

STATE OF RHODE ISLAND



Department of Labor and Training

Center General Complex
1511 Pontiac Avenue
Cranston, RI 02920-4407

Telephone: (401) 462-8000
TDD: R.I. Relay 711

Daniel J. McKee
Governor

Matthew D. Weldon
Director

Sent by email transmission
hstern@riaclu.org

August 17, 2021

Re: APRA Request 21-172

Dear Ms. Stern,

This is Rhode Island Department of Labor & Training's (DLT) official response to your access to public records request received Monday, August 2, 2021 for the below listed records:

...documents related to the actual or considered usage of facial recognition and identity verification software, such as but not limited to the software sold by [ID.me \[id.me\]](#), by the Department of Labor and Training in the course of processing unemployment claims.

[ID.me \[id.me\]](#) is a facial recognition and identity verification product which has been marketed as a tool to allow state agencies to "cut down on a surge of fraudulent claims for state and federal benefits that cropped up during the pandemic alongside a tidal wave of authentic unemployment claims."

Specifically, we would like to request the following records from your agency generated on or after January 1, 2020:

- 1. All communications, including emails, between or among the Department and any representative of any company that manufactures or sells any facial recognition and identity verification product, including but not limited to [ID.me \[id.me\]](#), about that product;*
- 2. Records evidencing or describing any past, existing or potential relationship, or the Department's consideration of such a relationship, whether on a trial or more formal basis, with any company that manufactures or sells any facial recognition and identity verification product, including but not limited to [ID.me \[id.me\]](#).*
- 3. Records referencing the operational effectiveness or accuracy rate of any facial recognition and identity verification service or product, including but not limited to [ID.me \[id.me\]](#), examined or obtained by the Department. These records include but are not limited to e-mails, handouts, Powerpoint presentations, advertisements, audits, and specification documents...*

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Your request is governed by the Rhode Island Access to Public Records Act (“APRA”) contained in the R.I. Gen. Laws § 38-2-1 *et seq.* Based on your request, access to the documents has been denied, because the documents you seek are not public records and are confidential by law under R.I. General Laws § 28-39-20, § 28-42-38, and 42 U.S. Code §1320b-7(5). Therefore, the DLT has deemed the requested documents to be exempt in accordance with Rhode Island General Law § 38-2-2(4)(A)(II)(S) which states:

“Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court.”

If you would like to appeal this response, you may do so in accordance with the provisions of R.I. Gen. Laws § 38-2-8 which is set forth below.

§ 38-2-8. Administrative appeals.

(a) Any person or entity denied the right to inspect a record of a public body may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the custodian of the records or the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the provisions of § 42-46-8(a), if applicable.

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(d) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

Sincerely,

/s/ Siobhan L. Stephens-Catala

Siobhan L. Stephens-Catala, Esq.
Legal Counsel