

FORM 3

Agency Report Template

(Revised April 2022)

INSTRUCTIONS

The Identifying Information Law requires City agencies to submit comprehensive biennial agency reports (Form 3) related to their collection, disclosure, and retention of identifying information and their privacy protection practices.

To complete a 2022 Form 3:

- Update the agency's 2020 Form 1 (Inventory Form) with new information (including from any new or updated Forms 2 and 5 completed by the agency since 2020);
- Update or complete new Form 2s (APO Designation of Collections and Disclosures as "Routine") based on new information in the updated 2022 Form 1;
- Update or complete new Form 5s (Agency Privacy Officer Approval of Collections and Disclosures on a "Non-Routine" Basis) based on new information in the updated 2022 Form 1;
- Make sure all updated or new Forms 2 and 5 are consistent with the updated 2022 Form 1;
- Use the updated or new Forms 1, 2, and 5 to complete a new Form 3.

Before submission, Form 3 must be signed by the agency head or their designee. It is strongly recommended that agency counsel conduct a final review and approval before submission.

Submit Form 3 to:

- CPO at PrivacyOfficer@cityhall.nyc.gov
- Mayor at MOReports@cityhall.nyc.gov
- City Council Speaker at reports@council.nyc.gov
- Citywide Privacy Protection Committee at NYCPrivacyCommittee@cityhall.nyc.gov
- Department of Records and Information Services's (DORIS) online submissions portal at <https://a860-gpp.nyc.gov>

THIS REPORT IS PUBLIC. PREPARERS SHOULD CONSULT AGENCY COUNSEL OR THE CHIEF PRIVACY OFFICER TO ENSURE THE RESPONSES ARE PROVIDED ACCORDING TO APPLICABLE LAW AND CITY POLICY.

DO NOT SUBMIT PAGES 1-3

VERSION CONTROL

Version	Description of Change	Approver	Date
3.0	Updated completion date; miscellaneous clarifying revisions.	Aaron Friedman Principal Senior Counsel Office of Information Privacy	April 2022
2.0	Updated completion date; miscellaneous clarifying revisions.	Laura Negrón Chief Privacy Officer, City of New York	April 2020
1.0	First Version	Laura Negrón Chief Privacy Officer, City of New York	April 2018

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FORM 3 (AGENCY REPORT) (Due on or before July 31, 2022)

Agency:	Business Integrity Commission		
Agency Privacy Officer:	David A. Feldman		
Email:	dfeldman@bic.nyc.gov	Telephone:	212-437-0510
Date of Report:	July 31, 2022		

1. Specify the type of identifying information collected or disclosed (check all that apply):

☒ Name ☒ Social security number (full or last 4 digits)* ☒ Taxpayer ID number (full or last 4 digits)*	<u>Work-Related Information</u> ☒ Employer information ☒ Employment address
<u>Biometric Information</u> ☒ Fingerprints ☒ Photographs ☐ Palm and handprints* ☐ Retina and iris patterns* ☐ Facial geometry* ☐ Gait or movement patterns* ☐ Voiceprints* ☐ DNA sequences*	<u>Government Program Information</u> ☐ Any scheduled appointments with any employee, contractor, or subcontractor ☒ Any scheduled court appearances ☐ Eligibility for or receipt of public assistance or City services ☒ Income tax information ☒ Motor vehicle information
<u>Contact Information</u> ☒ Current and/or previous home addresses ☒ Email address ☒ Phone number	<u>Law Enforcement Information</u> ☒ Arrest record or criminal conviction ☒ Date and/or time of release from custody of ACS, DOC, or NYPD ☒ Information obtained from any surveillance system operated by, for the benefit of, or at the direction of the NYPD
<u>Demographic Information</u> ☐ Country of origin ☒ Date of birth* ☒ Gender identity ☐ Languages spoken ☒ Marital or partnership status ☐ Nationality ☒ Race ☐ Religion ☐ Sexual orientation	<u>Technology-Related Information</u> ☐ Device identifier including media access control MAC address or Internet mobile equipment identity (IMEI)* ☐ GPS-based location obtained or derived from a device that can be used to track or locate an individual* ☐ Internet protocol (IP) address* ☒ Social media account information
<u>Status Information</u> ☒ Citizenship or immigration status ☒ Employment status ☐ Status as victim of domestic violence or sexual assault ☐ Status as crime victim or witness	<u>Other Types of Identifying Information</u> (list below):

*Type of identifying information designated by the CPO (see CPO Policies & Protocols § 3.1.1).

2. Explain why the collection and retention of identifying information described in Question 1 furthers the purpose or mission of your agency.

BIC is charged with regulating the trade waste removal industry and the wholesale markets in New York City. Among its purposes are to combat the influence of organized crime and prevent its return to those industries. BIC's regulatory framework is the primary means of ensuring that industries once overrun by corruption remain free from organized crime and other criminality. Additional legislation relevant to BIC's regulation of the trade waste removal industry has been signed and/or become effective in the past three years. This legislation relates to vehicle emissions; environmental, safety and health standards, including traffic safety; labor union registration; and commercial waste zones. To further the Commission's mission, BIC is required by the Administrative Code and the rules promulgated thereunder to collect identifying information from its applicants, licensees and registrants.

The information collected is necessary and vital to further BIC's core mission. For instance, information such as an individual's name, address, and date of birth helps BIC to identify individuals who have a criminal history (which is relevant to BIC's analysis in reviewing an application, though not dispositive), and ensures that the wrong person is not being investigated. Further, this information can be transmitted to another law enforcement agency – such as a federal, state or local prosecutor's office – in furtherance of BIC's mission, should further criminal investigation be merited. This information is also used in connection with BIC's administrative subpoenas. The information is also important to determine whether or not applicants are being candid on their applications. The Commission requires information about companies' employees and vehicle operators on applications, and BIC must be able to conduct background checks on these individuals to ensure that applicants are providing truthful information and are not violating any applicable laws or regulations.

The information collected is also useful in connection with BIC's safety mission. By requiring a company to disclose everyone who will operate one of its vehicles, BIC can verify that all vehicle operators are duly licensed to operate the proper class of vehicle and can check driving histories. In the event of a collision or other serious event, BIC is able to partner with the NYPD and other law enforcement agencies to determine whether there has been criminal wrongdoing or whether administrative violations are warranted. Registrants and licensees must notify BIC of vehicle and traffic tickets issued to the company or the company's drivers while operating a vehicle on behalf of the company. Licensees, registrants, and applicants must also notify BIC if a vehicle operator's driver's license is suspended or revoked, and must notify BIC if a vehicle used in the course of its business is involved in any crash. When Motor Vehicle Accident (MV-104) or other forms are filed, the company must provide those documents to BIC.

With respect to the City's wholesale markets, part of BIC's regulation is the issuance of photo identification cards to employees in certain markets. In the event of an incident at the markets or an investigation conducted by BIC, it is crucial for the Commission to know who is at these markets every day. The questions the Commission asks on its applications that collect identifying information are required by the NYC Administrative Code and the rules promulgated thereunder, and further BIC's mission. This information is routinely collected for the specific purposes of criminal and regulatory investigations and public safety.

Local Law 55 of 2019 provides BIC with authority to register labor unions. Labor unions or organizations representing or seeking to represent employees directly involved in the collection, removal, transportation, or disposal of trade waste materials, must submit an application with BIC every five years. Additionally, each officer of such unions must submit a disclosure form to BIC. The applications collect information such as an individual's name, address, and date of birth. This information helps BIC to identify individuals who have a criminal history and should not be permitted to serve as officers of a BIC-registered labor union or organization.

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3. Describe the following types of collections and disclosures: (1) pre-approved as routine, (2) pre-approved as routine by the APOs of two or more agencies, or (3) approved by the APO on a case-by-case basis. Appendix B of the Agency Guidance on the 2022 Biennial Compliance Process includes examples of routine and non-routine collections and disclosures.

Add additional rows as needed.

Describe the Collection or Disclosure	Classification Type
Collection of Information Provided by Applicants, Licensees, Registrants and certain employees	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Review of Transfer Station Applicants	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Collection of Information Obtained by Audit or Accounting Review	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Disclosure to Law Enforcement and Local, State, and Federal Agencies	☒ Pre-approved as routine ☒ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Prevention of Fraud, Waste, and Abuse Disclosure	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Collections and Disclosures for Records Management	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Disclosures in Response to Freedom of Information Law Requests	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Disclosure in Litigation	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies

N.Y.C. Admin. Code §23-1205(a)(1)(f)

Identifying Information Law

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	☐ Approved by APO on a case-by-case basis
Disclosures to other City agencies or approved vendors/consultants in connection with preparation of reports that directly relate to BIC's purpose and mission	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
Collections and Disclosures for Human Resources and other Personnel Matters	☒ Pre-approved as routine ☐ Approve as routine by two or more agencies ☐ Approved by APO on a case-by-case basis
N.Y.C. Admin. Code §23-1205(a)(1)(b)	

4. If applicable, describe the types of collections and disclosures of identifying information involving your agency that have been approved by the Chief Privacy Officer as being in the best interests of the City.

Add additional rows as needed.

Describe Type of Collection or Disclosure

N/A

N.Y.C. Admin. Code §23-1202(b)(2)(b); 23-1205(a)(1)(b)

5. Describe the agency's current policies regarding requests for disclosures from other City agencies, local public authorities or local public benefit corporations, and third parties. Be as specific as possible.

NOTE: For questions 5 – 11, refer as necessary to the Model Citywide Protocol for Handling Third Party Requests for Information Held by City Agencies (on file with the Office of Information Privacy) and the Identifying Information Rider.

BIC does not presently have its own written policies in place regarding collection and disclosure of identifying information. The Commission employs the Model Citywide Protocols for Handling Third Party Requests for Information Held by City Agencies, issued as City policy in April 2017 as well as the Citywide Privacy Protection Policies and Protocols of the Chief Privacy Officer, City of New York, dated February 24, 2021.

In BIC's Code of Conduct, section 4.9 states, "Employees shall not disclose to any unauthorized person any confidential or proprietary information relating to the agency's records, operations or activities except upon the express approval of a supervisor with the authority to release such information or record."

Per BIC's Employee Handbook, "BIC employee personnel files are maintained by HR and are considered confidential. Personnel file access by current employees will generally be permitted upon request within 20 business days of the request. Managers and supervisors, other than the head of HR and his or her subordinates, may only have access to personnel file information on a need-to-know basis. A manager or supervisor considering the hire of a former employee or the transfer of a current employee may be granted access to the file, or limited parts of it, in accordance with anti-discrimination laws. Personnel files are to be reviewed in the HR department, even by managers and supervisors. Personnel files may not be taken outside the department, even by managers and supervisors. Representatives of government or law enforcement agencies, in the course of their duties, may be allowed access to file information. This decision will be made at the discretion of the Commissioner of BIC, or his/her designee, in response to the employee's request, a valid subpoena or a valid court order."

6. Do the above policies address access to or use of identifying information by employees, contractors, and subcontractors?

☒ Yes ☐ No

7. If YES, do those policies specify that access to identifying information must be necessary to perform their duties?		☐ Yes ☒ No
8. Describe whether the policies are implemented in a manner that minimizes access to the greatest extent possible while furthering the purpose or mission of the agency.	BIC's agency records are stored on the FedRAMP certified cloud-based provider, Salesforce. The data is secured from unauthorized access by password protection and code verification of user accounts and security rules (organization-wide sharing, permission sets, profiles and roles) that determine what fields a user can access and see throughout the system. Additionally, user access auditing and field history tracking is enabled. On premises, BIC's in-house data storage systems are accessible only by authenticated users and all shared files are protected by a system that allows access to each file only by personnel with the appropriate permission to do so. Additionally, all cell phones issued by BIC's department are password-protected.	
N.Y.C. Admin. Code §§23-1205(a)(1)(c)(1), and (4)		

9. Describe the agency's current policies for handling proposals for disclosures of identifying information to other City agencies, local public authorities or local public benefit corporations, and third parties. Be as specific as possible.	
Westchester County Department of Public Safety	Requests are reviewed and disclosed pursuant to BIC's Memorandum of Understanding ("MOU") with the agency. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.
New Jersey Department of Law and Public Safety	Requests are reviewed and disclosed pursuant to BIC's MOU with the agency. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.
The Port Authority of New York and New Jersey	Requests are reviewed and disclosed pursuant to BIC's MOU with the agency. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.
Federal Bureau of Investigation	Requests are reviewed and disclosed pursuant to BIC's MOU with the agency. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.
Other Law Enforcement Agencies, frequently including various federal, state and local prosecutors' offices and investigatory agencies	Requests are reviewed and information is disclosed after discussion with BIC's Agency Privacy Officer, who is also the agency's General Counsel. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.
Department of Sanitation, City of New York	Requests are reviewed and disclosed pursuant to BIC's MOU with the agency. Disclosures further the purpose of the agency so that BIC is able to assist the Department of Sanitation in administering commercial waste zones in New York City, including with respect to evaluating potential zone awardees.

Future employers of BIC employees	The information is disclosed pursuant to regular human resources/personnel policy when someone is applying for a new job after leaving her employment with BIC. HR verifies when a person has been employed at BIC, under what title, and whether or not there was a termination.
N.Y.C. Admin. Code §23-1205(a)(1)(c)(2)	

10. Describe the agency's current policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine. Be as specific as possible.
For non-routine disclosures in exigent circumstances, the appropriate Commission personnel will request permission from BIC's Agency Privacy Officer to disclose the information.
N.Y.C. Admin. Code §23-1205(a)(1)(c)(3)

11. Describe the agency's current policies regarding which divisions and categories of employees have been approved by the agency privacy officer to disclose identifying information. Be as specific as possible.		
Licensing	Applications, fingerprint results, photographs	The Licensing Unit processes all new and renewal applications, and notifies certain employees of companies regarding required fingerprinting and photographs. This information is obtained and stored in the Commission's local servers as well as the cloud-based online database, NIMBUS (a Salesforce-based site).
Background Investigation Unit (BIU)	Applications, appropriate background research (including from public databases), criminal histories, photographs	The BIU reviews all information contained in applications and checks various public databases (Accurant, Westlaw, etc.) and social media for information concerning applicants
Legal	Applications, BIU reports, criminal histories, vehicle/driver safety information, photographs, financial information as disclosed by subpoena or by submission of licensee pursuant to Commission Directive or audit	The Legal Unit reviews the application and its background (BIU) report. The Legal Unit also reviews vehicle and driver safety information relating to licensees, registrants, and applicants. The Legal Unit may also when necessary issue subpoenas, conduct sworn interviews, issue administrative violations, and take other steps, all in an effort to adequately review an application. This information may also be disclosed to

		law enforcement partners and agencies, with whom some BIC has a Memorandum of Understanding (MOU).
Audit	Applications, financial information as disclosed by subpoena or by submission of licensee pursuant to Commission Directive or audit	The Audit Unit reviews companies' financial records, and conducts in-person inspections of companies' books and records.
Investigations	Applications, criminal histories	The Investigations Unit monitors the activity of companies and ascertains whether any criminal activity or activity warranting an administrative violation has occurred.
Human Resources (HR)	Personnel, employee benefits, medical/health care coverage, payroll, other related employee information	The human resources division collects, discloses, and retains various personnel-related information and records in the performance of core administrative and human resource functions. This includes resumes of job applicants, information concerning present employees (including information regarding medical benefits, spousal information, and residency/contact information), and former employees.
N.Y.C. Admin. Code §23-1205(a)(1)(c)(4)		

12. Describe whether the agency has considered or implemented, where applicable, any alternative policies since 2020 that minimize the collection, retention, and disclosure of identifying information to the greatest extent possible while furthering the agency's purpose or mission.

Commission records and the identifying information contained therein may be kept both physically – stored locally and by our contracted storage company, GRM – or electronically on BIC's cloud-based server, NIMBUS, and on BIC's local servers, accessible only by BIC employees.

As stated above, the Commission is required to collect various identifying information. These requirements are from both the N.Y.C. Admin. Code as well as the rules promulgated thereunder. There is no alternative to collecting this information. The information collected is necessary and vital to further BIC's core mission. For instance, information such as an individual's name, address, and date of birth helps BIC to identify individuals who have a criminal history, and ensures that the wrong person is not being investigated. Further, this information can be transmitted to another law enforcement agency – such as a federal, state or local prosecutor's office – should a further criminal investigation be merited. This information is also used on BIC's administrative subpoenas. Additionally, the information BIC collects is important to determine whether or not applicants are being candid on their applications.

The Commission also regulates the City's wholesale markets, which consist of the produce, meat and fish markets in Hunts Point in the Bronx, and the meat markets on Gansevoort Street in Manhattan and in Sunset Park, Brooklyn. Part of this regulation is the issuance of photo identification cards to employees in certain markets. Knowing who works at the various markets helps the Commission in identifying individuals during a criminal or regulatory investigation. Moreover, in the event of an incident at the markets (fire, terrorist incident, etc.), and hopefully as a means of prevention of such an incident, it is crucial for the Commission to know who is at these markets every day. The questions the Commission asks on its applications that collect identifying

information are legally required, but the Commission does not ask for this information blindly. Rather, this information is routinely collected for the specific purposes of criminal and regulatory investigations and public safety.

BIC continues to seek to further these core purposes of the agency – as well as the areas relating to new legislation regarding vehicle emissions; environmental, safety and health standards, including traffic safety; labor union registration; and commercial waste zones – while minimizing the collection, retention, and disclosure of identifying information to the greatest extent possible.

N.Y.C. Admin. Code §23-1205(a)(4)

13. Describe the agency's use of agreements for any use or disclosure of identifying information.

The Commission presently has MOUs with the following agencies/public entities: Westchester County Department of Public Safety, the New Jersey Department of Law and Public Safety, The Port Authority of New York and New Jersey, the Federal Bureau of Investigation, and the Department of Sanitation of the City of New York. Information is disclosed in coordination with these agencies to review and evaluate applicants, licensees, and registrants, and to coordinate with respect to criminal and regulatory investigations. Requests for information are reviewed and disclosed pursuant to our MOUs. In addition, disclosure and collection of identifying information has been designated as routine in connection with matters where BIC and the NYPD/law enforcement coordinate on a regular basis. Disclosures further the purpose of the agency so that BIC is able to best evaluate applicants, licensees, and registrants, and to see if applicants have been truthful, been under investigation, or had issues with other agencies.

N.Y.C. Admin. Code §23-1205(a)(1)(d)

14. Using the table below, describe the types of entities requesting the disclosure of identifying information or proposals for disclosures of identifying information. For each entity, describe (1) why the agency discloses identifying information to the entity, and (2) why any disclosures further the purpose or mission of the agency.

Add additional rows as needed.

Type of Entity	Description of Reason for Disclosure	Description of how disclosure furthers the agency's purpose or mission
Local, State, or Federal Agency	An agency may conduct an investigation of an applicant, licensee, or registrant for potential violation of criminal or administrative violation. The Commission, as a law enforcement and regulatory agency, assists various agencies with these investigations.	The Commission is charged with ensuring the industries it regulates are free from criminality. Partnering with other agencies to investigate applicants, licensees, and registrants to protect the City of New York is central to BIC's core mission.
Local, State, or Federal Agency	To prevent fraud, waste, and abuse	The Commission, in performing its routine reviews, may discover an individual or company is perpetuating a fraud on the public. This information is then relayed to the appropriate authorities.
A Member of the Public	FOIL Request	The Commission may disclose identifying information in order to seek advice regarding a request for information under FOIL, or as part of information released in response to a FOIL request, provided appropriate agency personnel determines that disclosure of such information is permissible under applicable law.
Approved vendors/consultants of a New York City agency	Conduct of studies and preparation of reports directly relating to BIC's purpose and mission	Conduct of studies and preparation of reports can assist BIC, as well as licensees, registrants, applicants, and members of the public assess and address issues that are central to BIC's purpose and mission.
The New York City Law Department and Corporation Counsel	Disclosure in Litigation	When the agency is a party to or has an interest in litigation or other legal proceeding, such as when the agency is sued pursuant to an Article 78 proceeding, the Commission may disclose relevant identifying information before an adjudicative or administrative body, an arbitrator, to the NYC Law Department or other counsel representing the agency or its employees, in accordance with applicable law.
Future Employer of Current/Former BIC Employees	Collections and Disclosures for Human Resources and other Personnel Matters	The Commission may collect and disclose identifying information in the course of performing human resources and other personnel related matters, including, but not limited to, new hire processing, retiree and benefits processing, payroll processing, equal employment opportunity matters, training, occupational health and safety matters, professional development, etc.
N.Y.C. Admin. Code §23-1205(a)(1)(e)		

- Proceed to Next Question on Following Page-

15. Describe the impact of the Identifying Information Law and other local, state, or federal laws upon your agency's practices in relation to collecting, retaining, and disclosing identifying information (i.e., if such practices would differ in the absence of these laws).

The Identifying Information Law will not impact the Commission's collection and disclosure of identifying information. As stated, the Commission is charged with and empowered to collect identifying information by both the N.Y.C. Administrative Code as well as the rules promulgated thereunder. BIC's APO has designated as routine the collection of the identifying information that the Commission collects from every applicant, licensee, and registrant, as well as from every applicant, licensee, and registrant. Further, as the Commission is empowered to collect certain information, and as these collections have been designated as routine, the Identifying Information Law should not inhibit the Commission's ability to perform its legally mandated duties.

With regard to the disclosure of information, the Commission has MOUs with multiple agencies, and the disclosure of certain identifying information to other local, state, and federal authorities has been designated as routine.

N.Y.C. Admin. Code §23-1205(a)(2)

16. Describe the impact of the privacy policies and protocols issued by the Chief Privacy Officer, or by the Citywide Privacy Protection Committee, as applicable, upon your agency's practices in relation to collecting, retaining, and disclosing identifying information (i.e., if they have affected such practices).

Outside of the Identifying Information Law itself, BIC is unaware of any policies and protocols that may impact the Commission's practices on a day-to-day basis. The Commission will continue to submit the biannual report and adhere to any other reporting requirements.

N.Y.C. Admin. Code §23-1205(a)(3)

APPROVAL SIGNATURE FOR AGENCY REPORT

Preparer of Agency Report:

Name: David A. Feldman

Title: Deputy Commissioner of Legal Affairs & General Counsel

Email: dfeldman@bic.nyc.gov

Phone: 212-437-0510

ELECTRONIC SIGNATURE OF AGENCY HEAD OR DESIGNEE REQUIRED BELOW

Agency Head (or designee):

Name: Elizabeth Crotty

Title: Commissioner and Chair

Email: ecrotty@bic.nyc.gov

Phone: 212-437-0512

Electronic Signature:



Date: 07/28/2022

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