Procurements made within the previous four (4) years³². Upon making a determination of non-responsibility, the Contracts Manager, or employee authorized for such purpose, will so notify the Bidder and the Commissioner of Motor Vehicles³³. A finding of non-responsibility under this section shall result in DMV not awarding the contract to such bidder, unless DMV determines that (1) the award of the contract is necessary to protect public property or public health or safety, and (2) the bidder is the only source capable of supplying the required article of procurement within the required time frame.

²² Id.

²³ 139-j (9)

²⁴ Id.

²⁵ 139-j (10)(a)

²⁶ 139-j (10)(a)

²⁷ 139-j (8)(a), (c)

²⁸ 139-j (8)(c), (10(b)

²⁹ Legislative Law: POL §73(5); §74 (Code of Ethics)

³⁰139-j (7)

³¹ 139-j (10)(b)

³² 139-j (10)(b); 139-k (5)

³³ 139-j (10)(a)

APPENDIX-B-1: AFFIRMATION AND DISCLOSURES CONCERNING STATE FINANCE LAW §§139-J AND 139-K

FINANCE LAW \$\$139-J AND 139-K			
Procurement Description/ID No. C000820 Name of Bidder: MorphoTrust USA, Inc. Address: 296 Concord Road, Suite 300, Billerica, MA 01821 Name and Title of Person Submitting this Form:			
A. Bidder affirms that it has received, reviewed and understands the Policy and Procedure of the Department of Motor Vehicles (DMV), relating to State Finance Law §§139-j and 139-k, and agrees to comply with DMV's procedure relating to Contacts with respect to this procurement.			
B. Disclosures:			
1. Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Bidder within the previous four years where such finding was due to a violation of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?			
No Yes			
If yes, provide the following details: Governmental Entity which made the finding: Date of finding: Basis of finding:			
2. Has a Governmental Entity terminated or withheld a procurement contract with the Bidder because of violations of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? No Yes			
If yes, identify the Governmental Entity, the date of termination or withholding, and related procurement contract:			

Date: ____, 2014

APPENDIX-C: ST-220-TD CONTRACTOR CERTIFICATION



New York State Department of Taxation and Finance

Contractor Certification

ST-220-TD

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need help? below). Contractor name Contractor's principal place of business City State Contractor's malling address (if different than above) Contractor's federal employer identification number (EIN) Contractor's sales tax ID number (if different from contractor's EIN) Contractor's telephone number Covered agency name Contract number or description Estimated contract value over the full term of contract (but not including renewals) \$ Covered agency address Covered agency telephone number

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold divines conditions contractors. exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, Questions section 5-a of the Tax Law, see Publication 223, Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006), available at www.nystax.gov.

Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

NYSTAX DEPARTMENT DATA ENTRY SECTION W A HARRIMAN CAMPUS ALBANY NY 12227

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

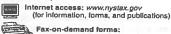
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?



1 800 748-3676

Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: Sales Tax Information Center:

From areas outside the U.S. and outside Canada:

(518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

Persons with disabilities: in compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 872-1233.

I,, hereby affirm, under penalty of perjury, that I am	200.2
(name) of the above-named contractor, and that I am authorized to make this certification on behalf of su	(title) uch contractor.
Make only one entry in each section below.	
Section 1 — Contractor registration status	
The contractor has made sales delivered by any means to locations within New York State of tangible p services having a cumulative value in excess of \$300,000 during the four sales tax quarters which imm quarter in which this certification is made. The contractor is registered to collect New York State and too taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax L this certification.	ediately precede the sales tax cal sales and compensating use
The contractor has not made sales delivered by any means to locations within New York State of tangit services having a cumulative value in excess of \$300,000 during the four sales tax quarters which Imm quarter in which this certification is made.	
Section 2 — Affiliate registration status	
☐ The contractor does not have any affiliates.	
□ To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales locations within New York State of tangible personal property or taxable services having a cumulative v during the four sales tax quarters which immediately precede the sales tax quarter in which this certific exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New Your compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 an contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarterlification.	alue in excess of \$300,000 cation is made, and each affiliate ork State and local sales and d 1253 of the Tax Law. The
To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate hany means to locations within New York State of tangible personal property or taxable services having \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which t	a cumulative value in excess of
Section 3 — Subcontractor registration status	
☐ The contractor does not have any subcontractors.	
☐ To the best of the contractor's knowledge, the contractor has one or more subcontractors having made locations within New York State of tangible personal property or taxable services having a cumulative with the four sales tax quarters which immediately precede the sales tax quarter in which this certification is exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New Y compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during succertification.	ralue in excess of \$300,000 during s made, and each subcontractor ork State and local sales and d 1253 of the Tax Law. The
To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each su delivered by any means to locations within New York State of tangible personal property or taxable ser excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter	vices having a cumulative value in
Sworn to thisday of, 20	
(sign before a notary public)	litle)
taki anar anari harini	uue)

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ST-220-TD (6/06) Page 3 of 4

Schedule A — Listing of each person (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such person exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Factoralpto Contain	B Name	C Address	D Federal ID Number	Sales Tax ID Number	F Registration in progress
	0.1.1.2.2				

- Column A Enter C in column A if the contractor; A if an affiliate of the contractor; or S if a subcontractor.
- Column B Name If person is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable, If person is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If person has a different DBA (doing business as) name, enter that name as well.
- Column C Address Enter the street address of person's principal place of business. Do not enter a PO box.
- Column D ID number Enter the federal employer identification number (EIN) assigned to the person or person's business, as applicable. If the person is an individual, enter the social security number of that person.
- Column E Sales tax ID number Enter only if different from federal EIN in column D.
- Column F If applicable, enter an X if the person has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

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	Individual, Corporation, Partnership, or LLC Acknowledgment
STAT	E OF } : SS:
cou	VTY OF }
On th	e day of in the year 20 , before me personally appeared ,
	n to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that resides at,
	of
Cour	ty of,
	of; and further that:
[Mari	an X in the appropriate box and complete the accompanying statement.]
□ (f an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
	f a corporation): _he is the
į.	f, the corporation described in said instrument; that, by authority of the Board f Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for urposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on ehalf of said corporation as the act and deed of said corporation.
	f a partnership): _he is a
F t	, the partnership described in said instrument; that, by the terms of said artnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth the that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said artnership as the act and deed of said partnership.
L c t	f a limited liability company): _he is a duly authorized member of
Nota	y Public
Regi	tration No.

APPENDIX-D: ST-220-CA CONTRACTOR CERTIFICATION TO COVERED AGENCY



New York State Department of Taxation and Finance

Contractor Certification to Covered Agency (Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

For information, consult Publication 223, Questions and Answers Concerning Tax Law Section 5-a (see Need Help? on back). Contractor name For covered agency use only Contract number or description ZIP code Contractor's principal place of business Contractor's mailing address (if different than above) Estimated contract value over the full term of contract (but not including renewals) Contractor's federal employer identification number (EIN) | Contractor's sales tax ID number (# different from contractor's EIN) Contractor's telephone number Covered agency name Covered agency address Covered agency telephone number $_$, hereby affirm, under penalty of perjury, that I am $_$ of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify (Mark an X in only one box) The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete. ☐ The contractor has previously filed Form ST-220-TD with the Tax Department in connection with (insert contract number or description) and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time. Sworn to this ____ day of _

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, Contractor Certification to Covered Agency, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See Need help? for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

(sign before a notary public)

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a covered agency within the meaning of the statute (see Publication 223, Q&A 5);
- The contractor is a contractor within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a contract within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for commodities or services, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned on or after April 26, 2006 (the effective date of the section 5-a amendments).

Page 2 of 2 ST-220-CA (6/06)

Individual, Corporation, Partners	ship, or LLC Acknowledgment	
STATE OF		
On the day of in the year 20, before me	e personally appeared	
known to me to be the person who executed the foregoing instrur _he resides at		and say that
Town of		
County of	· ·	
State of; and further that:	*	
[Mark an X in the appropriate box and complete the accompanying	ng etatoment 1	
(If an individual): _he executed the foregoing instrument in his	s/ner name and on his/ner own behalf.	
Of, the corporation de of Directors of said corporation, _he is authorized to execute purposes set forth therein; and that, pursuant to that authority behalf of said corporation as the act and deed of said corporation.	escribed in said instrument; that, by authority of the foregoing instrument on behalf of the corpo y, _he executed the foregoing instrument in the	ration for
(If a partnership): _he is a		
of, the partnership despartnership, _he is authorized to execute the foregoing instructherein; and that, pursuant to that authority, _he executed the partnership as the act and deed of said partnership.	ment on behalf of the partnership for purposes	set forth
(If a limited liability company): _he is a duly authorized memb LLC, the limited liability company described in said instrumer on behalf of the limited liability company for purposes set for the foregoing instrument in the name of and on behalf of said liability company.	nt; that _he is authorized to execute the foregoin the therein; and that, pursuant to that authority, _!	he executed
Notary Public		
Registration No.		
	Need help?	
Privacy notification	Need help? Internet access: www.nystax.gov	
The Commissioner of Taxation and Finance may collect and maintain personal	(for information, forms, and publications)	
information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 471, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(I).	Fax-on-demand forms: Telephone assistance is available from	1 800 748-3676
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.	8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. To order forms and publications:	1 800 698-2931 1 800 462-8100
Information concerning quarterly wages paid to employees is provided to certain	From areas outside the U.S. and outside Canada:	(518) 485-6800
state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.	Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only):	1 800 634-2110

Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233. or both, under the Tax Law. This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call

Failure to provide the required information may subject you to civil or criminal penalties,

(518) 485-6800.

APPENDIX-E: CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

(MWBE, v. 2-10-12)

I. Introduction:

New York's *Statewide Certified MWBE Program* (Program) serves to ameliorate the significant disparities between the level of participation of MWBE's in state procurement contracting, versus the number of *certified minority-and women-owned business enterprises* (MWBE's) that are ready, willing and able to participate in state procurements.

In order to comply with New York State Executive Law Article 15-A ("Participation by Minority Croup Members and Women with Respect to State Contracts"), Article 15 (the "Human Rights Law"), and 5 NYCRR Parts 142-144 ("MWBE Regulations"), for all State contracts as defined therein, and to facilitate the implementation and operation of the Program, State agencies are required to establish goals for maximizing participation of New York State MWBE's and the employment of minority group members and women in the performance of New York State contracts.

This Section articulates DMV's goals for promoting such opportunities.

Bidder/Contractor acknowledges that its failure to comply with the following provisions may result in a finding of non-responsiveness, non-responsibility, and/or breach of Contract, which may result in the withholding of payment, suspension or termination of the Contract, or such other actions or enforcement proceedings provided herein or permitted by Law.

II. Business Participation Opportunities for MWBEs:

DMV hereby establishes an overall goal of 22% for MWBE participation, 11% for *Minority-Owned Business Enterprises* (MBE) participation, and 11% for *Women-Owned Business Enterprises* (WBE) participation (based on the current availability of qualified MBE's and WBE's). Contractor must document good faith efforts to provide meaningful participation by MWBE's as subcontractors or suppliers in the performance of the Contract, and Contractor agrees that DMV may withhold payment pending receipt of the required MWBE documentation.

The directory of New York State Certified MWBE's can be viewed at: http://www.esd.ny.gov/mwbe.html.

For guidance on how DMV will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

D) Liquidated Damages:

In accordance with 5 NYCRR §142.13, Contractor acknowledges that its willful and intentional failure to comply with the MWBE participation goals set forth in the Contract will constitute a material breach of Contract for which DMV may withhold payment from the Contractor as liquidated damages for such breach.

Such liquidated damages shall be calculated as an amount equal to the difference between (1) all sums identified for payment to MWBE's had the Contractor achieved the contractual MWBE goals, and (2) all sums actually paid to MWBE's for work performed or materials supplied under the Contract.

E) MWBE Utilization Plan:

The Bidder to whom a contract is awarded (Contractor) must submit a MWBE Utilization Plan, upon execution of the Contract. At all times during the performance of the Contract, Contractor must make good faith efforts to utilize MBE's and WBE's identified in its MWBE Utilization Plan.

DMV may disqualify a Bidder/Contractor as being non-responsive, under the following circumstances:

- a) Bidder/Contractor fails to submit a MWBE Utilization Plan:
- b) Bidder/Contractor fails to submit a written remedy to a notice of deficiency;
- c) Bidder/Contractor fails totimely submit a request for waiver; or
- d) DMV determines that the Bidder/Contractor has failed to document good faith efforts.

Any modifications or changes to the MWBE Utilization Plan made during the term of the Contract must be promptly reported, and such modifications or changes will be subject to DMV's approval. DMV will review the submitted MWBE Utilization Plan and advise the Contractor of DMV's acceptance, or issue a notice of deficiency within 30 days of receipt.

- 1. MWBE Waiver Request: Contractor may submit requests for a partial or total waiver of established goal requirements, at any time during the term of the Contract, prior to issuance of final payment on the Contract. If a notice of deficiency is issued, Contractor must respond to the notice of deficiency within seven (7) business days of receipt by submitting to DMV a written remedy that addresses each deficiency contained in the notice of deficiency. If the written remedy that is submitted is not timely or is found by DMV to be inadequate, DMV shall notify Contractor and direct Contractor to re-submit a revised remedy, within five (5) business days. Failure to request the waiver in a timely manner may be grounds for rejection of the request.
- 2. Contractor's Quarterly Workforce Employment Utilization Report ("Workforce Report"): Contractors are required to submit to DMV, by the 10th day following the end of each quarter during the term of the Contract, a Workforce Report. Such reports document Contractor's progress made toward achieving the MWBE goals for the Contract. The Workforce Report must document any changes to the "Bid Staffing Plan" that Contractor submitted with its Bid (See, below).

Contractor must submit separate reports for Contractor and any subcontractor performing work on the Contract. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or any subcontractor's total workforce. When a separation can be made, Contractor must submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from Contractor's and/or a subcontractor's total workforce, Contractor must submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

III. Equal Employment Opportunity Requirements:

NOTE: The following requirements do not apply to (a) work, goods, or services unrelated to the Contract; or (b) employment outside New York State.

Contractor must ensure that Contractor and its subcontractors undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. This requirement shall apply to any subcontractors to whom Contractor awards a subcontract for goods or services related to the Contract, valued at over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (except where such subcontract is solely for the beneficial use of the Contractor).

- For these purposes, "equal opportunity" must be provided in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay, or other forms of compensation.
 - E) MWBE Form-1, Contractor's EEO Policy Statement: Contractor must execute and submit MWBE Form-1 (attached hereto), as its EEO policy statement, within seventy-two (72) hours after DMV issues written notice of award of the Contract to the Contractor.
 - F) Bid Staffing Plan: Bidder must submit with its proposal a Bid Staffing Plan that identifies the anticipated work force to be utilized on the Contract by specified categories, including ethnic background, gender, and Federal occupational categories. Upon DMV's request, Contractor must promptly submit a workforce utilization report that identifies the workforce actually utilized in the performance of the Contract.
 - G) Non-Discrimination: Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest; and Contractor shall take reasonable steps to ensure that its subcontractors comport with such non-discrimination provisions during the term of the Contract. Contractor acknowledges that it understands and shall comply with such requirements above, and these provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions provided by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

MWBE Form-1: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

I,	, the (awarde	
adopt the	following policies with respect to the p	roject being developed or services rendered at
(1) Adam M Coo (2) Ro Ad (3) En pr W (4) W po ar ot er (5) D in Co its M (6) En m had con al	This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract goals set by the State for that area in which the project is located, by taking the following steps: Actively and affirmatively solicit bids for contracts d subcontracts from qualified State certified BEs or WBEs, including solicitations to M/WBE intractor associations. Acquest a list of State-certified M/WBEs from GENCY and solicit bids from them directly. Insure that plans, specifications, request for opposals and other documents used to secure bids all be made available in sufficient time for review or prospective M/WBEs. There feasible, divide the work into smaller ortions to enhanced participations by M/WBEs and the encourage the formation of joint venture and their partnerships among M/WBE contractors to chance their participation. The contractor will also maintain records of bid solicitation, cluding those to M/WBEs and the results thereof. On tractor will also maintain records of actions that it is subcontractors have taken toward meeting maintain records of actions that it is subcontractors as payments to M/WBEs are ade on a timely basis so that undue financial ardship is avoided, and that bonding and other edit requirements are waived or appropriate ternatives developed to encourage M/WBE articipation.	(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts. (b)This organization shall state in all solicitation on advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because or race, creed, color, national origin, sex disability or marital status. (c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate or the basis of race, creed, color, national origin, sex, age disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein. (d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contracto and subcontractors shall not discriminate against any employee or applicant for employment because of race creed (religion), color, sex, national origin, sex age melic characteristic, marital status or domestic violency victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest. (e) This organization will include the provisions of section (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.
Agreed to	this day of	, 2

Title: _____

is designated as the Minority Business Enterprise Liaison (Name of Designated Liaison)
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.
M/WBE Contract Goals
% Minority and Women's Business Enterprise Participation
% Minority Business Enterprise Participation
% Women's Business Enterprise Participation
EEO Contract Goals
% Minority Labor Force Participation
% Female Labor Force Participation
(Authorized Representative)
Title:
Date:



Appendix-F

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES STANDARD SECURITY CLAUSES FOR SHARING DATA WITH EXTERNAL ENTITIES

(Revised 5/14/12)

The terms of this Appendix have been incorporated into an agreement between the New York State Department of Motor Vehicles and the recipient of DMV data. The Parties to the Agreement shall comply with the applicable provisions hereof, to the extent not superseded by federal law.

All data to which the recipient MorphoTrust ("Recipient") will be provided access by DMV is proprietary to DMV. Such data shall hereinafter be referred to as "DMV data". Recipient will safeguard all DMV data and resources to which it is granted access. Such safeguards must provide a level of protection of DMV data which is at least equivalent to those provided under NYS Cyber-Security Policy P03-002-V3.4, and comports with industry standards for such engagements.

- 1. Recipient agrees to limit its use of DMV data to the purpose for which it is provided hereunder, and for no other purpose, unless expressly authorized to do so by DMV.
- 2. Recipient must protect DMV data that is in Recipient's possession, or under its control from unauthorized access, disclosure, or dissemination.
- 3. DMV data includes information that is:
 - provided by DMV which is marked "Confidential";
 - defined as "Personal, Private and Sensitive Information" (PPSI);
 - not expressly granted for public disclosure or dissemination;
 - protected by law from disclosure or dissemination;
 - concerning DMV's infrastructure;
 - pertinent to an ongoing investigation.
- 4. Recipient must not permit DMV data to be copied or shared with anyone outside of the Recipient's organization, unless expressly authorized by DMV; and must limit access to, and use of, DMV data to individuals who require access for the purpose fulfilling Recipient's obligations arising under the terms of this Agreement.
- 5. Recipient must cooperate with DMV in the review of Recipient's data control processes employed for the protection of DMV data.
- 6. In the event that Recipient confirms or suspects the unauthorized use or access of DMV data or resources provided hereunder, Recipient agrees to promptly notify DMV's Information Security Office, as follows:
 - a. by email: InformationSecurity@dmv.ny.gov, or
 - b. by telephone: (518) 402-2676.

- 7. Recipient acknowledges that it understands and must comply with laws concerning the loss, misappropriation, compromise, or misuse of protected data provided hereunder, including:
 - a) the federal Driver's Privacy Protection Act of 1994 (DPPA) (18 U.S.C. §2721, et seq.), and
 - b) the New York State Information Security Breach and Notification Act (ISBNA) (General Business Law, §899-aa; State Technology Law, §208).
- 8. In the event that the security of personal information is breached in violation of the ISBNA, from a system maintained by Recipient, then the Recipient shall be responsible for providing notice of breach to the person(s) to whom such information pertains. In the event that Recipient is authorized to share such information with another entity, Recipient must hold its recipient responsible for providing such notice. Prior approval from DMV is required before any notifications are made to such persons.
- 9. Recipient must take appropriate measures to advise pertinent staff members, and its re-disclosure recipients (if any), of the penalties associated with unauthorized access, use, or dissemination of protected data.
- 10. Recipient's obligation of indemnification and holding harmless specified hereunder shall survive the expiration of the Contract by termination or otherwise.
 - a) Recipient shall be solely responsible and answerable in damages for any and all accidents and/or injuries to persons (including death) or property arising out of or related to the services to be rendered by the Recipient or its subcontractors pursuant to this Agreement. The Recipient shall indemnify and hold harmless the State and its officers and employees from claims, suits, actions, damages and costs of every nature arising out of the provision of services pursuant to this Agreement.
 - b) Recipient is an independent contractor and may neither hold itself out nor claim to be an officer, employee or subdivision of the State of New York, nor make any claim, demand or application to or for any right based upon any different status.
- 11. Recipient agrees to comply with DMVs instructions for the secure disposal of agreement-related electronic or hard copy files in Recipient's possession upon expiration of the term of this Agreement.
- 12. The following provisions apply to circumstances when Recipient or its subcontractors make use of resources provided by DMV:
- A) Personal Computers (PCs): DMV-provided PCs must only be used for activities related to official assignments and/or job responsibilities. Users are responsible for the use, protection, security and care of all New York State owned personal computers (PCs) and related equipment assigned to them by DMV.

DMV-provided PCs (including laptops, monitors, printers, hardware, peripherals, commercially licensed software, files, programs, and data) are the property of DMV. DMV reserves the right to access or audit PCs, storage drives and removable media, and the information contained therein.

Users must comply with the following restrictions when using DMV-provided PCs:

- Protect against unauthorized access when the PC is left unattended by locking it, or logging-off;
- Log-off the PC at the end of the workday, to ensure that the power remains On;
- Do not leave a laptop unattended or unsecured;
- Do not move the PC or related equipment to another location without approval from your manager/supervisor and DMV's Information Technology Support Services.
- Do not modify or repair any PC or related equipment without prior approval of DMV's Information Technology Support Services.
- Do not connect any hardware that is not expressly approved. Users must contact DMV's Information Technology Support Services for a list of approved hardware.
- B) Software: Only software that is approved by DMV's Information Technology Support Services may be installed on DMV-provided computers. Users must abide by all software license agreements. Non-work related software (e.g. games or music downloading programs) must not be installed or used on DMV computers. Users must not install DMV-owned software or programs on a non-DMV-owned computer, unless expressly approved by DMV's Information Technology Support Services.
- C) Internet: DMV-provided Internet access must only be used for activities related to official assignments and/or job responsibilities. Users must employ reasonable precautions, including safeguarding and changing passwords, to prevent the unauthorized use of their DMV provided internet account by anyone else. Users must not access third-party internet service providers and webmail accounts (e.g., checking a personal email account on AOL), unless expressly authorized by the DMV's Information Security Office.

DMV filters websites for inappropriate content. Users must direct requests to unblock or block a website to the DMV's Information Technology Support Services.

- D) Network: Users must limit the use of DMV's network to activities related to official assignments and/or job responsibilities.
- E) Email: Users must limit the use of DMV-provided email accounts to activities related to official assignments and/or job responsibilities.
- 13. Recipient agrees to continuing cooperation with DMV in response to developing security vulnerabilities.

AMENDMENT #1 of CONTRACT No. C000820

Between

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

And

MORPHOTRUST USA, INC.

For

SHARING OF IMAGES BETWEEN MULTIPLE STATES

In the event of any conflict between the terms of this Amendment and those contained in State Contract No. C000820 previously entered into by parties hereto, or any previously agreed to amendments thereof, the terms of this Amendment shall be controlling.

This Amendment is made this day of , 2016, between the New York State Department of Motor Vehicles, 6 Empire State Plaza, Contract Administration, Room 224 Albany, New York 12228 (hereinafter referred to as the "Department" or "DMV"), and MorphoTrust USA, Inc., 296 Concord Road, Suite 300, Billerica, MA 01821 (hereinafter referred to as the "Contractor"). This Amendment is subject to and shall become effective upon execution by the New York State Office of the State Comptroller ("OSC"). DMV and Contractor shall collectively be referred to herein as the "Parties".

The Parties previously entered into a Contract for the maintenance and support for DMV's Facial Recognition System (FRS), referenced as State Contract No. C000820 (the "Contract"), which was executed by OSC on December 2, 2014. For the purposes of this Amendment #1, New York, New Jersey and Connecticut are hereinafter referred to as the "Jurisdictions" referred to therein.

The Parties agree to amend Contract No. C000820, as follows:

1. Multi-State Commercial Driver's License (CDL) Facial Recognition Screening Project:

The Contractor will provide the goods and services as outlined in the Contractor's "Multi-State Commercial Driver's License (CDL) Facial Recognition Screening Project" proposal dated February 11, 2016 (Contractor's Proposal), which is incorporated herein by reference. In the event of any conflict between the terms of this Amendment and those contained in the Contractor's Proposal, the terms of this Amendment shall be controlling.

(A) Payments made to the Contractor

Four (4) milestone payments will be paid to the Contractor, upon DMV's written acceptance of the work completed as specified in the Milestone and upon the Contractor submitting a complete invoice to DMV for such conforming deliverable. The milestones are outlined as follows:

- 1. Milestone #1: Upon the Contractor's successful completion and DMV's written acceptance of: one (1) project management plan, one (1) project schedule, one (1) functional specification document, and one (1) network/architecture/platform specification document, DMV will pay the Contractor Fifty Thousand Dollars (\$50,000.00), per jurisdiction, for a total of One-Hundred Fifty Thousand Dollars (\$150,000.00).
- 2. Milestone #2: Upon the Contractor's successful completion and DMV's written acceptance of: three (3) interface control documents (one (1) for each jurisdiction), and three (3) jurisdiction-specific configuration guides (one (1) for each jurisdiction), DMV will pay the Contractor One-Hundred Thousand Dollars (\$100,000.00), per jurisdiction, for a total of Three-Hundred Thousand Dollars (\$300,000.00).
- 3. Milestone #3: Upon the Contractor's successful completion and DMV's written acceptance of: three (3) Interstate CDL screening communications manager licenses (one (1) for each

- jurisdiction), and three (3) Interstate facial recognition screening and investigations licenses (one (1) for each jurisdiction), DMV-will pay the Contractor Three-hundred Fifty Thousand Dollars (\$350,000.00), per jurisdiction, for a total of One Million Fifty Thousand Dollars (\$1,050,000.00).
- 4. Milestone #4: Upon the Contractor's successful completion and DMV's written acceptance of: three (3) on-site trainings (one (1) for each jurisdiction), and three (3) End User documents (one (1) for each jurisdiction), DMV will pay the Contractor Two-Hundred Thousand Dollars (\$200,000.00), per jurisdiction, for a total of Six-Hundred Thousand Dollars (\$600,000.00). Upon DMV's acceptance of Milestone #4, the Contractor will provide one (1) year of maintenance for each jurisdiction for the CDL screening communications manager, and one (1) year of maintenance for each jurisdiction for the interstate facial recognition investigations. In New York only, the maintenance of CDL Screening Communications manager and interstate facial recognition investigations will extend for one (1) year or until the expiration of Contract No. C000820, whichever is later.
- 5. Should DMV elect to extend Contract C000820 for one (1) additional one-year term, as provided for in Section 1.1 of the Contract, DMV may choose to purchase one (1) year of maintenance for the CDL screening communications manager plus one (1) year of maintenance for interstate facial recognition for Sixty-Eight Thousand Dollars (\$68,000.00).

(B) Not To Exceed Pricing:

The total amount to be paid by DMV to the Contractor for all goods and services to be provided to all three jurisdictions hereunder shall not exceed the sum of Two-Million One-Hundred Thousand Dollars (\$2,100,000.00), excepting the additional year of maintenance provided for under Section 1.A.5 of this Amendment. The cost for all goods and services provided per jurisdiction hereunder shall not exceed the sum of Seven-Hundred Thousand Dollars (\$700,000.00), excepting the additional year of maintenance provided for under Section 1.A.5 of this Amendment.

2. Maryland Participation:

The Contractor will provide the goods and services outlined in Appendix-I "Maryland Participation Proposal" of the Contractor's Proposal. The Contractor will invoice Maryland directly for the deliverables associated with this proposal. Additionally, the Maryland servers will be hosted by the Contractor.

3. Agreements Between Jurisdictions

Contractor acknowledges and understands that the provision of goods and services provided for herein to the jurisdictions shall be dependent upon full execution of implementing agreements between DMV and such jurisdictions.

4. Payment Terms:

Contractor will provide DMV with a detailed invoice for each Milestone, by Jurisdiction.

The State's preferred method for the submission of invoices is by e-mail, sent to the BSC at: AccountsPayable@ogs.ny.gov.

• **PLEASE NOTE:** Do not send a paper copy in addition to the electronic invoice.

As an alternate method for submitting invoices, Contractor may mail hard copy invoices to the BSC at the following address:

Department of Motor Vehicles

Unit ID: 3700321 c/o NYS OGS Business Service Center Building 5, 5th Floor 1220 Washington Ave. Albany, NY 12226-1900

5. Appendix-A - "Standard Clauses for New York State Contracts:

Contractor shall comply with and be bound by the provisions of Appendix-A, "Standard Clauses for New York State Contracts".

6. Summary of Policy and Prohibitions on Procurement Lobbying:

In order to facilitate transparency in the procurement process, and pursuant to NYS Procurement Lobbying Law (State Finance Law §§139-j and 139-k), this solicitation imposes certain restrictions on communications between DMV and an Offerer/Bidder made during the procurement process. An Offerer/Bidder is restricted to communicating with designated DMV staff ("designated contacts"), during the portion of the procurement process known as the "restricted period". The restricted period runs from DMV's earliest notice of its intent to solicit offers, through award of the Procurement Contract by DMV, and where applicable, the final approval of the Contract by the NYS Office of State Comptroller. Certain statutory exceptions are provided for in State Finance Law §139-j(3)(a).

When contacted during the restricted period, DMV staff members are required to document information, about the communication.

DMV must also make a determination of the "responsibility" of the Offerer/Bidder. Certain findings of non-responsibility can result in rejection of the Offerer/Bidder for contract award. In the event of two findings of non-responsibility made within a 4-year period, the Offerer/Bidder may be debarred from obtaining governmental Procurement Contracts.

Further information about the NYS Procurement Lobbying Law can be obtained from the Office of General Services Website, at:

http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html.

DMV's Policy and Procedures concerning compliance with NYS Procurement Lobbying Law is attached hereto as Appendix-B. Bidders must complete and submit Appendix B-1 with their bid.

7. Vendor Responsibility:

Prior to awarding a contract, DMV must evaluate information provided in the Vendor Responsibility Questionnaire which must be completed by each bidder. Bidders are invited to file the required Vendor Responsibility Questionnaire online, via the New York State VendRep System. Bidders may elect to submit a completed hard-copy questionnaire, in lieu of using this electronic format.

To enroll in and use the New York State VendRep System, bidders should refer to the VendRep System Instructions available at www.osc.state.ny.us/vendrep, or they may access the VendRep System online, at https://portal.osc.state.ny.us. For assistance using the VendRep System, bidders may contact the OSC Help Desk at 866-370-4672 or 518-408-4672, or by email at helpdesk@osc.state.ny.us. Bidders electing to file a hard-copy questionnaire can obtain the questionnaire form the VendRep website at (www.osc.state.ny.us/vendrep), or they may contact DMV or the Office of the State Comptroller to obtain a copy.

DMV reserves the right to verify all information provided by the bidder to whom an award of contract is made. DMV reserves the right to disqualify a Bidder/Contractor as "not- responsible", in the event that the Bidder/Contractor has intentionally provided false or incomplete information, or has intentionally failed to disclose pertinent information. DMV reserves the right to make continuing responsibility determinations at any time during the term of the Contract.

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

Suspension of Work (for Non-Responsibility): The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as Commissioner or his or her designee issues a written notice authorizing the resumption of performance under the Contract.

Termination (for Non-Responsibility): Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate DMV officials or staff, the Contract may be terminated by Commissioner or his or her designee at the Contractor's expense where the Contractor is determined by Commissioner or his or her designee to be non-responsible. In such event, Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

8. All Other Terms:

All other terms of the original Contract as heretofore amended shall remain unchanged and in full force and effect, excepting those that are in conflict with the terms of this Amendment.

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IN WITNESS WHEREOF, the Parties hereto have executed this Amendment to the Contract by their duly authorized officers or officials.

MORPHOTRUST USA, INC. By, (Please Sign Here) ROBERT ECNEL (Please Print Name) Tell-1111 CEO	NYS DEPARTMENT OF MOTOR VEHICLES By, (Please Sign Here) Elizabeth Coalts Contract Manager NYS Dept. of Motor Vehicles (Please Print Name)
(Title) Date: 06 / 27 / 2016 (mm/dd/yyyy) Affix Corpolate Seal Here: [(Title) Date: 7 / 5 / 10 (mm/dd/yyyy)
OFFICE OF NYS ATTORNEY GENERAL By,	OFFICE OF NYS COMPTROLLER By,
(Please Sign Here) APPROVED AS TO FOR APPROVED AS TO FOR NYS ATTORNEY GENEFORMS ATTORNEY GENEFORMS ATTORNEY GENEFORMS ASSISTANT ATTORNEY GENERAL ASSISTANT	AUG 1 1 2016
Notarization of Contractor's Signature:	
STATE OF Massachusetts) COUNTY OF midcilesent) SS.:	
On this 27 day of Jure, 2016, to me known who being that he is the INC., the corporation described in and which executed the fo	ng duly sworn, did depose and say that he resides in Of MORPHOTRUST USA, regoing instrument; that he knew the seal of said corporation; e seal; that it was so affixed by the order of the Board of

APPENDIX-A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

(January 2014)

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

- **1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
- 2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments

without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

- 3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.
- **4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- 5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
- 6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of

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Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

- 7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.
- 8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).
- 9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
- 10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
- 11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to

real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers. (b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

- 12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00 whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:
- (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and
- (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

- 13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
- <u>14. GOVERNING LAW.</u> This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
- **15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.
- <u>16. NO ARBITRATION.</u> Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
- **17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
- 18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

- 19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
- **20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and womenowned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development Division for Small Business Albany, New York 12245 Telephone: 518-292-5100

Fax: 518-292-5884 Email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Division of Minority and Women's Business Development 633 Third Avenue New York, NY 10017 212-803-2414

Email: mwbecertification@esd.ny.gov

https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

- 21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
- **22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
- 23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.
- **24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.
- 25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.
- **26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

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During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

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APPENDIX-B: STATE OF NEW YORK PROCUREMENT LOBBYING POLICY AND **PROCEDURES**

Revised March 2012

I. Policy:1

It is the policy of DMV to comply with the provisions of State Finance Law §§139-j and 139-k, and related guidance offered by the Advisory Council on Procurement Lobbying and the Office of the State Comptroller.²

II. Procedure:³

The procedure set forth hereafter applies to "Governmental Procurements" let by DMV.

III. Definitions:

Capitalized terms used but not defined herein shall have the meaning ascribed to them in State Finance Law §§139-j and 139-k.

For the purpose of this procurement, the terms "Contact" and "Designated Contact" are ascribed the following meanings:

"Contact" as used herein is defined as (1) any oral, written or electronic communication that is (2) made by the Bidder, or a person acting on behalf of the Bidder, (3) to an employee of DMV or of a Governmental Agency other than the DMV, (4) concerning the related Governmental Procurement, (5) where such communication is made during the "Restricted Period"; and (6) where a reasonable person would infer that such communication was made by the bidder with the intention of improperly influencing the related Governmental Procurement [e.g., any violation of Public Officers Law §73(5) (offer of a gift of \$75 or more), or §74 (code of ethics for public officers and employees)].

The term "Contact" does not include permissible communications such as (1) submission of a written proposal⁴, (2) submission of written questions⁵, (3) participation in a bidders' conference⁶, (4) complaints⁷, (5) contract negotiations subsequent to notice of a tentative award of contract⁸, (6) review of contract award⁹, and (7) protests, appeals or other review proceedings¹⁰; (8) a communication described in Legislative Law §1-t(e) which is (a) made by a bidder or subcontractor to a bidder qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement, who (b) provides information to a Designated Contact to assist the Designated Contact in understanding and assessing the qualities, characteristics or anticipated performance of such article of procurement and (c) who does not recommend or advocate contract provisions î; or a communication by which the bidder seeks generally available information, including clarification and interpretation, with respect to the solicitation documents or the Governmental Procurement process, including the status or timing of steps in the process¹².

¹139-j (2)

² 139-j (5)

³ 139-j (1); 139-k (1)

⁴ 139-j (3)(a)(1)

⁵ 139-j (3)(a)(2)

⁶ 139-j (3)(a)(3)

⁷ 139-j (3)(a)(4)

^{8 139-}j (3)(a)(5)

⁹ 139-j (3)(a)(6) ¹⁰ 139-j (3)(a)(7)

¹¹ 139-j (1), (3); 139-k (1)

¹² 139-j (3)

"Designated Contact" as used herein is defined as one or more employees of DMV identified in the solicitation for the related Governmental Procurement, or thereafter designated by the DMV's Contract Manager¹³.

IV. Solicitations:

DMV will include the following in every written solicitation for a Procurement Contract¹⁴:

- (1) The name of each Designated Contact person, and a statement which substantially complies with in the following form: "Prior to approval by DMV, or, if applicable, the Office of the State Comptroller, of the contract for which this solicitation has been issued, bidders must direct all communications concerning this solicitation to the person(s) identified as "Designated Contact(s)" is
- (2) A summary of DMV's policy and procedures regarding "contacts";
- (3) A form (See, Appendix B-1, attached) to be submitted by bidders, upon which each bidder affirms in writing (a) its understanding of DMV's procurement lobbying policy and procedures; and (b) that it will comply with such policy and procedures; and (c) discloses whether it has been determined to be "non-responsible" within the previous four (4) years for violating State Finance Law §139-j¹6, or for having intentionally provided false or incomplete information¹7 to a Governmental Entity concerning its compliance with State Finance Law §139-j; and (d) certifies that the bidder has provided accurate and complete information concerning the bidder's compliance with State Finance Law §§139-j and 139-k within the previous four years¹8.

V. Contracts:

Each Procurement Contract will contain the following statement, substantially in the following form: "DMV reserves the right to terminate this contract in the event that it is determined that the certification filed by the Contractor in accordance with State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete¹⁹. Upon such determination, DMV may terminate this Contract by providing written notification to the Contractor, without incurring liability on the part of DMV or the State for breach of contract."²⁰

VI. Records of Contacts:21

In the event that DMV employees who are not Designated Contacts are contacted by bidders, or persons acting on the Bidder's behalf, during the restricted period, the employee will make a record of such Contact and will provide such record to the DMV's Contract Administrator. DMV employees who become aware of impermissible contacts made to another Governmental Entity concerning this procurement will also make and provide records of any such contacts to Contract Administration. The DMV employee may make one (1) record covering multiple Contacts that are made by the same person within a period of five (5) business days. DMV will make all records of Contacts part of the procurement record²². Contracts Administration will promptly provide records of impermissible Contacts to DMV's Office of the Deputy Commissioner and Counsel for review.

¹³ 139-j (1), (2); 139-k (1)

¹⁴ 139-j (2); 139-k (2)

¹⁵ 139-j (6)

¹⁶ 139-k (2)

¹⁷ Id.

¹⁸ Id. ¹⁹ 139-j (10(b); 139-k (5)

²⁰ Id.

²¹ 139-j (8), (10)(b); 139-k (4)

²² Id.

VII. Review and Investigation:²³

Upon receipt of a record of an impermissible Contact, the Deputy Commissioner and Counsel or her or his designee ("Reviewer") will review and investigate, within fifteen (15) days from receipt of such information²⁴. The Reviewer will notify the Bidder that an investigation is ongoing; give notice of the allegations of misconduct; and give the Bidder an opportunity to respond in writing, within ten (10) days from receipt of notification of the alleged violation²⁵. The Bidder will not be entitled to representation by counsel. The Reviewer will determine whether the Bidder has willfully and knowingly made an impermissible Contact. The Reviewer will advise the Bidder and the Contracts Manager, or employee authorized for such purpose, of the final determination made²⁶. In the event the Reviewer determines that the Bidder has made an impermissible Contact with a Governmental Entity other than DMV, the Reviewer will so notify the ethics officer²⁷, inspector general or other appropriate official of such other Governmental Entity²⁸. In the event the Reviewer determines that, as the result of an impermissible Contact, an employee of DMV has violated the provisions of Public Officers Law §73(5) [prohibition of acceptance of a gift of \$75 or more] or §74 [code of ethics], the Reviewer will so advise the Commissioner of Motor Vehicles, the State Ethics Commission and the Office of the Inspector General²⁹.

VIII. Determinations of Non-Responsibility: 30

The Reviewer, or employee authorized for such purpose, will determine whether a bidder has been determined to be "non-responsible" because (1) the Bidder has willfully and knowingly made an impermissible Contact³¹, or (2) the Bidder has intentionally failed to make accurate and complete disclosure of prior findings of non-responsibility with respect to Governmental Procurements made within the previous four (4) years³². Upon making a determination of non-responsibility, the Contracts Manager, or employee authorized for such purpose, will so notify the Bidder and the Commissioner of Motor Vehicles³³. A finding of non-responsibility under this section shall result in DMV not awarding the contract to such bidder, unless DMV determines that (1) the award of the contract is necessary to protect public property or public health or safety, and (2) the bidder is the only source capable of supplying the required article of procurement within the required time frame.

²³ 139-j (9)

²⁴ Id.

²⁵ 139-j (10)(a)

²⁶ 139-j (10)(a)

²⁷ 139-j (8)(a), (c)

²⁸ 139-j (8)(c), (10(b)

²⁹ Legislative Law: POL §73(5); §74 (Code of Ethics)

³⁰139-j (7)

³¹ 139-j (10)(b)

³² 139-j (10)(b); 139-k (5)

³³ 139-j (10)(a)

APPENDIX-B-1: AFFIRMATION AND DISCLOSURES CONCERNING STATE FINANCE LAW §§139-J AND 139-K

Procurement Description/ID No. C000820 Name of Bidder: MorphoTrust USA, Inc.

Address: 296 Concord Rd, Suite 300, Billerica, MA 01821

Name and Title of Person Submitting this Form:

- A. Bidder affirms that it has received, reviewed and understands the Policy and Procedure of the Department of Motor Vehicles (DMV), relating to State Finance Law §§139-j and 139-k, and agrees to comply with DMV's procedure relating to Contacts with respect to this procurement.
- B. Disclosures:
 - 1. Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Bidder within the previous four years where such finding was due to a violation of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

No _____ Yes_____

If yes, provide the following details: Governmental Entity which made the finding: Date of finding: Basis of finding:

2. Has a Governmental Entity terminated or withheld a procurement contract with the Bidder because of violations of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility?

No V Yes

If yes, identify the Governmental Entity, the date of termination or withholding, and related procurement contract:

AMENDMENT No. 1 TO CONTRACT No. C000665 BETWEEN

THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES AND

MORPHOTRUST USA, INC., A DELAWARE CORPORATION

This Agreement is made this day of January, 2013, by and between the Department of Motor Vehicles of the State of New York, 6 Empire State Plaza, Swan Street Building, Albany, New York 12228 (hereinafter referred to as the "Department" or "DMV"), and MorphoTrust USA, Inc., a Delaware corporation, formerly known as L-1 Identity Solutions Operating Company, with an address at 296 Concord Road, Suite 300, Billerica, MA 01821 ("Contractor"), collectively referred to as the "Parties".

The Parties agree as follows:

Notwithstanding any provision to the contrary wherever contained, in the event of any inconsistencies between the terms contained in the main body of this Contract and this Amendment, the terms of this Amendment shall prevail.

PARAGRAPH HEADINGS: Paragraph headings contained in this Agreement are for convenience only and shall not be considered for any purpose in governing, limiting, modifying, construing or affecting the provisions of this Agreement and shall not otherwise be given any legal effect.

This Amendment extends the term of Contract No. C000665 (the "Contract"), entered into on March 25, 2009, between DMV and L-1 Identity Solutions Operating Company (a company later acquired by Contractor) for the provision of ongoing software maintenance and support for DMV's Facial Recognition System ("FRS") platform and web services.

1 TERM:

The term of this Amendment shall commence on March 04, 2013, and shall expire on March 03, 2015, subject to approval and execution hereof by the Offices of the NYS Attorney General (AG) and Comptroller (OSC).

2 PAYMENT:

DMV shall make payment in full of Four Hundred Twenty-Five Thousand, Three Hundred Fifteen And 00/100 Dollars (\$425,315.00) on or before March 4, 2013, for the provision of ongoing software maintenance and support for the FRS platform and web services from March 4, 2013 to March 3, 2015.

3 DESCRIPTION OF GOODS AND SERVICES:

Contractor shall provide Phone Support, Remote Dial-in, On-Site support as required, Preventative Maintenance and Upgrades of the FRS platform and web services.

Maintenance and support shall include troubleshooting and repair of supported software. Contractor shall also provide ongoing software maintenance and support for reinstallation and reconfiguration of Contractor provided software, in the event of any hardware or system failure. DMV shall be responsible for maintenance of all FRS hardware and 3rd party software.

Contractor's services shall include:

- Phone Support Software services personnel shall provide direct phone support from 8:00 am to 5:00 pm (Eastern Standard Time), Monday through Friday, excluding Federal holidays.
- Remote Dial-in Software Services support shall be provided through DMV-provided VPN, as a second step to phone support.
- On-Site Software Services support shall be provided for remedial maintenance, if phone support and dial-in fail to resolve the issue. Contractor must provide on-site services within forty-eight (48) hours from initial call for support.
- Preventative Maintenance Contractor shall provide a periodic maintenance plan for the required software systems. Hands-on Preventative Maintenance shall be provided by DMV personnel.
- Upgrades Contractor must provide in-version upgrades to any and all supported software. Upgrades shall be conducted via downloaded software patch, or installed by Contractor's Services personnel for larger upgrades.

4 LETTER OF CREDIT:

The Letter of Credit provided upon execution of the Contract must be extended to cover the term of this Amendment, and must at least be equivalent to the amount paid hereunder. Contractor must provide such Letter of Credit to DMV immediately upon execution hereof by OSC.

5 APPENDIX-A, "STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS":

The Contractor shall comply with and be bound by the provisions of Appendix-A, "Standard Clauses for New York State Contracts"

6 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING:

In order to facilitate transparency in the procurement process, and pursuant to NYS Procurement Lobbying Law (State Finance Law §§139-j and 139-k), this solicitation imposes certain restrictions on communications between DMV and an Offerer/Bidder made during the procurement process. An Offerer/Bidder is restricted to communicating with designated DMV staff ("designated contacts"), during the portion of the procurement process known as the "restricted period". The restricted period runs from DMV's earliest notice of its intent to solicit offers, through award of the Procurement Contract by DMV, and where applicable, the final approval of the Contract by the NYS Office of State Comptroller. Certain statutory exceptions are provided for in State Finance Law §139-j(3)(a).

The Designated Contact for this Amendment is Edwin Lake. Mr. Lake or his alternate, Maureen Younkin, are the persons ("designated contacts") designated to communicate with Bidders/Offerers on behalf of the Department for all matters relating to this Amendment.

All proposals and accompanying documentation must be packaged, sealed and submitted to:

Edwin Lake
Procurement Services
NYS Department of Motor Vehicles
6 Empire State Plaza, Room 528B
Albany, NY 12228
(518) 474-0815 (Phone)
(518) 486-4541 (Fax)
Edwin.Lake@dmy.ny.gov

Or his alternate:

Maureen Younkin Procurement Services NYS Department of Motor Vehicles 6 Empire State Plaza, Room 528B Albany, NY 12228 (518) 474-0815 (Phone) (518) 486-4541 (Fax) contracts@dmv.ny.gov When contacted during the restricted period, DMV staff members are required to document information, about the communication.

DMV must also make a determination of the "responsibility" of the Offerer/Bidder. Certain findings of non-responsibility can result in rejection of the Offerer/Bidder for contract award. In the event of two findings of non-responsibility made within a 4-year period, the Offerer/Bidder may be debarred from obtaining governmental Procurement Contracts.

Further information about the NYS Procurement Lobbying Law can be obtained from the Office of General Services Website, at: http://ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.html.

DMV's Policy and Procedures concerning compliance with NYS Procurement Lobbying Law is attached hereto as Appendix-B. Bidders must complete and submit Appendix B-1 with their bid.

7 COMPLIANCE WITH LAWS:

In performing its obligations under this Contract, the Contractor must comply with all applicable federal, state, and local statutes, ordinances, regulations, and rules, including, but not limited to, laws regulating the terms and conditions of employment, NYS printing law, building and fire codes, zoning laws, privacy, public building requirements for use by the handicapped, and occupational safety and health rules.

8 VENDOR RESPONSIBILITY:

Contractor acknowledges that no changes have been made to the Vendor Responsibility Questionnaire submitted with their bid proposal, and that any changes must be disclosed by submitting a new Vendor Responsibility Questionnaire at the time the change occurs.

Contractors are invited to file the required Vendor Responsibility Questionnaire online via the New York State VendRep System or may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at www.osc.state.ny.us/vendrep or go directly to the VendRep System online at https://portal.osc.state.ny.us. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at helpdesk@osc.state.ny.us. Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep or may contact the DMV or the Office of the State Comptroller for a copy of the paper form.

9 IRAN DIVESTMENT ACT

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act's effective date, at which time it will be posted on the OGS website.

By entering into a renewal or extension of this Contract, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor understands that during the term of the Contract, should DMV receive information that a person is in violation of the above-referenced certification, DMV will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then DMV shall take such

action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

DMV reserves the right to reject any renewal, extension or request for assignment for an entity that appears on the prohibited entities list hereafter and to pursue a responsibility review with respect to any entity that is granted a contract extension/renewal or assignment and appears on the prohibited entities list thereafter.

10 POLICY STATEMENT ON WOMEN AND MINORITY-OWNED BUSINESS DEVELOPMENT:

It is the policy of the State of New York to promote equality of economic opportunity for minority and women-owned business enterprises (M/WBEs) in State contracting. In order to comply with the State's objectives, the Contractor must use "good faith efforts" to provide meaningful participation by M/WBE subcontractors or suppliers in the performance of this contract. Contractor must comply with the provisions of Appendix-L hereof, entitled "Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises, and Equal Employment Opportunities for Minority Group Members and Women", and must submit the attached "M/WBE Form-1", upon contract execution.

11 OTHER TERMS:

Except as specifically modified in this Amendment No. 1, the terms and conditions of the original Agreement shall continue in full force and effect.

In Witness Whereof, the Parties have executed this Agreement by their duly authorized officer or representative.

Signatures on the following Page

Signature Page

MORPHOTRUST USA, INC.	NYS DEPARTMENT OF MOTOR VEHICLES
BY,	BY,
(Please Sign Here)	(Please Sign Here)
Robert Eckel (Please Print Name)	(Please Print Name)
President and CEO (Title)	(Title)
Date:////	Date://///
NYS ATTORNEY GENERAL	NYS OFFICE OF THE STATE COMPTROLLER
BY,	BY,
(Please Sign Here)	(Please Sign Here)
(Please Print Name)	(Please Print Name)
(Title)	(Title)
Date://///	Date://///
COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF MIDDLESEX) s.s.:)
to me know	in the year 2013 before me personally came, who, being by me duly sworn, did depose and say that he/she/they
reside(s) in (i any, thereof); that he/she/they is (are) the	f the place of residence is in a city, include the street and street number, it (president, or other officer, or
director, or attorney in fact, duly appointed) of M	MorphoTrust USA, Inc. (name of corporation), the corporation described in that he/she/they signed his/her/their name(s) thereto by authority of the
Notary Public	
My Commission Expires:	

APPENDIX-A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

(v., December, 2012)

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

- **1.** <u>EXECUTORY CLAUSE</u>. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.
- 2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the

Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law. However, such preapproval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

- 3. <u>COMPTROLLER'S APPROVAL</u>. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).
- **4.** <u>WORKERS' COMPENSATION BENEFITS</u>. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- 5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
- **6.** WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.
- **7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under

penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

- **8.** <u>INTERNATIONAL BOYCOTT PROHIBITION</u>. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).
- **9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.
- 10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.
- 11. <u>IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION</u>. (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.
- (b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is

mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

- 12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:
- (a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- (b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and
- (c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

- **13.** <u>CONFLICTING TERMS</u>. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.
- **14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
- **15.** <u>LATE PAYMENT</u>. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.
- **16.** <u>NO ARBITRATION</u>. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.
- 17. <u>SERVICE OF PROCESS</u>. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.
- **18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

- **19.** MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.
- **20.** <u>OMNIBUS PROCUREMENT ACT OF 1992</u>. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and womenowned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development

Division for Small Business 30 South Pearl St -- 7th Floor Albany, New York 12245 Telephone: 518-292-5220

Fax: 518-292-5884

http://www.empire.state.ny.us

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development

Division for Small Business Albany, New York 12245 Telephone: 518-292-5100

Fax: 518-292-5884 email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development Division of Minority and Women's Business Development 633 Third Avenue New York, NY 10017 212-803-2414

email: mwbecertification@esd.ny.gov

http://esd.ny.gov/MWBE/directorySearch.html

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State:
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.
- 21. <u>RECIPROCITY AND SANCTIONS PROVISIONS</u>. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.
- **22.** <u>COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.</u> Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).
- 23. <u>COMPLIANCE WITH CONSULTANT DISCLOSURE LAW</u>. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately

and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

APPENDIX-B: STATE OF NEW YORK PROCUREMENT LOBBYING POLICY AND PROCEDURES

(Revised, March 2012)

I. Policy:1

It is the policy of DMV to comply with the provisions of State Finance Law §§139-j and 139-k, and related guidance offered by the Advisory Council on Procurement Lobbying and the Office of the State Comptroller.²

II. Procedure:³

The procedure set forth hereafter applies to "Governmental Procurements" let by DMV.

III. Definitions:

Capitalized terms used but not defined herein shall have the meaning ascribed to them in State Finance Law §§139-j and 139-k (See, attached).

For the purpose of this procurement, the terms "Contact" and "Designated Contact" are ascribed the following meanings:

"Contact" as used herein is defined as (1) any oral, written or electronic communication that is (2) made by the Bidder, or a person acting on behalf of the Bidder, (3) to an employee of DMV or of a Governmental Agency other than the DMV, (4) concerning the related Governmental Procurement, (5) where such communication is made during the "Restricted Period"; and (6) where a reasonable person would infer that such communication was made by the bidder with the intention of improperly influencing the related Governmental Procurement [e.g., any violation of Public Officers Law §73(5) (offer of a gift of \$75 or more), or §74 (code of ethics for public officers and employees)].

The term "Contact" does not include permissible communications such as (1) submission of a written proposal⁴, (2) submission of written questions⁵, (3) participation in a bidders' conference⁶, (4) complaints⁷, (5) contract negotiations subsequent to notice of a tentative award of contract⁸, (6) review of contract award⁹, and (7) protests, appeals or other review proceedings¹⁰; (8) a communication described in Legislative Law §1-t(e) which is (a) made by a bidder or subcontractor to a bidder qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement, who (b) provides information to a Designated Contact to assist the Designated Contact in understanding and assessing the qualities, characteristics or anticipated performance of such article of procurement and (c) who does not recommend or advocate contract provisions¹¹; or a communication by which the bidder seeks generally available information, including clarification and interpretation, with respect to the solicitation documents or the Governmental Procurement process, including the status or timing of steps in the process¹².

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¹¹³⁹⁻j (2)
2 139-j (5)
3 139-j (1); 139-k (1)
4 139-j (3) (a) (1)
5 139-j (3) (a) (2)
6 139-j (3) (a) (3)
7 139-j (3) (a) (4)
8 139-j (3) (a) (5)
9 139-j (3) (a) (6)
10 139-j (3) (a) (7)
11 139-j (1), (3); 139-k (1)
12 139-j (3)

"Designated Contact" as used herein is defined as one or more employees of DMV identified in the solicitation for the related Governmental Procurement, or thereafter designated by the DMV's Contract Manager¹³.

IV. Solicitations:

DMV will include the following in every written solicitation for a Procurement Contract¹⁴:

- (1) The name of each Designated Contact person, and a statement which substantially complies with in the following form: "Prior to approval by DMV, or, if applicable, the Office of the State Comptroller, of the contract for which this solicitation has been issued, bidders must direct all communications concerning this solicitation to the person(s) identified as "Designated Contact(s)" 15;
- (2) A summary of DMV's policy and procedures regarding "contacts";
- (3) A form (**See, Appendix B-1, attached**) to be submitted by bidders, upon which each bidder affirms in writing (a) its understanding of DMV's procurement lobbying policy and procedures; and (b) that it will comply with such policy and procedures; and (c) discloses whether it has been determined to be "non-responsible" within the previous four (4) years for violating State Finance Law §139-j¹⁶, or for having intentionally provided false or incomplete information¹⁷ to a Governmental Entity concerning its compliance with State Finance Law §139-j; and (d) certifies that the bidder has provided accurate and complete information concerning the bidder's compliance with State Finance Law §\$139-j and 139-k within the previous four years¹⁸.

V. Contracts:

Each Procurement Contract will contain the following statement, substantially in the following form: "DMV reserves the right to terminate this contract in the event that it is determined that the certification filed by the Contractor in accordance with State Finance Law §§139-j and 139-k was intentionally false or intentionally incomplete¹⁹. Upon such determination, DMV may terminate this Contract by providing written notification to the Contractor, without incurring liability on the part of DMV or the State for breach of contract."²⁰

VI. Records of Contacts:²¹

In the event that DMV employees who are not Designated Contacts are contacted by bidders, or persons acting on the Bidder's behalf, during the restricted period, the employee will make a record of such Contact and will provide such record to the DMV's Contract Administrator. DMV employees who become aware of impermissible contacts made to another Governmental Entity concerning this procurement will also make and provide records of any such contacts to Contract Administration. The DMV employee may make one (1) record covering multiple Contacts that are made by the same person within a period of five (5) business days. DMV will make all records of Contacts part of the procurement record²². Contracts Administration will promptly provide records of impermissible Contacts to DMV's Office of the Deputy Commissioner and Counsel for review.

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13 139-j (1), (2); 139-k (1)
14 139-j (2); 139-k (2)
15 139-j (6)
16 139-k (2)
17 Id.
18 Id.
19 139-j (10(b); 139-k (5)
20 Id.
21 139-j (8), (10)(b); 139-k (4)
22 Td.
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VII. Review and Investigation:²³

Upon receipt of a record of an impermissible Contact, the Deputy Commissioner and Counsel or her or his designee ("Reviewer") will review and investigate, within fifteen (15) days from receipt of such information²⁴. The Reviewer will notify the Bidder that an investigation is ongoing; give notice of the allegations of misconduct; and give the Bidder an opportunity to respond in writing, within ten (10) days from receipt of notification of the alleged violation²⁵. The Bidder will not be entitled to representation by counsel. The Reviewer will determine whether the Bidder has willfully and knowingly made an impermissible Contact. The Reviewer will advise the Bidder and the Contracts Manager, or employee authorized for such purpose, of the final determination made²⁶. In the event the Reviewer determines that the Bidder has made an impermissible Contact with a Governmental Entity other than DMV, the Reviewer will so notify the ethics officer²⁷, inspector general or other appropriate official of such other Governmental Entity²⁸. In the event the Reviewer determines that, as the result of an impermissible Contact, an employee of DMV has violated the provisions of Public Officers Law §73(5) [prohibition of acceptance of a gift of \$75 or more] or §74 [code of ethics], the Reviewer will so advise the Commissioner of Motor Vehicles, the State Ethics Commission and the Office of the Inspector General²⁹.

VIII. Determinations of Non-Responsibility:³⁰

The Reviewer, or employee authorized for such purpose, will determine whether a bidder has been determined to be "non-responsible" because (1) the Bidder has willfully and knowingly made an impermissible Contact³¹, or (2) the Bidder has intentionally failed to make accurate and complete disclosure of prior findings of non-responsibility with respect to Governmental Procurements made within the previous four (4) years³². Upon making a determination of non-responsibility, the Contracts Manager, or employee authorized for such purpose, will so notify the Bidder and the Commissioner of Motor Vehicles³³. A finding of non-responsibility under this section shall result in DMV not awarding the contract to such bidder, unless DMV determines that (1) the award of the contract is necessary to protect public property or public health or safety, and (2) the bidder is the only source capable of supplying the required article of procurement within the required time frame.

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23 139-j (9)
24 Id.
25 139-j (10) (a)
26 139-j (10) (a)
27 139-j (8) (a), (c)
28 139-j (8) (c), (10(b)
29 Legislative Law: POL $73(5); $74 (Code of Ethics)
30139-j (7)
31 139-j (10) (b)
32 139-j (10) (b); 139-k (5)
33 139-j (10) (a)

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APPENDIX-B-1: AFFIRMATION AND DISCLOSURES CONCERNING STATE FINANCE LAW §§139-J AND 139-K

Procurement Description/ID No.: C000665 Name of Bidder: MorphoTrust USA, Inc. Address: 296 Concord Road, Suite 300, Billerica, MA 01821

Name and Title of Person Submitting this Form: Robert Eckel A. Bidder affirms that it has received, reviewed and understands the Policy and Procedure of the Department of Motor Vehicles (DMV), relating to State Finance Law §§139-j and 139-k, and agrees to comply with DMV's procedure relating to Contacts with respect to this procurement. B. Disclosures: Has a Governmental Entity, as defined in State Finance Law §139-j(1)(a), made a determination of non-responsibility with respect to the Bidder within the previous four years where such finding was due to a violation of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? No ____ Yes If yes, provide the following details: Governmental Entity which made the finding: Date of finding: Basis of finding: Has a Governmental Entity terminated or withheld a procurement contract with the Bidder because of violations of State Finance Law §139-j or the intentional provision of false or incomplete information with respect to previous determinations of non-responsibility? No ____ If yes, identify the Governmental Entity, the date of termination or withholding, and related procurement contract:

Date:

APPENDIX-C: CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES, AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

(MWBE, v. 2-10-12)

I. Introduction:

New York's *Statewide Certified MWBE Program* (Program) serves to ameliorate the significant disparities between the level of participation of MWBE's in state procurement contracting, versus the number of *certified minority-and women-owned business enterprises* (MWBE's) that are ready, willing and able to participate in state procurements.

In order to comply with New York State Executive Law Article 15-A ("Participation by Minority Croup Members and Women with Respect to State Contracts"), Article 15 (the "Human Rights Law"), and 5 NYCRR Parts 142-144 ("MWBE Regulations"), for all State contracts as defined therein, and to facilitate the implementation and operation of the Program, State agencies are required to establish goals for maximizing participation of New York State MWBE's and the employment of minority group members and women in the performance of New York State contracts.

This Section articulates DMV's goals for promoting such opportunities.

Bidder/Contractor acknowledges that its failure to comply with the following provisions may result in a finding of non-responsiveness, non-responsibility, and/or breach of Contract, which may result in the withholding of payment, suspension or termination of the Contract, or such other actions or enforcement proceedings provided herein or permitted by Law.

II. Business Participation Opportunities for MWBEs:

DMV hereby establishes an overall goal of 22% for MWBE participation, 11% for *Minority-Owned Business Enterprises* (MBE) participation, and 11% for *Women-Owned Business Enterprises* (WBE) participation (based on the current availability of qualified MBE's and WBE's). Contractor must document good faith efforts to provide meaningful participation by MWBE's as subcontractors or suppliers in the performance of the Contract, and Contractor agrees that DMV may withhold payment pending receipt of the required MWBE documentation.

The directory of New York State Certified MWBE's can be viewed at: http://www.esd.ny.gov/mwbe.html.

For guidance on how DMV will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

A) Liquidated Damages:

In accordance with 5 NYCRR §142.13, Contractor acknowledges that its willful and intentional failure to comply with the MWBE participation goals set forth in the Contract will constitute a material breach of Contract for which DMV may withhold payment from the Contractor as liquidated damages for such breach.

Such liquidated damages shall be calculated as an amount equal to the difference between (1) all sums identified for payment to MWBE's had the Contractor achieved the contractual MWBE goals, and (2) all sums actually paid to MWBE's for work performed or materials supplied under the Contract.

B) MWBE Utilization Plan:

The Bidder to whom a contract is awarded (Contractor) must submit a MWBE Utilization Plan, upon execution of the Contract. At all times during the performance of the Contract, Contractor must make good faith efforts to utilize MBE's and WBE's identified in its MWBE Utilization Plan.

DMV may disqualify a Bidder/Contractor as being non-responsive, under the following circumstances:

- a) Bidder/Contractor fails to submit a MWBE Utilization Plan;
- b) Bidder/Contractor fails to submit a written remedy to a notice of deficiency;
- c) Bidder/Contractor fails totimely submit a request for waiver; or
- d) DMV determines that the Bidder/Contractor has failed to document good faith efforts.

Any modifications or changes to the MWBE Utilization Plan made during the term of the Contract must be promptly reported, and such modifications or changes will be subject to DMV's approval. DMV will review the submitted MWBE Utilization Plan and advise the Contractor of DMV's acceptance, or issue a notice of deficiency within 30 days of receipt.

- 1. **MWBE Waiver Request:** Contractor may submit requests for a partial or total waiver of established goal requirements, at any time during the term of the Contract, prior to issuance of final payment on the Contract. If a notice of deficiency is issued, Contractor must respond to the notice of deficiency within seven (7) business days of receipt by submitting to DMV a written remedy that addresses each deficiency contained in the notice of deficiency. If the written remedy that is submitted is not timely or is found by DMV to be inadequate, DMV shall notify Contractor and direct Contractor to re-submit a revised remedy, within five (5) business days. Failure to request the waiver in a timely manner may be grounds for rejection of the request.
- 2. Contractor's Quarterly Workforce Employment Utilization Report ("Workforce Report"): Contractors are required to submit to DMV, by the 10th day following the end of each quarter during the term of the Contract, a Workforce Report. Such reports document Contractor's progress made toward achieving the MWBE goals for the Contract. The Workforce Report must document any changes to the "Bid Staffing Plan" that Contractor submitted with its Bid (See, below).

Contractor must submit separate reports for Contractor and any subcontractor performing work on the Contract. In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or any subcontractor's total workforce. When a separation can be made, Contractor must submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from Contractor's and/or a subcontractor's total workforce, Contractor must submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

III. Equal Employment Opportunity Requirements:

NOTE: The following requirements do not apply to (a) work, goods, or services unrelated to the Contract; or (b) employment outside New York State.

Contractor must ensure that Contractor and its subcontractors undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. This requirement shall apply to any subcontractors to whom Contractor awards a subcontract for goods or services related to the

Contract, valued at over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (except where such subcontract is solely for the beneficial use of the Contractor).

- For these purposes, "equal opportunity" must be provided in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay, or other forms of compensation.
- **A) MWBE Form-1, Contractor's EEO Policy Statement:** Contractor must execute and submit MWBE Form-1 (attached hereto), as its EEO policy statement, within seventy-two (72) hours after DMV issues written notice of award of the Contract to the Contractor.
- **B)** Bid Staffing Plan: Bidder must submit with its proposal a Bid Staffing Plan that identifies the anticipated work force to be utilized on the Contract by specified categories, including ethnic background, gender, and Federal occupational categories. Upon DMV's request, Contractor must promptly submit a workforce utilization report that identifies the workforce actually utilized in the performance of the Contract.
- C) Non-Discrimination: Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest; and Contractor shall take reasonable steps to ensure that its subcontractors comport with such non-discrimination provisions during the term of the Contract. Contractor acknowledges that it understands and shall comply with such requirements above, and these provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions provided by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

MWBE Form-1: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

M/WB	E AND EEO POLICY S	STATEMENT			
I,		. the (awarde	e/contractor)	agree agree	e to
	the following policies w	vith respect to the p	roject being	developed or services rendered	
	This organization wil			(a) This organization will not discrim	
M/WE	contractors and subcorfaith actions to achieve		EEO	against any employee or applicant employment because of race, creed, col	
participati	ons goals set by the State for		national origin	n, sex, age, disability or marital status,	
	led project is located, by taking		action to ensu	continue existing programs of affirm are that minority group members are afformation of the continuous continu	orded
(1)	Actively and affirmatively so and subcontracts from qua MBEs or WBEs, including so	llified State certified	shall make and	ment opportunities without discrimination d document its conscientious and active eld d utilize minority group members and wo	fforts
(2)	contractor associations.	· C I MANDE C		ce on state contracts.	
(2)	Request a list of State-cert AGENCY and solicit bids from			nization shall state in all solicitation s for employees that in the performance of	
(3)	Ensure that plans, specifi	cations, request for	State contract	all qualified applicants will be afforded of	equal
	proposals and other documen			pportunities without discrimination becau	
	will be made available in suff by prospective M/WBEs.	ficient time for review	race, creed, co	olor, national origin, sex disability or m	arital
(4)	Where feasible, divide the		(c) At the	request of the contracting agency,	
	portions to enhanced partici and encourage the formation			shall request each employment agency, porized representative will not discriminate	
	other partnerships among M			race, creed, color, national origin, sex,	
	enhance their participation.		disability or	marital status and that such union	n or
(5)	Document and maintain record			will affirmatively cooperate in	
	including those to M/WBEs a Contractor will also maintain			on of this organization's obligations herein or shall comply with the provisions of	
	its subcontractors have tal		Human Rights	Law, all other State and Federal statutory	y and
(6)	M/WBE contract participation			non-discrimination provisions. Contr	
(6)	Ensure that progress payme made on a timely basis so			actors shall not discriminate against applicant for employment because of	
	hardship is avoided, and that			on), color, sex, national origin, se	
	credit requirements are wa			nilitary status, age, disability, predispo	
	alternatives developed to participation.	encourage M/WBE	-	cteristic, marital status or domestic violand shall also follow the requirements of	
	participation.			s Law with regard to non-discrimination o	
			basis of prior of	criminal conviction and prior arrest.	
				sization will include the provisions of sec d) of this agreement in every subcontra	
				r that the requirements of the subdivisions	
			be binding upo	on each subcontractor as to work in conne	
			with the State	contract.	
Agreed	to this	_ day of		, 2	
Ву					

is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)
responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment
Opportunity (M/WBE-EEO) program.
M/WBE Contract Goals
% Minority and Women's Business Enterprise Participation
% Minority Business Enterprise Participation
% Women's Business Enterprise Participation
EEO Contract Goals
% Minority Labor Force Participation
% Female Labor Force Participation

(Authorized Representative)
Title:
Dota:

NYS DEPARTMENT OF MOTOR VEHICLES ADDENDUM #2 TO RFP#C000665 Facial Pacagnition System

Facial Recognition System July 21, 2008

In any case of conflict between the information in this addendum and the originally issued RFP, the information in this addendum supersedes the information in the RFP.

Section 1-5 Mandatory Bidders Conference is hereby stricken and replaced with the following:

1-5 MANDATORY BIDDERS' CONFERENCE

Bidders are required to attend a Mandatory Bidders' Conference to be held in room 3B of the Swan Street Building at the Empire State Plaza in Albany, NY on Tuesday, July 29, 2008 at 2:00 pm. Bidders who do not attend the Mandatory Bidders' Conference will not be eligible to submit a proposal. At this conference DMV will distribute written answers to Bidders' questions that were submitted by the July 22nd deadline. In addition, DMV may provide additional details related to system design; and key state personnel involved in the program will answer questions as appropriate. Bidders are limited to five persons per company, although potential subcontractors can be considered a separate company for the purposes of attendance. To assist NYS in ensuring sufficient space and materials are available to all participants—bidders are required to complete the bidder conference attendance form, attached, and fax this form to Maureen Younkin at (518) 486-4541 by noon, EST on Thursday, July 24, 2008. Bidders may also email the form to contracts@dmv.state.ny.us. NYS will fax or email the location, directions and parking information to bidders to the fax number or email address indicated on their form by COB the same day. Bidders are advised that only written communication issued by DMV Contract Administration is binding for the purposes of this procurement. In the event that DMV elects to provide additional information as a result of the Bidders' Conference, this information will be mailed to all the bidders who attended the conference by Friday, August 8th, 2008.

FACIAL RECOGNITION MANDATORY BIDDERS CONFERENCE ATTENDANCE FORM

	POTENTIAL BIDDER:	(COMPANY NAME)
	FAX NUMBER FOR RES	ESPONDER: () PONSE: () RESPONSE:
NAME	ANTICIPATED CORPOR	ATE REPRESENTATIVES:
		-

NYS recognizes that staff identified above may not be those who actually attend the bidder's conference. NYS will accept one for one substitution, so long as the company limits the number of attendees to five.

NOTE: NYS will fax the directions and parking information to bidders at the fax number or email address indicated above.

NYS DEPARTMENT OF MOTOR VEHICLES ADDENDUM #2 TO RFP#C000665 Facial Pagagnitian System

Facial Recognition System July 21, 2008

In any case of conflict between the information in this addendum and the originally issued RFP, the information in this addendum supersedes the information in the RFP.

Section 1-5 Mandatory Bidders Conference is hereby stricken and replaced with the following:

1-5 MANDATORY BIDDERS' CONFERENCE

Bidders are required to attend a Mandatory Bidders' Conference to be held in room 3B of the Swan Street Building at the Empire State Plaza in Albany, NY on Tuesday, July 29, 2008 at 2:00 pm. Bidders who do not attend the Mandatory Bidders' Conference will not be eligible to submit a proposal. At this conference DMV will distribute written answers to Bidders' questions that were submitted by the July 22nd deadline. In addition, DMV may provide additional details related to system design; and key state personnel involved in the program will answer questions as appropriate. Bidders are limited to five persons per company, although potential subcontractors can be considered a separate company for the purposes of attendance. To assist NYS in ensuring sufficient space and materials are available to all participants—bidders are required to complete the bidder conference attendance form, attached, and fax this form to Maureen Younkin at (518) 486-4541 by noon, EST on Thursday, July 24, 2008. Bidders may also email the form to contracts@dmv.state.ny.us. NYS will fax or email the location, directions and parking information to bidders to the fax number or email address indicated on their form by COB the same day. Bidders are advised that only written communication issued by DMV Contract Administration is binding for the purposes of this procurement. In the event that DMV elects to provide additional information as a result of the Bidders' Conference, this information will be mailed to all the bidders who attended the conference by Friday, August 8th, 2008.

FACIAL RECOGNITION MANDATORY BIDDERS CONFERENCE ATTENDANCE FORM

	POTENTIAL BIDDER: _				
		(COMPANY NAME)			
	PERSON RESPONDING:	G:			
	PHONE NUMBER OF RE	RESPONDER: ()			
	FAX NUMBER FOR RES	ESPONSE: ()			
	EMAIL ADDRESS FOR I	R RESPONSE:			
	"FAX TO"/"EMAIL" NAI	AME:			
	ANTICIPATED CORPORATE REPRESENTATIVES:				
NAME		TITLE			

NYS recognizes that staff identified above may not be those who actually attend the bidder's conference. NYS will accept one for one substitution, so long as the company limits the number of attendees to five.

NOTE: NYS will fax the directions and parking information to bidders at the fax number or email address indicated above.

NYS DEPARTMENT OF MOTOR VEHICLES ADDENDUM #3 TO RFP#C000665

Facial Recognition System July 29, 2008

In any case of conflict between the information in this addendum and the originally issued RFP, the information in this addendum supersedes the information in the RFP.

I. Vendor Questions and DMV Responses:

Question	RFP	_		_
#	Section	Page	Question	Response
1.	2-1	10	Section 2-1 states: The Facial Recognition System sought by NYS should be informed by the protocols used in the Facial Recognition Vendor Test 2006. Please provide further clarification.	We expect that the Bidders' proposed system should compare favorably with the "false reject error rates" at a "false acceptance rate of 0.01" achieved by many of the participants in the FRVT 2006 on still facial images. These results are documented in Figures 13, 15, 17, 19, 20, 24, 25, 26, and 27 of the FRVT 2006 Large-Scale Results which can be accessed online at: http://www.frvt.org/FRVT2006/docs/FRVT2006andICE2006LargeS caleReport.pdf If the Bidder, or a subcontractor they plan to use for this procurement, participated in the FRVT 2006, then the Bidder should note this accordingly.
2.	3-1	11	How many unique people are represented by the 17 million images? Will the 17 million images contain multiple images per person?	For purposes of this procurement, the legacy image database is comprised of only the most recent image available for each identity document holder where the identity document is current or has expired in the last two years or has been suspended or revoked. Consequently, each of the 17 million images will represent one unique person.
3.	3-1	11	What is the total number of images expected over the life of the program? What is the expected volume of images to be utilized for 1:N searching at the end of the 3 year contract?	4 to 5 million images will be added yearly to the 17 million images in the legacy database. By the end of the 3 year contract, 1:N searches will be performed on a database of approximately 30 million images.
4.	3-1	11	How many images per individual will be retained on the system?	The two most recent images will be retained for each individual.

New York DMV 110392 GULaw Privacy FR

Question #	RFP Section	Page	Question	Response
5.	3-1	11	Section 3-1 states in part: This system will be installed completely on site at DMV central operations and will use solely equipment (hardware and operating software meeting the specifications required by the Contractor as outlined in their proposal) provided by DMV.	DMV will supply the equipment and operating software as specified by the Bidder in Appendix B. DMV will be responsible for the software license of the operating system. The Bidder will be responsible for software licenses for any proprietary (facial recognition) software the Bidder installs.
			Please further clarify the extent and meaning of operating software that will be provided by DMV. Who is responsible to provide the database software license for the operational deployment in Albany? The State or the vendor?	DMV will provide the database software and appropriate software license for the database software that the Bidder specifies in Appendix B.
6.	3-2.1	11	Is it the intent to purchase the recommended hardware and software to implement the Facial Recognition System or is it the intent of DMV to maintain and use the existing configuration of hardware and software?	It is DMV's intent to purchase the hardware and software the Bidder specifies in Appendix B of their proposal.
7.	3-2.1	11	Is it DMV's preference to run the system on a VMware ESX hosted machine? If so, what is the Contractor to assume if considering to run its system on this host in terms of hardware and availability?	Yes. The Contractor should spec the system to run in a physical server environment. After contract award DMV will work with the Contractor to determine if the system can be hosted as part of DMV's current VMWARE ESX environment. Determination will be based on the available VMWARE resources.

Question #	RFP Section	Page	Question	Response	
8.	3-3	12	Does this also include communications connectivity from the DMV ftp server to the Facial Recognition Central Server host(s) site?	The DMV provided secure FTP server and the Contractor's facial recognition system will be located on the same DMV internal network segment. The Contractor's facial recognition system must be able to interact with DMV's secure FTP server via an FTP client that supports secure connections.	
			Will the ftp server be collocated with the Facial Recognition central server hardware?		
			If yes, what hardware connectivity will be provided?		
9.	4-1	13	What is expected of the Contractor with respect to images that do not meet the ISO/IEC 19794-5 standards?	The Contractor would be expected to attempt to automatically enroll the images regardless of whether they meet ISO/IEC 19794-5 standards. If the images failed to enroll automatically they would not be counted against the Contractor with respect to the 97% enrollment rate requirement of sections 4-1.3 and 6-1.3.	
10.	4-1	13	What is expected of the Contractor with respect to the 3% (max) of images that do not automatically enroll?	Images that do not automatically enroll should be returned to DMV in a file wherein each image is identified by its client ID number.	
11.	4-1.3	13	In order to provide the most affordable solution to fit into the schedule, could the DMV clarify the requirement for the six week schedule allocation for enrollment?	Due to budgetary time constraints the legacy image database must be enrolled by February 15, 2009. It is anticipated that the Contractor will have little more than 6 weeks to accomplish this milestone once the contract has been approved.	
12.	5-1	14	What is the timeframe to complete the 1:N legacy batch searching of the 17 million images?	One year, meaning completed by March 15, 2010.	
13.	5-1	14	In order to minimize cost, would the State want to utilize any demographic binning (filtering) techniques on the legacy 1:N batch search or should each legacy search probe be 1 vs. the entire 17 million images?	No. Each legacy search should be 1 vs. the entire 17 million images.	

Question	RFP	Door	Owestion	Demonso
14.	Section 6-1.6	Page 15	Presenting our solution in a public document will potentially compromise its effectiveness as a security measure. Will the State allow vendors to present their approach privately to maintain the security of the solution?	In the interest of security Bidders are asked not to respond to Section 6-1.6 of the RFP in writing. Instead each Bidder will be given an opportunity to privately present their solution regarding Section 6-1.6 to the appropriate evaluators at DMV shortly after the bid proposal closing date of August 15, 2008.
15.	8.2 & 9- 4.2.2	19 & 24	Section 8.2 requires that the system must provide configurable reports of system activities and comparison results which enable the independent evaluation of system performance along with all activities of the system (timestamps, operators, actions). Section 9-4.2.2 requires that the proposed system must log all user activity including record changes, password resets, record searches, manual accepts and/or overrides, etc What is the retention period that the DMV requires for this data?	Generally, the retention period for public records is 4 years, unless specified otherwise. NY Vehicle and Traffic Law section 201 sets retention periods for specific public records. Since photo images are not public records, per section 504(3), there is no statutory retention period; such period is set administratively by DMV.
16.	9-1	21	There is a non-disclosure affidavit in the RFP that we have to sign and include with the proposal, but it is not clear whether this will suffice to obtain the security policy standards in advance of submitting the proposal. So the question is, what non-disclosure agreement is the contractor required to sign to obtain these standards?	CSCIC policy is public information and is available on the CSCIC website at: www.cscic.state.ny.us . A special, (separate), Non-Disclosure agreement must be signed in order to receive the applicable standards. A copy of this Non-Disclosure Agreement will be made available at the Bidders' Conference and after Non-Disclosure Agreement has been executed by the Bidder they will be given a copy of the applicable standards.

Question #	RFP Section	Page	Question	Response
17.	9-4.4	24	Will DMV review Contractor's background clearance process and potentially agree that the Contractor's process is sufficient? If not, what is the cost for DMV's review so that it can be incorporated into the proposal submittal?	The only costs that DMV would expect to recoup from its security review of the Contractor would be DMV's travel expenses. If the Contractor's premises are close enough to be driven to, these costs would only include gas and tolls. If the Contractor's premises were not within driving distance, then DMV would expect to be reimbursed for travel and lodging costs.
18.	10-3.3	26	Will the State provide test data/images for system enhancement, development, and testing at the vendor site to aid in complying with section 10-3.3?	Yes.
19.	16.21	51	Given that payment will not be made until milestones are completed, what is the purpose of a Letter of Credit?	A Letter of Credit is used to ensure that the Contractor performs in compliance with the terms of the Contract.
20.	Append ix C-1	76	The MEMORANDUM OF UNDERSTANDING - DRIVER'S PRIVACY PROTECTION ACT, Appendix "1" asks the Contractor to limit its use of Motor Vehicle Records to the items it initials. Would the Department agree that in order to properly and fully perform the tasks required by the RFP, the Contractor should limit its use to the second item only, that is, "Use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions. [18 U.S.C. Sec. 2721 (b)(1)]"?	The Contractor shall be bound by all of the provisions of the DPPA. Section 2721(b)(1) is the correct characterization of the Contractor's permissible use for personal information required to perform tasks required by the RFP.

Question #	RFP Section	Page	Question	Response
21.	Append ix E	96	Is the bidder required to include the cost for the system in the two optional years as part of the total cost requested in Appendix E? In the form provided there is provision for the "Total Cost for Facial Recognition System \$". Since it is possible that the contract may be extended beyond the 3 year contract period, do you require the Bidder to provide pricing for subsequent years at this time?	No.

II. The second bullet in section 7-1.1:

• manage investigator workload and case assignments based on investigator resources, volumes, priority, etc. (please detail)

is deleted in its entirety.

III. Section 7-1.8:

The system must facilitate collaboration during investigation of suspected fraud, by allowing users to input and share information within one investigation, and automatically link the data with other investigations involving the same individuals. Please detail how this would be accomplished.

is deleted in its entirety.

IV. The last 4 bullets in Section 8-2:

- workload and case assignment reports that identify:
- all cases, including status, date created, days outstanding, etc
- all cases by investigator, including status, date created, days outstanding, etc.
- case load reports including totals by status for each investigator are deleted in their entirety.

NYS DEPARTMENT OF MOTOR VEHICLES ADDENDUM #4 TO RFP#C000665

Facial Recognition System August 6, 2008

In any case of conflict between the information in this addendum and the originally issued RFP, the information in this addendum supersedes the information in the RFP.

I. Clarification of Answers to Questions Addressed in Addendum #3 to RFP#000665

Question 3

What is the total number of images expected over the life of the program?

What is the expected volume of images to be utilized for 1:N searching at the end of the 3 year contract?

Answer to Question 3

4 to 5 million images will be added yearly to the 17 million images in the legacy database. By the end of the 3 year contract, 1:N searches will be performed on a database of approximately 30 million images.

Ouestion 4

How many images per individual will be retained on the system?

Answer to Ouestion 4

The two most recent images will be retained for each individual.

Clarification of the answers to Questions 3 and 4

Approximately 5 million images will be added to the database annually. Approximately 1.5 million of these images will be new images for clients not currently included among the 17 million in the legacy image database. Approximately 3.5 million of these images will be {updated images} of individuals who already have an image on file in the legacy image database. When a second image is received for a client it will be compared to the previous image for that client (1:1 search) and will then be compared to the most recent image of every other client in the image database (1:N search). When a third image is received for a client it will be compared to the other two images held in the database for that client (1:1 search) and will then be compared to the most recent image of every other client in the image database (1:N search). After these comparisons are completed, the oldest of the three images on file for the client will be deleted from the system.

As 1:N searches will only compare the most recent images for each client, the volume of the database for 1:N comparison purposes is projected to be as follows:

- 17 million at start-up;
- 18.5 million at the end of year one;
- 20 million at the end of year two; and
- 21.5 million at the end of year three.

However, the number of images in the database, including updated images will be as follows:

- 17 million images at start up;
- At the end of year one, 15 million clients with one image on file and 3.5 million clients with two images on file, (resulting in 22 million total images on file):
- At the end of year two, 13 million clients with one image on file and 7 million clients with two images on file, (resulting in 27 million total images on file); and
- At the end of year three, 11 million clients with one image on file and 10.5 million clients with two images on file, (resulting in 32 million total images on file).

Ouestion 14

Presenting our solution in a public document will potentially compromise its effectiveness as a security measure. Will the State allow vendors to present their approach privately to maintain the security of the solution?

Answer to Ouestion 14

In the interest of security Bidders are asked not to respond to Section 6-1.6 of the RFP in writing. Instead each Bidder will be given an opportunity to privately present their solution regarding Section 6-1.6 to the appropriate evaluators at DMV shortly after the bid proposal closing date of August 15, 2008.

Clarification of the Answer to Question 14

Bidders who timely submit proposals will be contacted no later than 4pm on Monday August 18 to set-up a date for presenting their solution. Presentations will be scheduled for Monday, August 25, 2008 and Tuesday, August 26, 2008. All meetings will be held at DMV's Central Office in Albany at a location to be determined later.

Ouestion 15

Section 8.2 requires that the system must provide configurable reports of system activities and comparison results which enable the independent evaluation of system performance along with all activities of the system (timestamps, operators, actions).

Section 9-4.2.2 requires that the proposed system must log all user activity including record changes, password resets, record searches, manual accepts and/or overrides, etc

What is the retention period that the DMV requires for this data?

Answer to Question 15

Generally, the retention period for public records is 4 years, unless specified otherwise. NY Vehicle and Traffic Law section 201 sets retention periods for specific public records. Since photo images are not public records, per section 504(3), there is no statutory retention period; such period is set administratively by DMV.

Clarification of Answer to Question 15

Will DMV review Contractor's background clearance process and potentially agree that the Contractor's process is sufficient? **Answer to Question 17 - Part 1** Yes. II. Vendor Questions from the Bidders' Conference of July 29, 2008 and DMV Responses **Question 22 Answer to Question 22 Question 23 Answer to Question 23**

DMV requires that this data be retained for 7 years.

Question 17 - Part 1



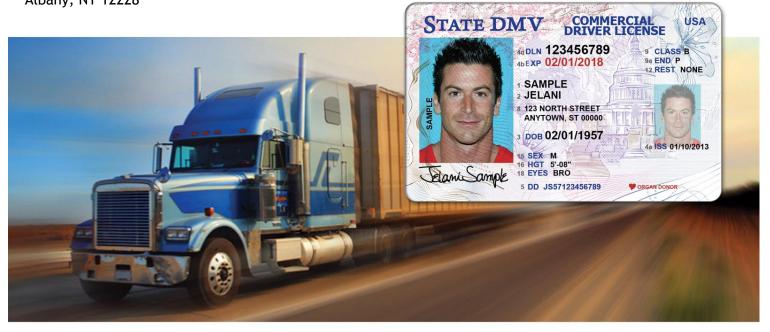
Multi-State Commercial Driver's License (CDL) Facial Recognition Screening Project

PROPOSAL

Date: February 11, 2016

Submitted to:

Owen McShane Director, Division of Field Investigation New York State Department of Motor Vehicles Albany Central Office - Fraud Unit 6 Empire State Plaza, Room 431 Albany, NY 12228



Submitted by:

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New York DMV 110402

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Our Mission

To simplify, protect and secure the lives of the American people.

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Executive Summary

Over the last decade facial recognition (FR) screening within state jurisdictional boundaries has been solidly established as an effective fraud preventing tool. Most states' Motor Vehicle Agencies (MVA) utilize some form of FR to protect their citizens' identities and the overall integrity of their image databases. Many tie the issuance of their driver's license or identification card credentials to the results of the outcome of the technology. Within individual jurisdictions results have been spectacular. Tens of thousands of stolen identities have been discovered for follow-on law enforcement investigation solely through the use of FR screening. Each jurisdiction can point to several high profile cases resulting in criminal convictions.

MorphoTrust USA, LLC (MorphoTrust) is a leading provider of FR screening solutions to federal and state government agencies, including more than 30 MVAs, continually leading the way to fight fraud, identity theft, and terrorism. In fact our FR systems search billions of images every day. We seek to partner with select MVAs to expand their current systems to include a multi-state screening capability.

This proposed Multi-State Commercial Driver's License (CDL) Facial Recognition Screening Project will advance the reach of the technology for New York Department of Motor Vehicles (NY), Connecticut Department of Motor Vehicles (CT), and New Jersey Department of Motor Vehicles (NJ) to allow for the prevention and identification of identity fraud across MVA jurisdictional boundaries. Up until now there have been limited ways for jurisdictional law enforcement to identify fraudsters obtaining illegal credentials in neighboring states. This project will establish a network and additional investigation capabilities for independent FR systems and users to allow for batch and ad hoc FR searching of other networked jurisdictional FR system(s).



Project Requirements/Objectives

The objectives/goals of the proposed Multi-State CDL Facial Recognition Screening Project are to:

- Prevent the issuance of CDL privileges and credentials for NY, CT, and NJ when
 possible fraud is detected and minimize the potential for commercial drivers whose
 driving privileges have been suspended or revoked in one state to illegally obtain a
 valid CDL in one of the other states in the jurisdiction
- 2. Reduce the number and severity of commercial motor vehicle crashes by implementing a "point forward" multi-state, cross-jurisdictional image verification program for NY, CT, and NJ
- 3. Allow for additional jurisdictions to seamlessly join the network and, based on approval from partner jurisdictions, begin searching across jurisdictional boundaries

To achieve these goals/objectives, the proposed Multi-State CDL Facial Recognition Screening Project will employ a point-to-point network that enables each MVA jurisdiction involved in the project to establish business rules and exception conditions specific to each MVA with whom they choose to connect. CDL photos from new and renewed applications will be sent to any partner MVA and searched within that MVA's FR system, with the CDL photos from the requesting state being run against the receiving state's entire photo database, including CDL and non-CDL (if applicable). If a high probability match is found, the photos and demographics will be sent to the originating MVA for review and adjudication. As part of this process, business rules, record status, and pending actions will be used to filter matches that occur as part of normal operations. These conditions will vary among agencies based on jurisdiction statutes but will require the same manual effort to resolve.

When a fraud case is identified, investigators will require support to share and collaborate with their counterparts in the other MVA. This support may be in the form of interactive tools, secure documentation, and/or data access and sharing.



Description of Goods/Services

MorphoTrust will support the Multi-State CDL Facial Recognition Screening Project with enhancements to existing agency FR solutions and technology to facilitate communication between agencies and professional services. These services will help the project partners analyze needs, capture requirements, manage technology delivery, and manage an enhancements roadmap.

This section defines the goods and services from three perspectives:

- 1. **Solution Architecture** describes the solution, enhancements and new components using a high level diagram of the multi-agency configuration.
- 2. **Scope of Work** describes the efforts and activities required to deliver the solution.
- 3. Hardware and Software summarizes platforms and new server requirements.

Solution Architecture

Figure 1 summarizes the overall solution for the Multi-State CDL Facial Recognition Screening Project.





The Multi-State CDL Facial Recognition Screening Project solution will include an enhanced feature set for

The BI enhancements and additions will provide:





The priority and timing will be based on cost-benefit analysis of the pilot results and product priorities.

Scope of Work

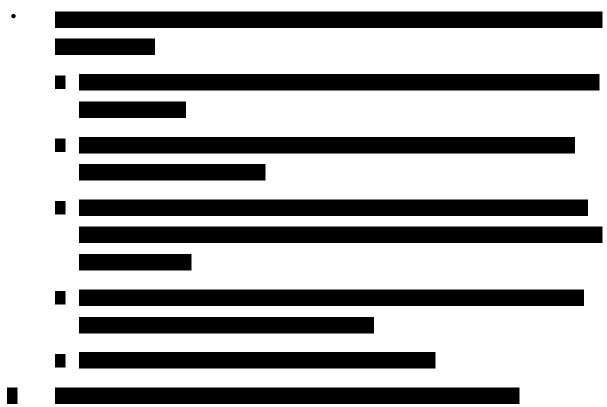
Several activities are required to define and implement the solution changes that enable the Multi-State CDL Facial Recognition Screening Project. These include:

- Definition of the collaborative multi-state investigation process with lead investigators from each agency
- Update of the investigation tools in conjunction with the agency IT application teams



• Ramp-up of the project operations within each agency in conjunction with investigation team leadership and lead investigators

Assumptions





Biometric Identification Changes



Hardware and Software

Biometric Identification

Software changes that relate to daily operations will be kept to an absolute minimum. However, linkage to idFabric and support for cases with multi-agency content will involve new features and functions.



Work Breakdown

Program Planning and Management

MorphoTrust will provide project management (PM) leadership to plan and guide the project throughout the contract to ensure customer deliverables are met and provided as required. MorphoTrust PM will be the focal point for project delivery with responsibilities including project kick-off meeting coordination, detailed project schedule creation and maintenance, project reviews, status updates, coordination of activities, and problem resolution. MorphoTrust PM planning will be coordinated with the lead state but will include coordination and communication with all participating jurisdictions.

Requirements and System Design

MorphoTrust will validate requirements with the participating jurisdictions and create a product requirements document (PRD). The PRD will be approved by all participating agencies and show the overall requirements for the communications among agencies, biometric screening operations, and the investigation and case management tools. The use cases with the appropriate actions, conditions, and work flow will be included. The PRD will also delineate the release date for inclusion in version 1.0 or subsequent product versions.

Once the requirements have been approved MorphoTrust will create the design documentation. A product functional specification (FS) and network architecture diagram/platform specification (PS) to detail the delivered product solution for the Multi-State CDL Facial Recognition Screening Project will be created. The overall solution provided will be the same for all MVAs and will be based on the agreements to requirements for version 1.0. MorphoTrust will also work with all jurisdictions to document individual jurisdictional configurations in a



configuration guide (CG). The CG will document business rules such as searchable jurisdictions, time to search, batch vs. ad hoc, etc. MorphoTrust will also work with the individual jurisdictions to create interface control documents to document the methodology of communication among individual jurisdictions. The establishment of a secure network by allowing individual and batch transactions will be documented.

Bill of Materials Development and Materials

MorphoTrust will create a bill of materials (BOM) for jurisdictional purchase of the required production, User Acceptance Testing (UAT) system hardware, and third party software in accordance with the PS. MorphoTrust will purchase and stage any of the servers for development and quality assurance (QA) that is performed at MorphoTrust facilities.

Development

The MorphoTrust development team will work with approved specifications to develop a single product that can be configured for individual jurisdiction use. The three main components of the development will focus on the following areas:

- a) Interstate Communications Manager
 - MorphoTrust will provide professional services to assist the individual jurisdictions to establish interstate communications among the partner agencies to setup a secure communications channel for the transfer of photos and limited demographics data among the agencies. As part of our idFabric product, MorphoTrust's multi-state communications manager will be used for this purpose. Individual states will provide the communication channels, security, and bandwidth. MorphoTrust will lead the setup based on the approved interface control document and work with the participating agencies to test the communication.
- b) Biometric services
 - MorphoTrust will provide professional services and software to allow for scheduled batch searching and ad-hoc investigative searching through the individual jurisdiction



Automated Biometric Identification System (ABIS) or equivalent one-to-many FR system. The PS and CG will be used for this effort.

c) Investigation and case management tools

The MorphoTrust biometrics team will provide a software add-on to the existing BI product along with database modification scripts that will be accommodated by the MorphoTrust investigation solution, case management solution, and user interface in accordance with the requirements of the statement of work (SOW), FS, and CG.

QA Testing

MorphoTrust will create an internal product testing plan and conduct a QA review of the solution prior to delivery to ensure the solution is in accordance with the FS. QA will also review and approve the individual jurisdictional setup based on each agency's CG.

The MorphoTrust communications manager will provide the required scripting, installers, and release processing to allow QA testing to occur.

Integration

MorphoTrust integration engineers (IEs) will work with the individual jurisdictions to install and configure the QA approved solution in both UAT and production. IEs will also work with MorphoTrust QA and the customer to create a general UAT plan that could then be modified by individual jurisdictions to accommodate any local business rules/configurations. The IE effort will be focused in three areas that will integrate the solution into the individual customer environments for preparation for UAT. Once UAT is complete, IEs will install the approved solution in the customer's production environment.

a) Interstate communications

The MorphoTrust IEs will install and configure the idFabric and interstate communications manager at each participating jurisdiction. MorphoTrust IEs will also provide professional services to assist the individual jurisdictions in establishing interstate communications among the partner agencies and in setting up a secure



communications channel for transfer of photos and limited demographics data among the agencies.

b) Biometric services

MorphoTrust will provide professional services to install the ABIS biometric searching and business rules and software to allow for scheduled batch searching and ad-hoc investigative searching through the individual jurisdiction ABIS or an equivalent one-to-many FR system.

c) Investigation and case management tools

The MorphoTrust IEs will install the software add-on to the existing BI product along with database modification scripts to allow for the use of the MorphoTrust investigation and case management solution and user interface.

UAT Testing

MorphoTrust will provide support and guidance to each customer as the system is brought through the UAT process. The states will notify MorphoTrust when UAT is complete and is ready for integration into the production environment. It is envisioned that the lead state and one other jurisdiction will be the initial UAT/project with subsequent UATs for the remaining partner agencies.

Documentation, Training, and Deployment

a) Documentation and training

MorphoTrust will provide both end user and IT training at each jurisdiction. Two sessions, each lasting approximately four hours in duration, will be provided for investigative end users. One additional training session will be provided for IT. One hard copy of end user documentation will be provided for each customer, in addition to the rights to reproduce for jurisdictional use.



b) Deployment

Upon successful completion of the Multi-State CDL Facial Recognition Screening Project UAT phase, MorphoTrust and the customer will mutually agree on a schedule for the deployment of the system. It is envisioned that the lead state and one other jurisdiction will be the initial project with subsequent project/go-live for the remaining partner agencies.

Field Service and Tier 3 Support Transition

Once the system is accepted and end users trained, the project and support of the Multi-State CDL Facial Recognition Screening system will be transitioned to the MorphoTrust field service and Tier 3 software support team. This includes bug fixes and patches required to keep the system operational. MorphoTrust will provide product releases once per year to all customers as long as maintenance and support is continued with MorphoTrust.

Ongoing Project Work

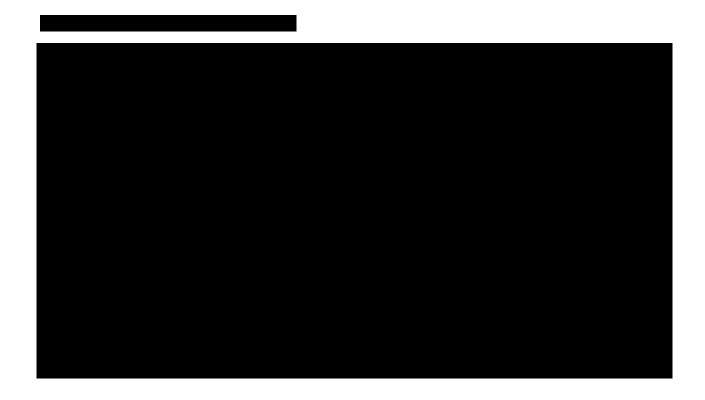
Once the project has been deployed, it will run for one year, with quarterly evaluation and assessment. This will enable the partner MVAs to evaluate the project on an on-going basis and provide for refinement and enhancement of the technology and procedures, as necessary. It is anticipated that additional MVAs will join the program during that time, resulting in a robust, replicable Multi-State CDL Facial Recognition Screening Program that will help meet the goal to reduce the number and severity of commercial motor vehicle crashes.

Project Close Out

The project will close out at the end of the specified contract period.



Timeline



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Project Deliverables

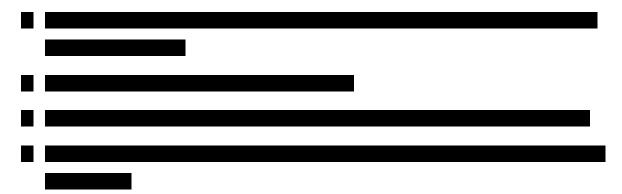
The following project deliverables will be provided:





Customer provided Hardware and Software

The following hardware and software will be provided by each MVA:



Project Payment Milestones

MorphoTrust will invoice the states the amounts listed below upon completion of the respective milestone deliverables:

Payment 1: \$50,000 per jurisdiction (NY, CT, and NJ – total is \$150,000) upon completion of requirements and product design

- Deliverables:
 - o Project management plan (1 for the program)
 - o Project schedule (1 for the program)
 - o Functional specification (1 for the product)
 - Network architecture/platform specification (1 for the product)

Payment 2: \$100,000 per jurisdiction (NY, CT, and NJ – total is \$300,000) upon completion of specifications

- Deliverables:
 - o Interface control document (1 for each jurisdiction)
 - Jurisdiction-specific configuration guide (1 for each jurisdiction)



Payment 3: \$350,000 per jurisdiction (NY, CT, and NJ – total is \$1,050,000) upon completion of UAT testing

• Deliverables:

- Interstate CDL screening communications manager license (1 for each jurisdiction)
- Interstate facial recognition screening and investigations license (1 for each jurisdiction)

Payment 4: \$200,000 per jurisdiction (NY, CT, and NJ – total is \$600,000) upon completion of documentation, training, and deployment

• Deliverables:

- o On-site training (1 for each jurisdiction)
- End user documentation (1 for each jurisdiction)
- 1st year interstate CDL screening communications manager maintenance (1 for each jurisdiction)
- 1st year interstate facial recognition investigations annual maintenance (1 for each jurisdiction)

NY total payment - \$700,000

CT total payment - \$700,000

NJ total payment - \$700,000

Total for 3 agency deployment - \$2,100,000

Options:

- idFabric interstate CDL screening communications manager server hardware -\$14,000/jurisdiction
- Annual maintenance after 1st year \$68,000 per jurisdiction



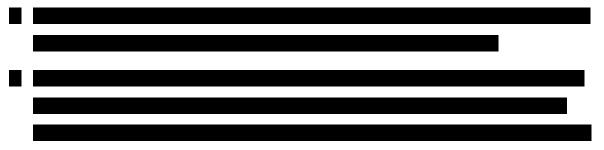
Terms:

When accepted by NY, this proposal shall be deemed an amendment to contract number C00820 between the NY Department of Motor Vehicles and MorphoTrust. All deliverables offered in this quotation shall be subject to the terms and conditions set forth in contract C00820, except as amended by this proposal or the resulting purchase order that will incorporate the terms that have been outlined herein.

All shipping terms shall be FOB destination.

Project Assumptions

- 1. Interstate memorandums of understanding (MOUs) are defined and handled solely by the MVA jurisdictions.
- 2. If necessary, NY DMV will enter into a MOU with the States of Connecticut, New Jersey, and Maryland to jointly work and complete this project.
- 3. Any changes to the hardware, software, services, or assumptions will alter the final price.
- 4. Additional MVA jurisdictions or additional databases within existing partner MVA systems will be handled outside the scope of this agreement.



- 7. Participating MVAs will procure, configure, install, and maintain any end user systems to view, utilize, and administer the Multi-State CDL Facial Recognition system.
- 8. Participating MVAs will provide server hardware, operating system and database software as required.
- 9. Participating MVAs will procure, configure, install, and maintain any server infrastructure (KVM, UPS, KMM, etc.), networking or communication equipment, and data service used in conjunction with this project.



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- 10. Participating MVAs will provide adequate system bandwidth among the necessary components to allow for reliable, unencumbered end user usage.
- 11. Participating MVAs will assign a lead state to act in their behalf and process payments to MorphoTrust for agreed upon services and licensing.
- 12. Participating MVAs will appoint a project manager who will be the primary point of contact for the state responsible for scheduling and for resolving issues and questions for MorphoTrust in a timely fashion.
- 13. Participating MVAs will review and approve all submitted documentation in timely fashion.
- 14. Participating MVAs will provide technical and business support in a timely manner.
- 15. Participating MVAs will facilitate timely payments to MorphoTrust.
- 16. Anti-virus installation and updates on all PCs/servers would be the responsibility of participating MVAs unless MorphoTrust is already responsible for these services in the existing BI/ABIS system maintenance contract. Antivirus configuration will need to be vetted by MorphoTrust to ensure that whatever system is chosen does not preclude or interfere with the normal operation of any software systems.

- 19. Any additional hardware or third party software not included in this document but required for the installation will be the responsibility of participating MVAs.
- 20. Any requirement for high availability (HA) or disaster recovery (DR) is beyond the scope of this project.
- 21. UAT would be performed on separate UAT hardware/virtual machine (VM) that could be utilized after production rollout for subsequent patch and new version release testing by the MVA.



- 22. The license/maintenance fees established in the individual jurisdictions for the base BI/ABIS system remain in effect and are unchanged by this agreement. No additional image or concurrent use licensing for end user applications is included with this agreement.
- 24. The CDL screening project match results will not be used for the gating of daily driver's license card issuance.
- 25. If required, MorphoTrust will enter into Contract Amendments of the existing Contracts in place with the States of Connecticut, New Jersey, and Maryland.

Change Management Process

The MorphoTrust change management process provides the coordination of changes to ensure the balance between stability requirements of the program infrastructure and flexibility requirements to meet changing business and users requests. The process recognizes external customer and contractual obligations that may exist and their needs and impact on this process. The change control process is a collaborative effort of the MorphoTrust and the MVA agencies.

The change management process should be used to proactively understand, document, and control changes so the project is not overwhelmed, continues to move toward a successful and on-schedule implementation, and provides continuous operations throughout the contract term. This helps us keep change control to a minimum once the requirements and system design phase is completed. Fewer changes to the project reduces risks and permits the agreed-upon schedule to be met, allowing successful deployment of the new system to meet or exceed MVA expectations. Figure 2 outlines a proposed change control process that supports a clear understanding of risk and project impact, as well as smooth documentation update and deployment of changes into the solution.



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Figure 2: Change Control Process

This process defines clear impact to existing project work and drives smooth deployment of approved changes.

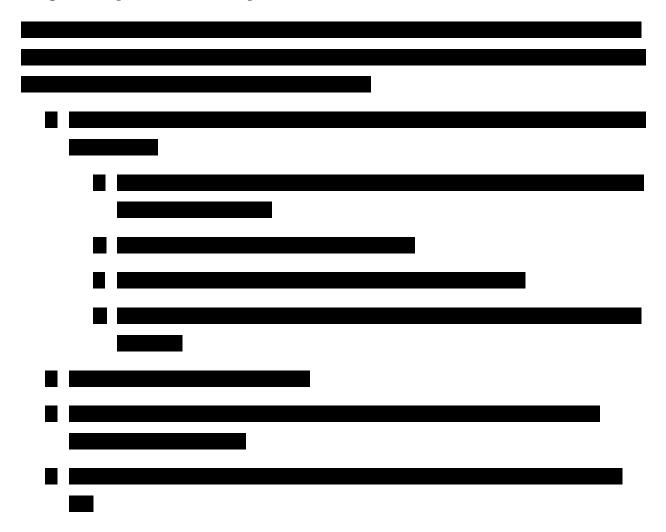
Once agreement has been reached regarding the product specifications and agency configurations, we will look for approval from authorized agency staff before migrating any changes from the test environment into the production environment or otherwise modifying or deviating from data provisions and requirements as approved. We will implement our change management process to ensure that standard methods/procedures are used for efficient and prompt handling of all program changes. This will minimize the impact of change-related incidents and improve the delivery of our services. The process helps to:

- Control (and track) changes
- Provide approval and visibility to all stakeholders
- Monitor and manage change consistently and effectively

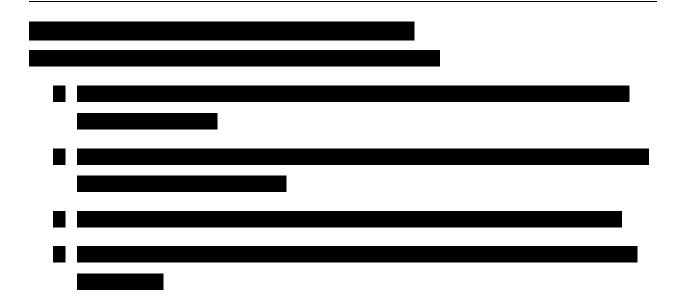


Appendix I – Maryland Participation Proposal

The Maryland MVA and New York DMV have requested input on supporting the merger of the MD MVA FMCSA grant with the Northeast Multi-State CDL Facial Recognition Project. The stated objective was to support MVA participation as a peer with NY, NJ and CT with the solution located within the NY DMV. An estimate of increased costs required to support this merger and expansion was also requested.







Project Payment Milestones

MorphoTrust will invoice NY the amounts listed below upon completion of the respective milestone deliverables:

Payment 1: \$300,000 upon completion of UAT testing

- Deliverables:
 - o BI system licensed for 400,000 MD CDL images for a 3 year term
 - o Interstate CDL screening communications manager license
 - o Interstate FR screening and investigations license

Payment 2: \$125,000 upon completion of documentation, training, and deployment

- Deliverables:
 - On-site training
 - End user documentation
 - o 1st year interstate CDL screening communications manager maintenance
 - o 1st year interstate FR investigations annual maintenance



Total for MD deployment - \$425,000

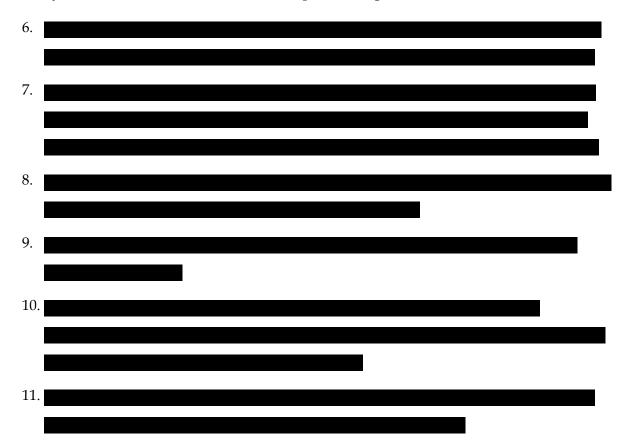
Options:

• Annual maintenance after 1st year - \$60,000



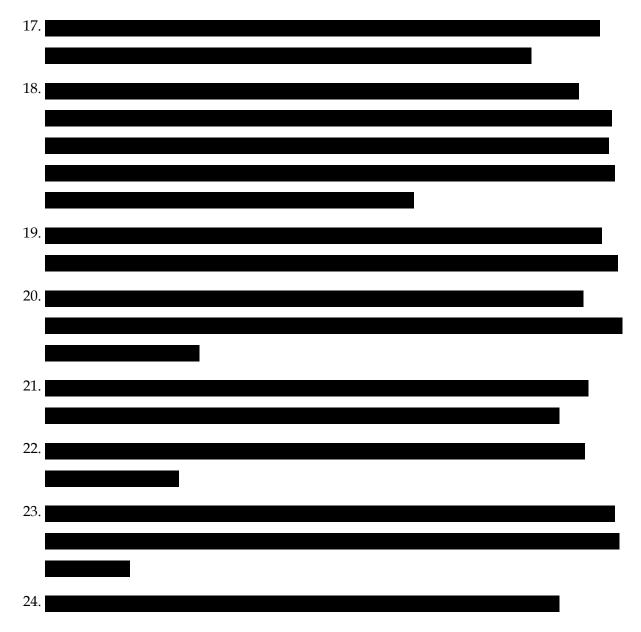
Project Assumptions

- 1. Interstate memorandums of understanding (MOUs) are defined and handled solely by the MVA jurisdictions.
- 2. Any changes to the hardware, software, services, or assumptions will alter the final price.
- 3. It is assumed that MD will provide a historical data extract from their system of record in a mutually agreeable format.
- 4. It is assumed that MD will provide technical support for interface development and testing.
- 5. Additional MVA jurisdictions or additional databases within existing partner MVA systems will be handled outside the scope of this agreement.



12. Participating MVAs will assign a lead state to act in their behalf and process payments to MorphoTrust for agreed upon services and licensing.

- 13. Participating MVAs will appoint a project manager who will be the primary point of contact for the state responsible for scheduling as well as resolving issues and questions for MorphoTrust in a timely fashion.
- 14. Participating MVAs will review and approve all submitted documentation in timely fashion.
- 15. Participating MVAs will provide technical and business support in a timely manner.
- 16. Participating MVAs will facilitate timely payments to MorphoTrust.





Appendix II – Glossary

This appendix contains a glossary of terms and acronyms used throughout this document.

Term	Acronym	Definition
Active Directory	AD	A directory service that Microsoft developed for Windows domain networks and included in most Windows Server operating systems as a set of processes and services.
Automated Biometric Identification System	ABIS	A software platform for building multi-biometric identity management solutions, with business process management, identity record keeping, verification, deduplication, and identification functionality. The platform provides configurable solutions to process, store, create, search, and compare biometric identity records using face, iris and fingerprint, including tenprint, palm and latent, biometric modes, individually and in combination — with the ability to easily add new modalities in the future.
Bill of materials	ВОМ	A list of the raw materials, sub-assemblies, intermediate assemblies, sub-components, parts and the quantities of each needed to manufacture an end product.
Biometric Identification	BI	A web-based, case management solution for screening daily issuance of secure identities and investigating potential matches. It creates and stores biometric information that matches biometric templates for face and finger.
Commercial Driver's License	CDL	A driver's license required in the United States to operate any type of vehicle weighing 26,001 pounds, or 10,001 pounds with any type of trailer towed.

Term	Acronym	Definition
Commercial Driver's License Information System	CDLIS	A nationwide computer system that enables state driver licensing agencies to ensure that each commercial driver has only one driver's license and one complete driver record. State driver licensing agencies use CDLIS to complete various procedures, including: • Transmitting out-of-state convictions and withdrawals • Transferring the driver record when a commercial driver's license holder moves to another state • Responding to requests for driver status and history
Commercial off-the-shelf	COTS	Software and services that are built and delivered usually from a third party vendor.
Configuration guide	CG	A document that contains configuration instructions
Disaster recovery	DR	Involves a set of policies and procedures to enable the recovery or continuation of vital technology infrastructure and systems following a natural or human-induced disaster.
Facial recognition	FR	A type of biometric software application that can identify a specific individual in a digital image by analyzing and comparing patterns.
Functional specification	FS	A formal document used to describe in detail for software developers a product's intended capabilities, appearance, and interactions with users.
High availability	НА	A system or component that is continuously operational for a desirably long length of time.
Information technology	IT	The study or use of systems (especially computers and telecommunications) for storing, retrieving, and sending information.
Integration engineers	IE	Engineers who bringing together the component subsystems into one system and ensuring that the subsystems function together as a system.
LexisNexis		A corporation providing computer-assisted legal research as well as business research and risk management services

Term	Acronym	Definition
Memorandum of understanding	MOU	A formal agreement between two or more parties. Companies and organizations can use MOUs to establish official partnerships. MOUs are not legally binding but they carry a degree of seriousness and mutual respect, stronger than a gentlemen's agreement.
MorphoTrust® idFabric	idFabric	Manages identification batch requests between agencies and consolidation of match results.
Motor Vehicle Agencies	MVA	A state-level government agency that administers vehicle registration and driver licensing.
Personally identifiable information	PII	Information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context
Platform specification	PS	A document detailing the delivered product solution
Product requirements document	PRD	A document that contains all the requirements to a certain product and is written to allow people to understand what a product should do.
Project management	РМ	Leadership member(s) who will plan and guide the project through the contract to ensure customer deliverables are met and provided as required.
Quality assurance	QA	The maintenance of a desired level of quality in a service or product, especially by means of attention to every stage of the process of delivery or production.
Statement of work	SOW	A document, routinely employed in the field of project management, which defines project-specific activities, deliverables and their respective timelines, all of which form a contractual obligation upon the vendor, in providing services to the client.
System of record	SOR	An information storage system that is the authoritative data source for a given data element or piece of information.
User Acceptance Testing	UAT	A phase of software development in which the software is tested in the "real world" by the intended audience or a business representative.
Virtual machine	VM	An operating system OS or application environment that is installed on software which imitates dedicated hardware.