

**Accountability Agent Application Materials and APEC Joint Oversight Panel
Recommendation Report**

On April 30, 2024, the Global CBPR Forum (Forum) announced the recognition of eight (8) Accountability Agents to issue Global CBPR and Global PRP certifications. Noting that the Accountability Agent Recognition Criteria under the Global Cross-Border Privacy Rules (CBPR) and Global Privacy Recognition for Processors (PRP) Systems are based on the Asia Pacific Economic Cooperation (APEC) Accountability Agent Recognition Criteria, the Forum recognized the APEC-endorsed Accountability Agents to operate in the following jurisdictions:

- Japan: Japan Institute for Promotion of Digital Economy and Community
- Korea: Korea Internet Security Agency
- Singapore: Infocomm Media Development Authority
- Chinese Taipei: Institute for Information Industry
- United States: BBB National Programs, NCC Group, Schellman, TRUSTe

The Forum recognized the Accountability Agents listed above for the duration of their current terms of APEC endorsement. Once their initial term expires, each Accountability Agent will be required to reapply to the Forum for recognition for another two-year term.

The Accountability Agent's application materials submitted to APEC and the APEC Joint Oversight Panel Recommendation Report recommending recognition under the APEC-CBPR System, having been deemed sufficient for the purpose of initial and concurrent recognition under Global CBPR System, are attached.

**CROSS-BORDER PRIVACY RULES SYSTEM AND PRIVACY
RECOGNITION FOR PROCESSORS JOINT OVERSIGHT PANEL**

**RECOMMENDATION REPORT ON APEC CONTINUED RECOGNITION OF
NCC GROUP SECURITY SERVICES, INC. AS AN ACCOUNTABILITY
AGENT FOR THE CBPR AND PRP SYSTEMS**

Submitted to: Mr. Ekapong Rimcharone

Chair, Digital Economy Steering Group

May 30, 2023

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EXECUTIVE SUMMARY

In 2012, the United States formally commenced participation in the Asia-Pacific Economic Cooperation (APEC) Cross Border Privacy Rules (herein CBPR) System. Pursuant to Paragraph 5 of the Protocols of the CBPR Joint Oversight Panel, the United States was then eligible to nominate one or more Accountability Agents for APEC recognition. In 2017, the United States formally commenced participation in the APEC Privacy Recognition for Processors (PRP) System. Pursuant to Paragraph 5 of the Protocols of the PRP Joint Oversight Panel, the United States was then eligible to nominate one or more Accountability Agents for APEC recognition. On February 21, 2020, the NCC Group Security Services, Inc. (hereinafter NCC Group) was endorsed to serve as an APEC Accountability Agent for the CBPR and PRP Systems for an initial one-year term, and on June 23, 2021, was endorsed for a two-year term.

Pursuant to Paragraph 36 of the APEC Cross Border Privacy Rules System Policies, Rules and Guidelines (herein ‘Policies, Rules and Guidelines’), the first APEC recognition is limited to one year from the date of recognition and for two years thereafter, one month prior to which, an Accountability Agent may re-apply for APEC recognition, following the same process as the original request for recognition. Paragraph 36 also stipulates that during this time the Accountability Agent’s recognition will continue. On February 28, 2023, the United States Department of Commerce received an application from NCC Group to continue to be recognized as a CBPR System and PRP System Accountability Agent in the United States and forwarded it to the JOP after having reviewed the completeness of this application. The JOP found that NCC Group continues to meet the requirements to serve as an Accountability Agent in the United States. NCC Group’s continued recognition as an Accountability Agent will be valid for two years from the date of endorsement.

SCOPE OF CONSULTATION PROCESS

Pursuant to Paragraph 7.2 of the *Charter of the Joint Oversight Panel*, members of the JOP¹ began a consultative process with representatives from NCC Group to:

- Confirm the enforceability of an organization’s CBPR and/or PRP obligations once certified as CBPR and/or PRP compliant by NCC Group;
- Confirm NCC Group’s location and the relevant enforcement authority;
- Confirm that NCC Group meets the recognition criteria as identified in the *Accountability Agent Application for Recognition* for both the CBPR and PRP Systems;

¹ Members of the JOP are: Shannon Coe, Department of Commerce, United States; Makiko Tsuda, Ministry of Economy, Trade and Industry, Japan; and Evelyn Goh, Infocomm Media Development Authority, Singapore.

- Confirm that NCC Group makes use of program requirements that meet the baseline established in the CBPR and PRP Systems; and
- Confirm that NCC Group has provided the necessary signature and contact information.

The following Recommendation Report was drafted by members of the JOP.

RECOMMENDATION OF THE JOINT OVERSIGHT PANEL

Having verified the United States is a participant in the APEC Cross Border Privacy Rules (CBPR) and Privacy Recognition for Processors (PRP) Systems and has demonstrated the enforceability of the CBPR and PRP program requirements pursuant to the information provided in Annex B of the United States' Notices of Intent to Participate in the CBPR and PRP Systems;

Having verified NCC Group is located in the United States and is subject to the oversight and enforcement authority described in Annex A of United States' Notices of Intent to Participate in the CBPR and PRP Systems;

Having verified with the Administrators of the APEC Cross Border Privacy Enforcement Arrangement (CPEA) that the United States Federal Trade Commission, a Privacy Enforcement Authority in the United States, is a participant in the APEC CPEA;

Having determined, in the opinion of the members of the Joint Oversight Panel, that NCC Group has policies in place that meet the established recognition criteria and makes use of program requirements that meet those established in the CBPR and PRP Systems, and;

Having verified that NCC Group has provided the required signature and contact information;

The JOP recommends that APEC Member Economies consider the conditions established in 7.2 (ii) of the Charter of the Joint Oversight Panel to have been met by NCC Group and to grant NCC Group's request for APEC recognition of NCC Group to certify organizations within the United States and under the jurisdiction of the United States Federal Trade Commission as compliant with the CBPR and PRP Systems pursuant to the established guidelines governing the operation of the CBPR and PRP Systems.

Submitted by the Joint Oversight Panel:

Shannon Coe
Chair, Joint Oversight Panel
U.S. Department of Commerce, United States

Evelyn Goh
Member, Joint Oversight Panel
Infocomm Media Development Authority, Singapore

Makiko Tsuda
Member, Joint Oversight Panel
Ministry of Economy, Trade and Industry, Japan

REQUEST FOR CONSENSUS DETERMINATION

APEC Member Economies are asked to make a determination as to NCC Group's request for continued recognition as an Accountability Agent, taking into account the JOP's recommendation. Any APEC Member Economy has the right to reject the request of an applicant Accountability Agent for recognition for failure to meet any of the recognition criteria required in the *APEC Accountability Agent Recognition Application*. When making this determination, any APEC Member Economy may request additional information or clarification from NCC Group or the JOP. If no objection is received within the deadline for consensus determination as established by the DESG Chair, the request will be considered to be approved by the DESG. Should Member Economies determine that NCC Group has met the necessary criteria, APEC recognition will be limited to two years from the date of recognition, one month prior to which, NCC Group may re-apply for APEC recognition if it so wishes, following the same process described herein.

I. ENFORCEABILITY

Is the Applicant subject to the jurisdiction of the relevant enforcement authority in a CBPR and PRP participating Economy?

Recommendation

The JOP is satisfied that NCC Group is subject to the jurisdiction of the United States Federal Trade Commission (FTC), a participant in the Cross-Border Privacy Enforcement Arrangement (CPEA).

Discussion

In its *Notices of Intent to Participate*², the United States identified its enforcement authorities as the FTC and the United States Patent and Trademark Office, as well as described their respective enforcement functions:

To become a recognized APEC Accountability Agent, an applicant must complete and sign the Accountability Agent APEC Recognition Application...By publicly posting its Recognition Application, a recognized APEC Accountability Agent further represents that the answers contained in the document are true.

In addition, any organization that publicly displays a seal, trustmark or other symbol indicating its participation in the CBPR [or PRP] System[s], or causes its name to appear on a list of recognized APEC Accountability Agents, is making an enforceable representation that it complies with the requirements applicable to a recognized APEC Accountability Agent.

If an APEC-recognized Accountability Agent subject to the jurisdiction of the Federal Trade Commission (FTC) fails to comply with any of these requirements, its representations of compliance may constitute unfair or deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. The FTC has broad authority to take action against unfair and deceptive acts and practices.

Furthermore, if an APEC-recognized Accountability Agent authorizes the use of its certification mark, 15 U.S.C. § 1127, to convey compliance with the CBPR [or PRP] program requirements, under Section 14(5) of the Lanham Act, 15 U.S.C. § 1064(5), the U.S. Patent and Trademark Office may cancel the certification mark if the Accountability Agent (a) does not control, or is not able legitimately to exercise control over, the use of such mark, including by failing to monitor the activities of those who use the mark, (b) engages in the production or marketing of any goods or services to which the certification mark is applied, (c) permits the use of the certification mark for purposes other than to certify, or (d) discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies.

The JOP has confirmed that NCC Group is subject to the regulatory oversight and enforcement

² U.S. *Notices of Intent to Participate in the CBPR and PRP Systems* available at: <http://cbprs.org/documents/>.

authority of the FTC since it is a for profit entity doing business in the United States.³ The JOP has further confirmed that the FTC is a participant in the CPEA⁴ and that the United States is a recognized participant in the APEC CBPR and PRP Systems.⁵ The NCC Group has confirmed that it will apply in the United States for CBPR and PRP trademarks for use by participant organizations, and therefore is subject to the U.S. Patent and Trademark Office's authority over use of the trademarks. NCC Group agrees that should it receive APEC recognition, it will publicly indicate its participation in the CBPR and PRP Systems, including allowing its name to appear on a list of recognized APEC Accountability Agents. NCC Group agrees to publish on its website the applicable CBPR and PRP program requirements and will post all CBPR and PRP-certified companies on its website and on www.cbprs.org. The JOP has verified that NCC Group has completed and signed the *Accountability Agent APEC Recognition Application*.

Conflicts of Interest (Recognition Criteria 1-3)

1. *Applicant Accountability Agent should describe how requirements 1(a) and (b) in Annex A of the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems have been met and submit all applicable written policies and documentation.*
2. *Applicant Accountability Agent should submit an overview of the internal structural and procedural safeguards to address any of the potential or actual conflicts of interest identified in 2(b) of Annex A of the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.*
3. *Applicant Accountability Agent should describe the disclosure/withdrawal mechanisms to be used in the event of any actual conflict of interest identified.*

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criteria 1-3.

Discussion

The JOP has confirmed that NCC Group has policies and procedures to ensure that it will be free of actual or potential conflicts of interests in performing its duties under the CBPR and PRP Systems.

NCC Group states in its re-certification application that the company performs compliance and audit related services through its Risk Management and Governance (RMG) Division located in the United States. Members of NCC Group's RMG team maintain multiple industry recognized certifications such as Certified Information Systems Security Professional (CISSP)⁶, Certified

³ See NCC Group's website for office locations in the U.S., <https://www.nccgroup.trust/us/about-us/what-we-do/office-locations-us/>.

⁴ See <https://www.apec.org/Groups/Committee-on-Trade-and-Investment/Electronic-Commerce-Steering-Group/Cross-border-Privacy-Enforcement-Arrangement.aspx>.

⁵ Documents pertaining to U.S. participation in the CBPR and PRP Systems can be found here: <http://cbprs.org/documents/>.

⁶ <https://www.isc2.org/Certifications/CISSP>

Information Security Manager (CISM)⁷, Certified Information security Auditor (CISA)⁸, Certified Information Privacy Professional (CIPP)⁹, Senior International Organization for Standardization (ISO) Lead Auditor¹⁰/Implementer¹¹, and HITRUST Certified Common Security Framework Practitioner (CCSFP)¹²/Certified HITRUST Quality Professional (CHQP)¹³.

Through these affiliations and to maintain required credentials, NCC Group and its assessors must adhere to strict codes of ethics, objectivity, and integrity when performing assessment services. This includes ensuring assessments are performed without any conflict of interests. NCC Group is an approved assessor under multiple government and non-profit programs that require separation of duties when performing assessments.

NCC Group's Employee Handbook prohibits employees from committing fraudulent acts or breaches of trust, which include activities that create a conflict of interest, and a violation could result in disciplinary action against the employee up to and including termination. NCC Group's Employee Handbook further prohibits outside employment that creates a conflict of interest or is incompatible with the employee's employment with the NCC Group, and NCC Group has an Anti-Corruption Policy that requires employees to carry out business fairly, honestly, and openly and provides for a zero-tolerance for corruption and bribery.

The JOP has also confirmed that NCC Group's Conflicts of Interest Policy prohibits employees from performing tasks related to an applicant or participant organization's certification and ongoing participation in the CBPR or PRP Systems if that employee has provided any previous sales, consulting, advisory or technical functions to that applicant or participant organization. NCC Group's Conflict of Interest Policy further prohibits NCC Group from having direct or indirect affiliation with an applicant or participant during the entire lifecycle of a CBPR or PRP certification, and existence of such an affiliation would result in an automatic withdrawal of NCC Group from the certification activity. Restricted affiliations described in NCC Group's Policy include the affiliations described in the *Accountability Agent Application for APEC Recognition*. Employees performing certification activities are prohibited from providing consulting or technical services for its applicant or participating organizations for any fee or benefit.

Furthermore, the JOP has confirmed that if the NCC Group determines that a board member or person in leadership also sits on the board or holds financial interest (beyond common stock) in a company requesting CBPR or PRP Certification, NCC Group will excuse itself from performing such certification and refer the organization to another recognized Accountability Agent. NCC Group will notify the JOP accordingly.

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https://www.isaca.org/credentialing/cism?utm_source=google&utm_medium=cpc&utm_campaign=CertBAU&utm_content=sem_CertBAU_certification-cism-na-exam-google&cid=sem_2006854&Appeal=sem&gclid=Cj0KCQjwsqmEBhDiARIsANV8H3Zkqd8gtins6XYRzM5wNaxQQIX1ITsOWbfuP5XBvza5TVoEEEx7nfVsaAIE4EALw_wcB

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https://www.isaca.org/credentialing/cisa?cid=sem_2002336&Appeal=sem&gclid=Cj0KCQjwsqmEBhDiARIsANV8H3ZptUcff8KUBiJkNREZBn1KWSQGUh2tmPUAa8Alce8AXDwPPti-CTkaAiJ1EALw_wcB

⁹ <https://iapp.org/certify/cipp/>

¹⁰ <https://pecb.com/en/education-and-certification-for-individuals/iso-iec-27001/iso-iec-27001-lead-auditor>

¹¹ <https://pecb.com/en/education-and-certification-for-individuals/iso-iec-27001/iso-iec-27001-lead-implementer>

¹² <https://hitrustalliance.net/hitrust-academy/certified-csf-practitioner-course/>

¹³ <https://hitrustalliance.net/hitrust-academy/certified-hitrustr-quality-professional-chqp-course/>

In addition, the JOP has confirmed that the NCC Group has structural safeguards to avoid potential or actual conflicts of interest. The NCC Group has a Privacy Practice Director who will review all assignments to CBPR and PRP certification activities to ensure there are no conflicts of interest, and the Senior Vice President (to whom the Privacy Practice Director reports) will review any potential conflicts of interest. Further, NCC Group maintains a separation of functions between certifications, sales and consulting by providing these services through separate divisions within the company.

The JOP has confirmed that NCC Group's Conflict of Interests Policy requires employees to report to their director or to the Privacy Practice Director if any conflict of interest arises, and the Privacy Practice Director will withdraw from the engagement and notify senior management, the legal team and the applicant or participant organization. NCC Group has confirmed that it will notify the JOP if an applicant or participant organization engages or has previously engaged NCC Group in other consulting or technical services unrelated to CBPR or PRP certification, and where permitted, NCC Group will provide an explanation of the safeguards in place to ensure that the affiliation does not compromise NCC's group ability to render a fair and impartial decision with respect to the application or participant. Other affiliations that may be cured with structural safeguards will also be notified to the JOP. Finally, NCC Group has confirmed that it will notify the JOP of withdrawals of NCC Group from CBPR or PRP engagements because of a conflict as well as for activities that may have appeared to be a conflict of interest but did not result in a withdrawal.

Any entity maintaining a registered trademark in the United States is required by law to apply certification standards in an impartial manner. The NCC Group has registered for CBPR and PRP trademarks in the United States for use by participant organizations, and NCC Group is therefore required to apply its certification standards in an impartial manner. The FTC may request that the U.S. Patent and Trademark Office cancel NCC Group's trademark on the grounds that the holder of the mark "discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies." (See U.S. Notice of Intent to Participate, Annex A, "[I]f an APEC-recognized Accountability Agent authorizes the use of its certification mark, 15 U.S.C. §1127, to convey compliance with the CBPR program requirements, under Section 14(5) of the Lanham Act, 15 U.S.C. § 1064(5), the U.S. Patent and Trademark Office may cancel the certification mark if the Accountability Agent (a) does not control, or is not able legitimately to exercise control over, the use of such mark, including by failing to monitor the activities of those who use the mark, (b) engages in the production or marketing of any goods or services to which the certification mark is applied, (c) permits the use of the certification mark for purposes other than to certify, or (d) discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies.").

NCC Group has published the CBPR and PRP certification standards on its website and will report to the FTC or other appropriate public authority certifications of new applicant organizations, audits of participating organizations and dispute resolutions.

Program Requirements (Recognition Criterion 4)

Applicant Accountability Agent should indicate whether it intends to use the relevant template documentation developed by APEC or make use of Annex C of the Accountability Agent Application[s] for APEC Recognition to map its existing intake procedures to CBPR and PRP program requirements.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criterion 4.

Discussion

The JOP has confirmed that NCC Group will use the CBPR and PRP Intake Questionnaires and CBPR and PRP Program Requirements that have been approved by APEC. In addition, NCC Group has published the CBPR and PRP template documentation on the NCC Group website, and NCC Group has provided the URL of www.cbprs.org, the official APEC CBPR website.

Certification Process (Recognition Criterion 5)

Applicant Accountability Agent should submit a description of how the requirements as identified in 5 (a) – (d) of Annex A of the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems have been met.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criterion 5.

Discussion

The JOP has confirmed that NCC Group has a comprehensive process using the CBPR and PRP questionnaires to review whether an applicant organization meets the CBPR and PRP program requirements, which follows the following procedures, collectively referred to as the SMARTS process:

1. (S)cope: NCC Group ensures that the applicant organization has identified the scope of the assessment, including which applications, systems or services will be included in the certification, and reviews for any conflicts of interest;
2. (M)ap: The applicant organization submits a self-assessment questionnaire of whether CBPR and/or PRP program requirements are met;
3. (A)nalyze: NCC Group will analyze the applicant organization's self-assessment questionnaire along with relevant documentation. NCC group will verify the contents of the self-assessment forms, which may include in-person or phone interviews, inspection of the personal data system, website scans, and automated security tools. NCC Group will report to the applicant organization any gaps or deficiencies

discovered during this initial analysis and provide the applicant organization the opportunity to submit additional evidence to demonstrate compliance according to the response provided for each question;

4. (R)evue: The certifying assessor will review all documentation and evidence provided to assess whether the applicant is compliant with the CBPR or PRP program requirements. NCC Group will notify the application organization where it is not compliant, and the applicant organization must mitigate any instances of non-compliance in order to obtain certification;
5. (T)est: The certifying assessor will follow the E-A-T process to determine the effectiveness of the policies/procedures/controls required.
 - i. • (E)xamine – The certifying assessor will examine and evaluate all document/evidence provided.
 - ii. • (A)nalzye – The certifying assessor will interview subject matter experts and analyze procedures being implement are appropriate to carry out requirements. The certifying assessor will determine if processes match evidence provided.
 - iii. • (T)est – The certifying assessor will perform testing or sampling to demonstrate appropriate effectiveness of controls being implemented.
6. (S)ubmit: Only applicant organizations that receive “Compliant” ratings on all requirements will obtain CBPR or PRP certification.

The JOP has confirmed NCC Group’s commitment that if all requirements are met, NCC Group will issue the certification and will provide details for the CBPR and/or PRP compliance directory.

On-going Monitoring and Compliance Review Processes (Recognition Criteria 6, 7)

Applicant Accountability Agent should submit a description of the written procedures to ensure the integrity of the certification process and to monitor the participant’s compliance with the program requirements described in 5 (a)-(d) of Annex A in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.

Applicant Accountability Agent should describe the review process to be used in the event of a suspected breach of the program requirements described in 5(a)-(d) of Annex A in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criteria 6 and 7.

Discussion

The JOP has confirmed that NCC Group has written procedures for on-going monitoring and compliance review processes which ensure the integrity of the certification process described above. NCC Group's process uses a combination of mechanisms to monitor a participant organization's compliance with program requirements, including through using technical testing of in-scope systems of participant organizations to ensure technical safeguards are in place; reviewing privacy policies and terms of conditions of participant websites; random auditing which requires participant organizations to supply updated evidence and participate in interviews to verify compliance; and investigating any reported violations obtained via the dispute resolution process, news reports, or other direct reports. Participant organizations are also required to perform routine compliance reviews at least annually, which may include: a review of policies and procedures, updates, sign-off by staff, and changes based upon environment, regulatory requirements, and contractual obligations; review of system configurations; evaluation of technical and non-technical compliance; analysis of security risk; audit logging and monitoring activities to detect, prevent, and respond to attacks, intrusions, or other security failures; and reviews of staff training and security communications. Participant organizations are required to document all compliance review activities and provide the documentation as evidence during recertification.

The JOP has confirmed that NCC Group has in place a process to investigate a suspected breach of the program requirements or a report of non-conformity. NCC Group investigation procedures provide that NCC Group will conduct an immediate review of a participant organization at the participant's expense if NCC Group has reasonable grounds to believe there has been a breach of program requirements. If NCC Group finds that a participant organization is not compliant with any of the program requirements, it will notify the participant by outlining the corrections that must be made and a reasonable timeframe in which they must be done. The timeframe is generally thirty (30) days from the date of notification but which could be extended based on the nature of the non-conformity. NCC group will verify that corrections have been completed within the time frame or will suspend or terminate a certification and possibly report the termination to the FTC where appropriate.

Any participant organization found to be in non-compliance and subject to suspension, withdrawal, or reporting to the FTC must immediately remove the NCC Group CBPR or PRP certification mark from public facing communications and/or website. NCC Group has committed to working with relevant enforcement authorities to ensure compliance to this requirement.

Re-Certification and Annual Attestation (Recognition Criterion 8)

Applicant Accountability Agent should describe their re-certification and review process as identified in 8 (a)-(d) of Annex A in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criterion 8.

Discussion

The JOP has confirmed that NCC Group procedures require participant organizations to maintain reasonable administrative, technical and physical safeguards and to recertify on an annual basis their continued adherence to the CBPR or PRP program requirements before the expiration of the term of the certification. NCC Group will undertake the assessment process in its entirety as outlined in response to Recognition Criterion 5 above and will provide the participant organization with a report of the findings and any corrections that need to be made to correct non-conformities consistent with the process outlined in response to Recognition Criterion 7 above.

The JOP has confirmed that NCC will conduct an immediate review process where there has been a material change to the participant organization's privacy policy (as reasonably determined by NCC Group in good faith).

Dispute Resolution Process (Recognition Criteria 9, 10)

Applicant Accountability Agent should describe the mechanism to receive and investigate complaints and describe the mechanism for cooperation with other APEC recognized Accountability Agents that may be used when appropriate.

Applicant Accountability Agent should describe how the dispute resolution process meets the requirements identified in 10 (a) – (h) of Annex A in the Accountability Agent Applications for APEC Recognition for the CBPR and the requirements identified in 10 (a) – (d) of Annex A in the Accountability Agent Applications for PRP Systems, whether supplied directly by itself or by a third party under contract (and identify the third party supplier of such services if applicable and how it meets the conflict of interest requirements identified in sections 1-3 of Annex A) as well as its process to submit the required information on complaints.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criteria 9 and 10.

Discussion

The JOP has confirmed that NCC Group has an internal mechanism to receive, investigate and resolve CBPR and PRP-related complaints. NCC Group will publish on its website program contacts, including their emails and phone numbers, to whom complaints can be submitted, as well as the contact information for the FTC. NCC Group may also receive complaints through staff members or through the corporate helpdesk. The NCC Group also notes that it recognizes the importance of a proper complaint handling process to the CBPR and PRP programs and that it will make efforts within the limits of its respective authority to cooperate with private sector

organizations, self-regulatory bodies, non-participating Privacy Enforcement Authorities, and other Accountability Agents by abiding with the CPEA enforcement mechanisms related to enforcement of the APEC CBPR and PRP programs.

Upon receipt of a complaint, NCC Group commits that it will promptly conduct a review, beginning with whether it falls within the scope of a participant organization's CBPR or PRP obligations and whether the complaint falls within the scope of the CBPR or PRP requirements. Wherever possible, NCC Group will acknowledge receipt of the complaint and provide the complainant progress reports during the investigation. A senior representative is responsible for regularly reporting to the management team on the process and for processing the complaint within thirty (30) days of receiving the complaint.

If the NCC Group finds a non-conformity, NCC Group will notify the participant organization about the corrections that need to be made generally within thirty (30) days. If the participant organization fails to comply, NCC Group may suspend or cancel the participant organization's certification and/or report the issue to the FTC.

NCC Group will notify the outcome of the investigation to the complainant and the participating organization in writing. NCC Group will obtain the consent of the individual if it needs to provide personal information to an enforcement authority as a part of the complaint handling process. Finally, NCC Group will make public statistical data on the types and outcomes of complaints received, and it will communicate the data to the FTC and the JOP and issue complaint case notes on a selection of resolved CBPR-related complaints on an annual basis.

Mechanism for Enforcing Program Requirements (Recognition Criteria 11-15)

Applicant Accountability Agent should provide an explanation of its authority to enforce its program requirements against participants.

Applicant Accountability Agent should describe the policies and procedures for notifying a participant of non-compliance with Applicant's program requirements and provide a description of the processes in place to ensure the participant remedy the non-compliance.

Applicant Accountability Agent should describe the policies and procedures to impose any of the penalties identified in 13 (a) – (e) of Annex A in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.

Applicant Accountability Agent should describe its policies and procedures for referring matters to the appropriate public authority or enforcement agency for review and possible law enforcement action. [NOTE: immediate notification of violations may be appropriate in some instances].

Applicant Accountability Agent should describe its policies and procedures to respond to requests from enforcement entities in APEC Economies where possible.

Recommendation

The JOP is satisfied that NCC Group meets Recognition Criteria 11-15.

Discussion

The JOP has confirmed that NCC Group enforces the program requirements through contract with the applicant organization, which requires that participants must comply with applicable certification standards to include annual recertification requirements, random audits, and investigations into possible breaches or non-conformity complaints.

The JOP has confirmed that NCC Group maintains a process to notify participant organizations immediately of non-compliance with NCC Group's program requirements and for requiring participant organizations to remedy the non-compliance within thirty (30) days. Participant organizations are required to communicate and maintain an active point of contact for the CBPR and/or PRP certification program.

The JOP has confirmed that NCC Group's policies provide that it will remove or suspend a participant organization, including its right to display the CBPR or PRP program seal, when it has not complied with the CBPR or PRP program requirements and failed to remedy non-compliance within a specified time period. NCC Group may also publicly name the participant organization's non-compliance or refer the matter to the FTC. NCC Group sets out in its terms and conditions of certification that it may not assess monetary penalties against a participant organization; however, NCC Group reserves the right to charge a reasonable fee to perform retesting or revalidation work as part of a participant organization's desire to maintain its CBPR and/or PRP certification.

The JOP has confirmed that NCC Group will respond to requests from enforcement entities in APEC Economies that reasonably relate to the Economy and to the CBPR or PRP-related activities of NCC Group, where possible. In addition, NCC Group makes publicly available statistics about the types of complaints received and how these complaints were resolved.

II. CASE NOTES AND STATISTICS

Will the Applicant provide relevant information on case notes and statistics as outlined in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems?

Recommendation

The JOP is satisfied that NCC Group meets the case notes and statistics requirements as stipulated in the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.

Discussion

For the CBPR System, the Accountability Agent Recognition Criteria 10 (g) & (h) require Accountability Agents to have a process for making publicly available statistics on the types of complaints and the outcomes of such complaints (see Annex E of the *Accountability Agent Application for APEC Recognition*), and a process for releasing, in anonymized form, case notes on a selection of resolved CBPR-related complaints illustrating typical or significant interpretations and notable outcomes (see Annex D of the *Accountability Agent Application for APEC Recognition*). NCC Group has certified four companies to date but has not received any complaints, and therefore has not submitted any case notes and statistics. The JOP has confirmed that NCC Group will make publicly available information on the number of complaints and outcomes of such complaints and release case notes on a selection of important complaints once complaints are received. NCC Group has agreed to make use of the templates in Annexes D and E of the *Accountability Agent Application for APEC Recognition* to annually send this information to APEC Member Economies as a condition of their recognition.

For the PRP System, the Accountability Agent Recognition Criteria 10(d) requires that Accountability Agents to have a process for making publicly available statistics on the types of CBPR-related complaints and the outcomes of such complaints (see Annex D of the *Accountability Agent Application for APEC Recognition for the PRP System*). The JOP has confirmed that NCC Group will make publicly available information on the number of complaints and outcomes of such complaints and will use the template in Annex D.

SIGNATURE AND CONTACT INFORMATION

By signing this document, the signing party agrees to the findings of the Joint Oversight Panel contained herein and attests to the truth of the information provided to the Joint Oversight Panel pursuant to the Accountability Agent Applications for APEC Recognition for the CBPR and PRP Systems.



[Signature of person who has authority to commit party to the agreement]

[Typed name]: Jennifer Hawks

[Date]: August 1, 2023

[Typed title]: Vice President, Government Services

[Typed name of organization]: NCC Group Security Services, Inc.

[Address of organization]: 650 California St, Ste 2950 San Francisco, CA 94108

[Email address]: info@nccgroup.com

[Telephone number]: +1(800) 813 3523

APEC recognition is limited to one year from the date of recognition. One month prior to the anniversary of the date of recognition, the Accountability Agent must resubmit this form and any associated documentation to the appropriate government agency or public authority or as soon as practicable in the event of a material change (e.g. ownership, structure, policies).

NOTE: Failure to comply with any of the requirements outlined in this document may result in appropriate sanctions under applicable domestic law.