INTERIM REPORT

Considerations for Administering Third Party Agents

February 2020
Introduction
Motor vehicle agencies throughout North America are increasingly using third party agents to process motor vehicle and driver license transactions on behalf of the jurisdiction. In some jurisdictions, the agencies are mandated to use a third party, such as local government entities. For other jurisdictions, the use of third parties is a long-established tradition and an integral component of their service delivery system. Whether administering or expanding an existing program or implementing a new program in a jurisdiction, a strong framework under which the third parties will operate is vital to a successful program.

For the purpose of this document, the following terms are used when referring to third party agents and other entities that may be integral to the fulfillment of the transaction process.

- AGENT – the agent is any entity other than the motor vehicle administration that processes the driver or vehicle transactions. This can include local government entities or commercial businesses.
- VENDOR – the vendor is an entity that provides software services or a system to enable the agent to process the driver or vehicle transactions in compliance with jurisdiction requirements. In many cases jurisdictions require a contractual relationship with the vendor as well as the agent. When we look at how AAMVA jurisdictions use third party agents we can also find many examples where agents also perform the function of a vendor by supplying their own software systems.

Purpose of this Interim Report
The Third Party Agents Working Group (Working Group) is expected to deliver a final best practice in the fall of 2020. Recognizing that AAMVA members are currently managing and/or considering engaging with third party agents, this document can assist jurisdictions in the interim. This Interim Report provides a draft of the topics the group is working through and some early recommendations. It should be noted that the recommendations will be refined and further developed in the final best practice.

Areas of Focus
- A defined set of criteria to specify the entities that should be considered agents of the jurisdiction involved in a third party agent program. It is imperative to define the parties and the relationship and expectations of the parties in legally enforceable terms.
  - Defining an agent as the entity providing the transaction service on behalf of the jurisdiction. Agents may be supported by vendor offering a system, software, or service to process transactions.
Agents can be broken down into two categories: commercial entities or local governmental entities.

- Agents may be the primary service delivery system for some jurisdictions. In other jurisdictions, the agents provide ancillary or specialized services to a specific customer set, such as dealers, or a limited geographical location. Therefore, it is important to consider the program goals.
- The relationship between an agent or vendor and the authorizing jurisdiction may consist of various models based on the type of transactions being completed and the jurisdiction’s approach to the relationship.
  - The Working Group is identifying benefits and challenges for the various models.
- Operational and legal considerations around establishing a new program or extending an existing program.
- Considerations to assist in designing a new program and engaging successful third party providers to fulfill the service objectives.
- Conducting a thorough analysis of the business case and preparing recommendations to support the decision to establish a third party program.
- Conducting a pilot program or a limited rollout to manage the transition to the new service.
- Jurisdictions grant authority to agents to act on their behalf for specified services or transactions, but ultimately oversee the accuracy and completeness of driver and/or vehicle data and transactions. The jurisdiction’s administrative responsibility must be conveyed to the agents through statutory and contractual language that is clear and thorough. The contract or MOU with the agent and/or vendor sets the basis and forms the foundation for fulfilling the operational goals of the program.
- Creating a checklist of provisions, terms, requirements, standards of performance, agent training, agreement administration, etc. to consider including in a contract or MOU. The contract serves to protect the jurisdiction from liability that could arise with the third party agent’s transaction processing activity.
- Terms covering the continued administration of the jurisdiction’s contracts such as the agreement amendment process and business ownership changes.
- Recommendations for the jurisdiction to effectively manage the program according to the contract or MOU, including quality assurance processes, quality control procedures, and a contract compliance process. The recommendations regarding the audit procedures, including quality assurance and quality control, are considered critical to the integrity of a third party agent program whether the agreement or MOU is with a commercial entity or a political subdivision. Establishing these terms and expectations allows the jurisdiction to ensure compliance and produce measurable information to evaluate success of the program and the individual agent.
Many third party agents and vendors provide services in multiple jurisdictions, therefore creating some standards and promoting consistency where possible, which is beneficial to both the jurisdictions and the third party agents.

Develop a methodology regarding audit findings and poor performance to ensure a consistent approach for violations found during the quality assurance and audit review process. These will include enforcement and administrative actions such as sanctions taken against the agent or a requirement to re-complete training.

Anticipated Recommendations for Jurisdictions

1. Agency Contract Models

The relationship between an agent or vendor and the authorizing jurisdiction may consist of various models based on the type of transactions being completed and the jurisdiction’s approach to the relationship. A new third party service should ideally fulfill a known jurisdictional service level need. This may be for services to a specific customer segment or geography or in response to jurisdictional resource constraints. The jurisdiction can benefit from creating a business case to help analyze the need and the best solutions to fulfill that need.

Thus far, the Working Group has identified various contract models being used by jurisdictions and are in the process of identifying benefits and challenges of each model. In general terms, some of the contract models include:

- Jurisdiction contract with both the agent and vendor
- Jurisdiction contract with agent only (agent has options to subcontract with vendors or software providers)
- Jurisdiction contracts with agent only (agent must use jurisdiction system or software)
- Jurisdiction contract with vendor only
- Jurisdiction MOU with local governmental entity (local governmental entity may subcontract with a vendor or software provider or use their own software)
- Jurisdiction MOU with local governmental entity (local governmental entity must use the jurisdiction software)

The Working Group recommends contacting jurisdictions using contract models you are interested in for additional information as a resource for preparing a business case analysis of a new or expanding program. Some areas the Working Group recommends you consider inquiring about are, but are not limited to:
• Achieving program benefits, cost savings, service improvements, etc.
• Identifying stakeholder groups to include and engage during the business case development and implementation process and any legislation or regulatory requirements that may need to be modified
• Selecting, training, and evaluating agents
• Evaluating contract issues and recommended language to prevent issues or ensure compliance
• Anticipating staff impacts

2. Establishing a New Third Party Program or Expanding an Existing Program

An analysis of the business case for a third party program will include a description of the current service environment along with recommended areas of research regarding:

• Potential legislative and regulatory changes
• Current service level deficiencies
• Impact on jurisdictional resources
• Request by business partners

Benefits attained by establishing a third party program could include:

• Cost savings to the jurisdiction
• Additional options for citizens
• Avoid impact on full time employee (FTE) caps

3. Contracts and MOUs

A thorough contract between the jurisdiction and the third party agent is necessary to ensure the services provided are in compliance with applicable rules, regulations, and procedures. The contract or MOU should also ensure records regarding transactions and personal information is protected.

Recommended contract provisions include:

• Terms and Definitions
• Duration of Agreement
• Equipment and Inventory
• Banking and Financial Requirements (including payment of fees due to the jurisdiction)
• Bonding and Insurance
• Notification or pre-approval of advertisements for services
• Data Privacy and Security
• Right to Audit
4. Standards of Performance

A key provision of the contract for a third party agent is the definition of performance standards. The third party will be required to comply with the jurisdiction’s performance standards in order to maintain the authorization to process jurisdictional transactions.

Recommended performance terms:

- The right of jurisdictions to periodically modify performance objectives
- Training provided by the jurisdiction to third parties
- Compliance with applicable federal, state, and local statutes and regulations and policies
- The right of jurisdictions to take corrective action deemed necessary and appropriate
- Cooperation with jurisdiction including contractors and law enforcement
- Participate in discussions and hearings regarding performance issues
- Promptly comply with all written directives issued by the jurisdiction
- Limitations of liability with respect to both agent and government
- Terms for either party to suspend or terminate the agreement

The quality assurance provisions in the contract enforce the jurisdiction’s quality standards for transactions completed by a third party. The following items are recommended for the contract:

- A definition of the quality control and data security/data privacy enforcement conditions that are required by the third party
- A quality expectations matrix that defines what is counted as an error and how severity ratings are assigned to different types of errors
- How transactions or documents submitted by a third party will be selected for a quality review. This could include both a random selection and a frequency based on past performance.
- A detailed specification of all data security and data privacy requirements
- A requirement to keep complete and accurate records available for inspection by the jurisdiction
- When applicable, ensure all required documents have been submitted and/or scanned prior to destruction and follow the contract’s record retention requirements

5. Agreement Administration

This section covers the additional administrative terms and conditions defining the business relationship between the jurisdiction and the third party.

The following administrative items are recommended for the contract:

- How the third party can obtain authorization prior to engaging in any subcontracting
- Training requirements for third party agents
• Communication channels (email, calls, etc.) and named staff or work groups that will be responsible for the communication between the third party and the jurisdiction
• Authorization for any other business operations that are permitted to be co-located with the third party operation
• A conflict of interest policy that specifies prohibited activity covering staff and ownership
• Prior approval requirements for ownership changes and relocations
• Permitting access to premises by authorized jurisdiction personnel and any prior notice requirements
• Agreement amendment process and notification period
• Any jurisdiction requirements for compliance, such as Americans with Disabilities Act (ADA) or smoke-free workplace or the Canadian Charter of Rights and Freedoms
• Jurisdiction requirements for the secure storage of jurisdiction inventory

6. Program Compliance, Oversight, and Sanctions
The contract sets the requirements for the agent and defines the performance requirements for the operator to maintain compliance with those provisions. For the jurisdiction to effectively manage the program, the contract will contain quality assurance processes, quality control steps and a contract compliance process including audits and other oversight to monitor performance.

The Working Group recommends jurisdictions publish and enforce third party compliance actions that include:

• Overall compliance audit procedures that establish the jurisdiction’s goals and expectations for quality transactions and performance by the third party
• The jurisdictional process for selecting items to review including random and for cause audits
• Agents should be informed of the expected cycle or schedule of quality control audits
• The procedures should include a list of quality control items to review, including signatures, forms, supporting documents, identity verification checklists, etc.
• A financial audit of fees due to the jurisdiction and proper fees collected from the consumer will also focus attention on fee overrides, voided transactions, and deposits to the jurisdiction
• Site visits to ensure documents and inventory are secured at the location and that it is in compliance with certification requirements and customer information
• Quality review accuracy standards should be published and reports delivered on a routine schedule to the third party showing their performance with the standards
• Standards for both data entry transaction errors and documentation rules will be included in the performance standards
• The procedures for the third party will include recommendations to correct poor performance such as training or increased quality review of poor performers
• Corrective actions for the third party may include warnings, probation, suspension, or termination. Financial misconduct may also include monetary restitution or criminal action
Anticipated Guidance from the TPA Working Group

The information provided in this Interim Report is a preview of the final best practice which is currently under development. It should be noted that the recommendations are not final and will be refined and further developed in the final published best practice document.

The Working Group is working extensively to review the programs in place across the membership and to identify the components that are working well and the areas where improvements can be made. In addition, they are engaged with stakeholders to recognize the impact of program specifications on them. They are continuing to conduct extensive research, talking with experts on current jurisdictional procedures, and learning about potential fraud. As a result of these efforts, it is anticipated the final best practice document will be published in the fall of 2020.
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