



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Facial Comparison for APIS Compliance Test: Renewal of Test

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: General notice.

SUMMARY: This notice announces that U.S. Customs and Border Protection (CBP) is renewing the Facial Comparison for Advance Passenger Information System (APIS) Compliance Test. Commercial air and sea carriers that voluntarily participate in this test use CBP's Traveler Verification Service (TVS) to comply with APIS regulatory requirements. During this test, participating carriers will use the existing TVS to ensure the manifest information sent to CBP is correct and to perform the required identity verification pursuant to APIS regulations. This process has the potential to expedite the departure process as compared to the manual data and identity verification process.

DATES: This renewal extends the test for an additional two years, expiring on February 16, 2027, unless renewed. The initial voluntary test began on February 16, 2023, and was set to expire on February 16, 2025. CBP will announce any modifications by notice in the *Federal Register*.

ADDRESSES: Applications to participate in the Facial Comparison for APIS Compliance Test must be submitted via email to biometricair@cbp.dhs.gov. Please use "APIS Compliance Test" in the subject line of the email. Written comments concerning program, policy, and technical issues may also be submitted via email to biometricair@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Natascha A. Gutermuth, Program Manager, Innovation and Strategy Directorate, Office of Field Operations, natascha.a.gutermuth@cbp.dhs.gov or (202) 417-0096.

SUPPLEMENTARY INFORMATION:

I. Background

Under U.S. Customs and Border Protection (CBP) regulations, the appropriate officials¹ of commercial airlines and vessels (collectively, “carriers”) arriving in or departing from the United States are required to transmit an electronic manifest to CBP through the Advance Passenger Information System (APIS) that lists all crewmembers and passengers (collectively, “travelers”). The electronic manifest must be transmitted within a specified timeframe, generally before the vessel or aircraft departs, though the exact timeframe varies depending on the circumstances of the trip and type of carrier. *See* Immigration and Nationality Act, 66 Stat. 163, sec. 231, as amended (8 U.S.C. 1221); 19 U.S.C. 1433; 49 U.S.C. 44909; 19 CFR 4.7b(b), 4.64(b), 122.49a(b), 122.49b(b), 122.49c, 122.75a(b), and 122.75b(b). The electronic manifest must include the travelers’ biographic information including, for example, name, age, date of birth, citizenship, passport number if relevant, and other data elements depending upon the circumstances of the trip, the type of traveler (e.g., crew or passenger), and the type of carrier as well as such other information as determined necessary by the Secretary of the Department of Homeland Security (DHS), in consultation with the Secretary of State, for flights and vessels arriving in and departing from the United States, or as determined necessary by the Administrator of the Transportation Security Administration (TSA), in consultation with the Commissioner of CBP, for flights arriving in the United States. *See* 8 U.S.C. 1221; 49 U.S.C. 44909.

As part of the reporting process, a carrier must, among other things, compare the travel document presented by the traveler with the information the carrier is transmitting to CBP on the electronic manifest in order to (1) verify that the manifest information

¹ An “appropriate official” is defined as the master or commanding officer, or authorized agent, owner, or consignee of a commercial aircraft or vessel; this term and the term “carrier” are sometimes used interchangeably within the regulations. *See* 19 CFR 4.7b(a), 122.49a(a).

transmitted to CBP is correct; and (2) verify that the traveler is the person to whom the travel document was issued. *See* 19 CFR 4.7b(d), 4.64(d), 122.49a(d), 122.49b(d), 122.75a(d), and 122.75b(d). These two requirements will be referred to in this document as the “APIS verification requirements”.

To improve the accuracy and efficiency of the APIS verification requirements, CBP introduced the Facial Comparison for APIS Compliance Test on February 16, 2023.² Carriers that participate in the test use CBP’s Traveler Verification Service (TVS) to aid compliance with APIS verification requirements. Participation in this test is on a voluntary basis for both carriers and travelers.

Carriers participating in this test collect facial images (photographs) of certain travelers at the gate or other identity check points.³ Carriers then transmit those facial images to CBP’s TVS facial comparison service which compares transmitted images to biometric templates⁴ generated from pre-existing photographs that CBP already maintains, known as a “gallery.” When CBP receives a passenger manifest, CBP builds a gallery of photographs for the individuals identified on the manifest. These images may include photographs captured by CBP during previous entry inspections, photographs from U.S. passports and U.S. visas, and photographs from other Department of Homeland Security (DHS) encounters.

If the TVS matches the traveler’s facial image to a photograph in the gallery and the manifest information transmitted to CBP is correct, the carrier’s APIS verification requirements are considered fulfilled and the carrier is not required to perform any

² 88 FR 10137 (Feb. 16, 2023).

³ Individual travelers may opt out of the APIS test procedures if they do not wish to provide their facial image.

⁴ A biometric template is a digital representation of a biometric trait of an individual generated from a biometric image and processed by an algorithm. The template is usually represented as a sequence of characters and numbers. For the TVS, templates cannot be reverse engineered to recreate a biometric image. The templates generated for the TVS are proprietary to a specific vendor’s algorithm and cannot be used with another vendor’s algorithms.

additional identity or passenger manifest verification.⁵ If the traveler’s facial image does not result in a match from the TVS for any reason, participating carriers must verify the traveler’s identity through a manual review of the traveler’s travel documents pursuant to the existing APIS regulatory requirements. If a carrier identifies a traveler whose facial image has been incorrectly matched by the TVS to another passenger (referred to as a “false positive”), the carrier must manually review the travel documents of any such false positives pursuant to current APIS requirements.⁶

If an individual traveler does not want to be photographed, the traveler can opt out of this procedure by notifying the carrier. CBP requires that carriers post clear and visible signs notifying travelers of their ability to opt out. Additionally, carriers may choose to give a verbal announcement during the boarding process with additional information about CBP’s use of facial comparison technology. If a traveler opts out of the APIS test procedures, the carrier must perform a manual review of the travel documents to ensure the manifest information sent to CBP is correct and verify the traveler’s identity as required by the APIS regulations. CBP requires carriers to provide an electronic manifest listing all travelers pursuant to APIS regulations, regardless of the verification process used by the carrier.

II. Facial Comparison for APIS Compliance Test: Renewal

This notice extends the Facial Comparison for APIS Compliance Test beyond its original expiration date of February 16, 2025, for an additional period of two years. This renewal does not modify any other provision of the original notice. All provisions of the

⁵ Carriers still need to ensure that each traveler has a valid passport or authorized travel document in the traveler’s possession. This separate check for a valid passport or authorized travel document fulfills the passenger manifest requirements for the United States, but there may be additional requirements from destination or transit countries.

⁶ In the unlikely event that a false positive results in the creation of an incorrect travel record, the traveler affected by the incorrect travel record can seek redress through the DHS Traveler Redress Inquiry Program (DHS TRIP) at <https://www.dhs.gov/dhs-trip>, or the CBP redress process, which can be found at <https://www.cbp.gov/travel/international-visitors/i-94/traveler-compliance>.

original notice, with the exception of the amended expiration date, will remain applicable through the extended period.

For convenience, CBP has republished portions of the previous notice in the following subsections, including the authorization for this test, a description of the affected regulatory requirements, expected costs and benefits, test evaluation criteria, consequences of misconduct under the test, a privacy notice, and a statement regarding the Paperwork Reduction Act. Further information regarding the Facial Comparison for APIS Compliance Test can be found in the original notice for this test.⁷

A. Duration and Purpose of the Extended Test

The purpose of the APIS test is to determine the feasibility of allowing carriers to use CBP's TVS facial comparison service to comply with the carriers' APIS verification requirements. During the initial testing period, some carriers were not able to participate due to factors outside of CBP's control, including carriers' funding availability and the travel industry's recovery from COVID-19 related disruptions. To effectively evaluate the feasibility of allowing carriers to use CBP's TVS facial comparison service to comply with APIS verification requirements, it is necessary for CBP to evaluate a broader group of participants. Thus, CBP is extending the testing period to allow additional carriers to participate in the test who may not have been able to do so previously.

The Facial Comparison for APIS Test was originally scheduled to run for a period of two years, beginning on February 16, 2023, and ending on February 16, 2025.

Through this notice, CBP is renewing the facial comparison test and extending it beyond its original expiration date. The facial comparison test will run for an additional period of two years beginning on February 16, 2025, and ending on February 16, 2027. While the test is ongoing, CBP will evaluate the results and determine whether the test should be extended or otherwise modified. CBP reserves the right to discontinue this test at any

⁷ 88 FR 10137 (Feb. 16, 2023).

time at CBP's sole discretion. CBP will announce any modifications by notice in the *Federal Register*.

B. Eligibility and Participation Requirements

Any commercial air or commercial sea carrier may apply to participate in the APIS test. To participate in this test, a carrier must submit a request to participate to biometricair@cbp.dhs.gov. Applicant carriers must meet all CBP requirements for this test, including those listed in the Business Requirements Document⁸ and the Technical Reference Guides provided by CBP to the carriers. Upon request, CBP will provide the carrier with the full list of requirements for participation which vary depending upon the specific circumstances of the carrier.

Carriers must agree that they will not store or retain any photos taken while using TVS facial comparison services. Carriers must provide CBP with a CBP-approved method of auditing compliance with this requirement. Any system log files associated with a TVS enabled system must be approved by CBP to ensure compliance with DHS and CBP privacy and security policies and all applicable privacy statutes and regulations.

The carrier must also sign and return the Business Requirements Document to CBP in order to participate in the APIS test. The Business Requirements Document is an acknowledgement by the carrier that it agrees to all CBP terms and technical specifications as well as any other requirements as determined by CBP.

Any carrier that wishes to participate in the APIS test may contact CBP via email at biometricair@cbp.dhs.gov to request the detailed technical requirements for participation, as well as to obtain a copy of the Business Requirements Document to be signed by the carrier. If the carrier wishes to participate in the test, it can return the signed Business Requirements Document and CBP will coordinate with the carrier to

⁸ The Business Requirements Document is available at: <https://www.cbp.gov/document/specifications/exit-business-requirements-document>.

ensure that the carrier's systems meet the technical and privacy requirements as determined by CBP.

It is within CBP's sole discretion to refuse test participation for any carrier.

C. Authorization for this Test

The renewed test described in this notice is authorized pursuant to 19 CFR 101.9(a), which allows the Commissioner of CBP to impose requirements different from those specified in the CBP regulations for conducting a test program or procedure designed to evaluate the effectiveness of new technology or operation procedures regarding the processing of passengers, vessels, or merchandise. This test is authorized pursuant to this regulation as it is designed to evaluate whether the use of CBP's TVS technology is a feasible way for carriers to meet their APIS verification requirements.

D. Waiver of Certain Regulatory Requirements

Under CBP's APIS regulations, carriers are responsible for, among other things, comparing the travel documents presented by passengers with the manifest information the carrier is transmitting to CBP to verify that the information is correct and to verify the identity of the traveler. Under this test, these manual APIS verification requirements will be waived if CBP's TVS returns a match of the traveler's facial image to a photograph in the gallery.⁹ When the TVS returns a match of a traveler's facial image, a participating carrier's APIS verification requirements under 19 CFR 122.49a(d), 122.49b(d), 122.75a(d), and 122.75b(d) will be considered fulfilled without the carrier further inspecting the traveler's travel documents.¹⁰

⁹ However, in the event of a "false positive" as discussed above, the carrier will still be required to manually review the travel documents in accordance with the requirements of 19 CFR 122.49a(d), 122.49b(d), 122.75a(d), and 122.75b(d).

¹⁰ As noted in Section I., carriers are still required to ensure that each traveler has a valid passport or authorized travel document in the traveler's possession.

As noted in Section I., if CBP's TVS does not return a match of the traveler's facial image or a traveler opts out of the APIS test procedures, the carrier must perform a manual document check to fulfill the APIS verification requirements.

E. Costs

Under this test, CBP gives participating carriers access to its TVS facial comparison service, and the carriers are responsible for selecting and purchasing the image capture and transmission equipment that best fits their needs. Carriers that participated in the Facial Comparison for APIS Compliance Test prior to this extension may continue to use equipment that meets CBP's technical requirements. There are no new costs attributable solely to the extension of the Facial Comparison for APIS Compliance Test.

The cost of the equipment varies by carrier and may depend on how the equipment is used. CBP believes costs will range from \$5,000 to \$20,000 per departure gate, based on CBP's experience from the initial testing period and CBP's experience with other facial comparison tests. It is also possible that costs will go down substantially over time as carriers develop more efficient and inexpensive equipment.

F. Benefits

The goal of the APIS test is to enable carriers to satisfy the APIS verification requirements with greater accuracy and efficiency by eliminating the manual data and identity verification process in most cases. The use of TVS technology for APIS verification purposes has the potential to speed up the departure process for both carriers and travelers, as it enables travelers to be matched more efficiently to their travel documents. Various airlines have already partnered with CBP to test facial comparison in other contexts pursuant to regulations in title 8 of the Code of Federal Regulations. While these other programs are unrelated to APIS compliance, the use of facial comparison technology in those contexts is comparable to the test procedures detailed

here and participants have reported that facial comparison tests speed up the boarding process substantially.¹¹

Performing biometric identity verification can also help CBP and partner stakeholders reconcile any errors or incomplete data in a traveler's biographic data. CBP anticipates that having a more accurate verification will result in more accurate border crossing records of travelers. This will allow CBP to more effectively identify overstays and aliens who are, or were, present in the United States without having been admitted or paroled and prevent their unlawful reentry into the United States. It will also make it more difficult for imposters to utilize other travelers' credentials. Ultimately, this provides CBP with more reliable information to verify identity and strengthens CBP's ability to identify criminals and known or suspected terrorists.

G. Evaluation of the APIS Test

CBP will use the results of this test to assess the operational feasibility of using the TVS facial comparison service for the purposes of compliance with the APIS verification requirements. CBP will evaluate this test based on a number of criteria, including:

- the percentage of travelers for whom CBP had a gallery photo available for matching purposes; and
- the ability of the technology to correctly match the facial images captured to the correct individuals' facial image(s) on file, including continued tracking of

¹¹ In one test, an airline partner has been able to board an Airbus A-380 with 350 travelers in only 20 minutes. (<https://www.cntraveler.com/story/orlando-airport-first-in-the-us-to-scan-faces-of-all-international-passengers>. Accessed Oct. 15, 2024.) Another airline partner has reported to CBP that its baseline loading time for an A-380 is 45 minutes. In the test of the integrated facial comparison service used at the Orlando Airport, travelers have experienced a 15-minute time savings. According to one news article, this is down from 30 minutes for a 240-passenger plane. (<https://www.forbes.com/sites/grantmartin/2018/06/24/orlando-airport-deploys-biometric-scanners-at-all-international-gates/#2a4a588118f9>. Accessed Oct. 15, 2024.) In both tests, boarding times are reduced by approximately 50 percent.

any differences in matching performance based on measurable demographic factors.

CBP's operational data continues to show there is no measurable differential performance in matching based on demographic factors. CBP continually monitors algorithm performance and technology enhancements to ensure CBP is deploying the most accurate and effective algorithm. CBP continues to partner with the National Institute of Standards and Technology (NIST) and use NIST research to ensure continued optimal performance.¹² CBP will continue its review of matches and no-matches to determine the reason for such a match, including whether the match was based on a demographic factor (age, gender, citizenship). CBP will continue to work both internally and with partners to identify and remediate disparate impacts and other forms of bias and discrimination, if any.¹³

H. Misconduct Under the Test

If a carrier participating in the test fails to abide by the rules, procedures, or terms and conditions of this test, fails to exercise reasonable care in the execution of participant obligations, or otherwise fails to comply with all applicable laws and regulations, the participant may be suspended from participation in this test and/or subjected to penalties, liquidated damages, and/or other administrative or judicial sanction under APIS regulations.

¹² In July 2021, NIST published its Face Recognition Vendor Test (FRVT) Part 7: Identification for Paperless Travel and Immigration, available at: <https://nvlpubs.nist.gov/nistpubs/ir/2021/NIST.IR.8381.pdf>. The report demonstrates that the current biometric facial recognition technology passes the threshold for use in CBP's Biometric Exit Program, based on computer-focused simulations. In December 2019, NIST published the FRVT Part 3: Demographic Effects, available at: <https://nvlpubs.nist.gov/nistpubs/ir/2021/NIST.IR.8381.pdf>. As the report demonstrates, NEC-3, which CBP uses, is among the algorithms with an undetectable false positive differential. NIST also noted, "NEC-3, is on many measures the most accurate we have evaluated," see page 8 of the report.

¹³ Information regarding biometric matching performance can be found on CBP's website at <https://biometrics.cbp.gov/privacy> which includes a link to CBP's Privacy Evaluation Report as well as the TVS Privacy Impact Assessment (PIA). The PIA is also available at <http://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

If CBP determines that a suspension is warranted, CBP will notify the participant of this decision, the facts or conduct warranting suspension, and the date when the suspension will be effective. This decision may be appealed in writing to the Executive Assistant Commissioner, Office of Field Operations, within 15 days of notification. The appeal should address the facts or conduct charges contained in the notice and state how the participant has or will achieve compliance. CBP will notify the participant within 30 days of receipt of an appeal whether the appeal is granted. If the appeal is granted and the participant has already been suspended, CBP will notify the participant when its participation in the test will be reinstated.

I. Privacy

CBP will continue to ensure that all Privacy Act requirements and applicable DHS privacy policies are adhered to during this test.¹⁴ Pursuant to these requirements, CBP will delete photos of U.S. citizens immediately upon confirmation of U.S. citizenship.¹⁵ CBP will retain photos of all aliens and no-matches for up to 14 days in the Automated Targeting System (ATS). DHS may retain the facial images of in-scope¹⁶ aliens for up to 75 years in DHS's Automated Biometric Identification System (IDENT) system, and any successor system.

CBP has issued a Privacy Impact Assessment (PIA) for TVS, which outlines how CBP ensures compliance with Privacy Act protections and DHS privacy policies, including DHS's Fair Information Practice Principles (FIPPs). The FIPPs account for the nature and purpose of the information being collected in relation to DHS's mission to

¹⁴ See 5 U.S.C. 552a and <https://www.dhs.gov/privacy-policy-guidance>.

¹⁵ Photos of U.S. citizens are destroyed immediately upon confirmation of U.S. citizenship, but no later than 12 hours only under specific circumstances. If there is a system or network issue, photos will reside in an inaccessible queue for up to 12 hours and will be processed once the system and/or network connectivity is re-established and proper dispositioning (confirmation of U.S. citizenship) can occur. Further information about the retention of facial images is provided in the TVS Privacy Impact Assessment (PIA). The TVS PIA is available at <http://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

¹⁶ An "in-scope" alien is any person who is required by law to provide biometrics upon entry or exit from the United States pursuant to 8 CFR 215.8(a) and 235.1(f).

preserve, protect, and secure the United States. The PIA addresses issues such as the security, integrity, and sharing of data, use limitations, and transparency. The PIA is publicly available at: <http://www.dhs.gov/privacy-documents-us-customs-and-border-protection>.

CBP has also issued the DHS/CBP-005 APIS System of Records Notice (SORN), the APIS PIA, the DHS/CBP-007 Border Crossing Information (BCI) SORN, and the DHS/CBP-006 Automated Targeting System (ATS) SORN. These documents encompass all data collected for APIS compliance, as well as data collected to create border crossing records for individuals. CBP will create new documents or update these documents as needed to reflect the use of biometric data for the purposes of this test and will make these documents available at: <https://www.dhs.gov/compliance>.

J. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget (OMB). This information collection is covered by OMB control numbers 1651-0138 Biometric Identity and 1651-0088 Passenger and Crew Manifest.

Dated: February 21, 2025.

Diane J. Sabatino
Acting Executive Assistant Commissioner,
Office of Field Operations,
U.S. Customs and Border Protection