FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747
Original Contract Effective Date: 11/26/2018
Contract Change Date: 03/19/2025
Valid From: 01/01/2019 To: 09/30/2025

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Purchasing Agent
Name: Amy Layman
Phone: 717-346-3826
Fax: 717-783-6241

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Please Deliver To:
To be determined at the time of the Purchase Order unless specified below.

Supplier Phone Number: 6788775533
Supplier Fax Number: 678-586-2305

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 03/19/2025

Valid From: 01/01/2019 To: 09/30/2025

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

March 2025 - DGS is extending this contract for 6 additional months. Will end 09/30/2025 unless the new contract is in place prior to that date. AJL

January 2024 - DGS IT Procurement Team is in the process of preparing a new solicitation through an RFP for these services; We have done a sole source amendment that will extend the contract for Auction Services under the parent contract 4400019747 to allow adequate time for the RFP and ensure that there is no lapse in services. The extension through the Sole Source is until 03/31/25. AJL

July 2023 - The Commonwealth is hereby exercising its option for a three (3) month extension thru 03/31/2024. This is in accordance with Item 4 - Extension of Contract Term of the contract terms and conditions. KAW

Sept 2022 - This contract was extended thru 12/31/2023 using a one year renewal option available per the contract. JAC

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards, Territory Mgr.
163 Pealertown Rd.
Orangeville, PA 17859
570-594-5077 or sedwards@ritchiebros.com

John Meese
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588
402-421-0242 or jmeese@rbauction.com

Program Office Contact:
Department of General Services

Information:

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 03/19/2025

Valid From: 01/01/2019 To: 09/30/2025

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Bureau of Supplies and Surplus Operations
Matt Bembenick, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-705-3896 / mbembenick@pa.gov

Contract Administrator:
Department of General Services/BOP
Bureau of Procurement
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 01/10/2024

Valid From: 01/01/2019 To: 03/31/2025

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 6788775533

Supplier Fax Number: 678-586-2305

Purchasing Agent

Name: Amy Layman

Phone: 717-346-3826

Fax: 717-783-6241

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 01/10/2024

Valid From: 01/01/2019 To: 03/31/2025

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

January 2024 - DGS IT Procurement Team is in the process of preparing a new solicitation through an RFP for these services; We have done a sole source amendment that will extend the contract for Auction Services under the parent contract 4400019747 to allow adequate time for the RFP and ensure that there is no lapse in services. The extension through the Sole Source is until 03/31/25. AJL

July 2023 - The Commonwealth is hereby exercising its option for a three (3) month extension thru 03/31/2024. This is in accordance with Item 4 - Extension of Contract Term of the contract terms and conditions. KAW

Sept 2022 - This contract was extended thru 12/31/2023 using a one year renewal option available per the contract. JAC

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards, Territory Mgr.
163 Pealertown Rd.
Orangeville, PA 17859
570-594-5077 or sedwards@ritchiebros.com

John Meese
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588
402-421-0242 or jmeese@rbauction.com

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Matt Bembenick, Director
2221 Forster Street

Information:

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 01/10/2024

Valid From: 01/01/2019 To: 03/31/2025

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Harrisburg, PA 17125

Phone/Email: 717-705-3896 / mbembenick@pa.gov

Contract Administrator:

Department of General Services/BOP

Bureau of Procurement

Forum Place 6th Floor

555 Walnut Street

Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 07/27/2023

Valid From: 01/01/2019 To: 03/31/2024

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 6788775533

Supplier Fax Number: 678-586-2305

Purchasing Agent

Name: Worley Keith

Phone: 717-346-2679

Fax: 717 346-3820

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 07/27/2023

Valid From: 01/01/2019 To: 03/31/2024

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

July 2023 - The Commonwealth is hereby exercising its option for a three (3) month extension thru 03/31/2024. This is in accordance with Item 4 - Extension of Contract Term of the contract terms and conditions. KAW

Sept 2022 - This contract was extended thru 12/31/2023 using a one year renewal option available per the contract. JAC

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards, Territory Mgr.
163 Pealertown Rd.
Orangeville, PA 17859
570-594-5077 or sedwards@ritchiebros.com

John Meese
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588
402-421-0242 or jmeese@rbauction.com

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Matt Bembenick, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-705-3896 / mbembenick@pa.gov

Contract Administrator:
Department of General Services/BOP

Information:

FULLY EXECUTED - CHANGE 5

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 07/27/2023

Valid From: 01/01/2019 To: 03/31/2024

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Bureau of Procurement

Forum Place 6th Floor

555 Walnut Street

Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 4 - REPRINT

Contract Number: 4400019747
Original Contract Effective Date: 11/26/2018
Contract Change Date: 07/03/2023
Valid From: 01/01/2019 To: 12/31/2023

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 6788775533
Supplier Fax Number: 678-586-2305

Purchasing Agent
Name: Worley Keith
Phone: 717-346-2679
Fax: 717 346-3820

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 4 - REPRINT

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 07/03/2023

Valid From: 01/01/2019 To: 12/31/2023

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

Sept 2022 - This contract was extended thru 12/31/2023 using a one year renewal option available per the contract. JAC

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards at 443-674-1361 or sedwards@ritchiebros.com
John Meese at 402-421-0242
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Ken Clemence, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-787-5940, kclemence@pa.gov

Contract Administrator:
Department of General Services/BOP
Bureau of Procurement
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 3 - REPRINT

Contract Number: 4400019747
Original Contract Effective Date: 11/26/2018
Contract Change Date: 09/23/2022
Valid From: 01/01/2019 To: 12/31/2023

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 6788775533
Supplier Fax Number: 678-586-2305

Purchasing Agent
Name: Capik Jereme
Phone: 717-346-3838
Fax: 717-783-6241

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 3 - REPRINT

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 09/23/2022

Valid From: 01/01/2019 To: 12/31/2023

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

Sept 2022 - This contract was extended thru 12/31/2023 using a one year renewal option available per the contract. JAC

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards at 443-674-1361 or sedwards@ritchiebros.com
John Meese at 402-421-0242
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Ken Clemence, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-787-5940, kclemence@pa.gov

Contract Administrator:
Department of General Services/BOP
Bureau of Procurement
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 2 - REPRINT

Contract Number: 4400019747
Original Contract Effective Date: 11/26/2018
Contract Change Date: 09/01/2022
Valid From: 01/01/2019 To: 12/31/2022

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 6788775533
Supplier Fax Number: 678-586-2305

Purchasing Agent
Name: Capik Jereme
Phone: 717-346-3838
Fax: 717-783-6241

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 2 - REPRINT

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 09/01/2022

Valid From: 01/01/2019 To: 12/31/2022

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards at 443-674-1361 or sedwards@ritchiebros.com
John Meese at 402-421-0242
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Ken Clemence, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-787-5940, kclemence@pa.gov

Contract Administrator:
Department of General Services/BOP
Bureau of Procurement
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101

No further information for this Contract

Information:

FULLY EXECUTED - CHANGE 1

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 09/16/2021

Valid From: 01/01/2019 To: 12/31/2022

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 412-559-5414

Supplier Fax Number: 678-586-2305

Purchasing Agent

Name: Pickering Shelbie

Phone: 717-703-2947

Fax: 717 346-3820

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED - CHANGE 1

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Contract Change Date: 09/16/2021

Valid From: 01/01/2019 To: 12/31/2022

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

Sept 2021 - This contract was extended thru 12/31/2022 using a one year renewal option available per the contract. SJP

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Scott Edwards at 443-674-1361 or sedwards@ritchiebros.com
Wesley Phillips or wphillips@ritchiebros.com
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Ken Clemence, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-787-5940, kclemence@pa.gov

Contract Administrator:
Department of General Services
Bureau of Procurement
Shelbie Pickering
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101
Phone/Email: 717-703-2947, spickering@pa.gov

No further information for this Contract

Information:

FULLY EXECUTED

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Valid From: 01/01/2019 To: 12/31/2021

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 525020

Supplier Name/Address:
IRONPLANET INC
DBA GOVPLANET
4000 PINE LAKE RD
LINCOLN NE 68516-5484 US

Supplier Phone Number: 678-586-2381

Supplier Fax Number: 678-586-2305

Purchasing Agent

Name: Pickering Shelbie

Phone: 717-703-2947

Fax: 717 346-3820

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Contract Name:
Auction Services

Payment Terms
NET 30

Solicitation No.: Issuance Date:

Supplier Bid or Proposal No. (if applicable): Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total

General Requirements for all Items:

Information:

Supplier's Signature _____ Title _____

Printed Name _____ Date _____

FULLY EXECUTED

Contract Number: 4400019747

Original Contract Effective Date: 11/26/2018

Valid From: 01/01/2019 To: 12/31/2021

Supplier Name:

IRONPLANET INC

DBA GOVPLANET

Header Text

This revenue generating contract is for Auction Services to include: general merchandise (recurring), heavy equipment municipal (private), heavy equipment (public), right of way property, special sales and public onsite auction services with simultaneous webcasting for the Commonwealth of Pennsylvania.

Pennsylvania Municipalities (County & Local) may elect to participate in private online heavy equipment auction for a buyer's premium buyer fee as outlined in the Exhibit B.

This is a no-cost contract for the Commonwealth, the suppliers' source of revenue is generated from the receipt of fees as outlined in Exhibit B.

I-5, C Online Auction Tool mentioned in the RFP is section is I-5, E. (PDF page # 22 of Exhibit A).

Suppliers Contact Information:
IronPlanet, Inc. D/B/A GovPlanet
Joe Smith at 347-707-0967 or jsmith@ritchiebros.com
Lauren Bible at 412-559-5414 or lbible@ritchiebros.com
3825 Hopyard Road
Suite 250
Pleasanton, CA 94588

Program Office Contact:
Department of General Services
Bureau of Supplies and Surplus Operations
Ken Clemence, Director
2221 Forster Street
Harrisburg, PA 17125
Phone/Email: 717-787-5940, kclemence@pa.gov

Contract Administrator:
Department of General Services
Bureau of Procurement
Shelbie Pickering
Forum Place 6th Floor
555 Walnut Street
Harrisburg, PA 17101
Phone/Email: 717-703-2947, spickering@pa.gov

No further information for this Contract

Information:

CONTRACT
FOR
Auction Services (Surplus)

THIS CONTRACT for the provision of **Auction Services (Surplus)** ("Contract") is entered into by and between the **Commonwealth of Pennsylvania,** acting through the Department of General Services ("DGS"), and **Ironplanet, Inc. ("Contractor").**

WHEREAS, DGS issued a Request For Proposals for the provision of **Auction Services (Surplus)** for Commonwealth executive agencies, RFP No. **6100044453** ("RFP"); and

WHEREAS, Contractor submitted a proposal in response to the RFP; and

WHEREAS, Contractor's proposal was selected for the Best and Final Offer ("BAFO") phase of the RFP process; and

WHEREAS, DGS determined that Contractor's proposal was the most advantageous to the Commonwealth after taking into consideration all of the evaluation factors set forth in the RFP and selected Contractor for contract negotiations; and

WHEREAS, DGS and Contractor have negotiated this Contract as their final and entire agreement in regard to providing **Auction Services (Surplus)** to the Commonwealth.

NOW THEREFORE, intending to be legally bound hereby, DGS and Contractor agree as follows:

1. Contractor shall, in accordance with the terms and conditions of this Contract, provide **Auction Services (Surplus)** as more fully defined in the RFP, to Commonwealth executive agencies.

2. Commonwealth executive agencies shall procure their requirements for **Auction Services (Surplus)** in accordance with the terms and conditions of this Contract.

3. Contractor agrees to provide the **Auction Services (Surplus)** listed in its Final Negotiated Cost Submittal, which is attached hereto as Exhibit B and made a part hereof, at the prices listed for those items in Exhibit B.

4. Contractor agrees to meet and maintain the commitments to small diverse businesses made in its Final Negotiated Small Diverse Business and Small Business Submittal, which is attached hereto as Exhibit C and made a part hereof. Any proposed change to a small diverse business commitment must be submitted to the DGS Bureau of Diversity Inclusion and Small Business Opportunities ("BDISBO"), which will make a recommendation as to a course of action to the Contracting Officer. Contractor shall complete the Prime Contractor's Quarterly

Utilization Report and submit it to the Contracting Officer and BDISBO within ten (10) workdays at the end of each calendar quarter that the Contract is in effect.

5. This Contract is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:

a. The Contract document contained herein.

b. The Contract Terms and Conditions contained in the RFP, which is attached hereto as Exhibit A and made part of this Contract.

c. The Contractor's Final Negotiated Cost Submittal, which is attached hereto as Exhibit B and made a part hereof and further clarified by:

- Clarification response, dated 2018-0730

d. The Contractor's Final Negotiated Small Diverse Business Submittal, which is attached hereto as Exhibit C and made a part hereof.

e. The RFP, including all of the referenced Appendices and as revised by all Addenda issued thereto, which is attached hereto as Exhibit A and made a part hereof.

f. The Contractor's Technical Submittal, which is attached hereto as Exhibit D and made a part hereof and further clarified by:

- Clarification response, dated 2018-0315
- Clarification response, dated 2018-0817

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have signed this Contract as of the dates written below. Execution by the Commonwealth will be as described in the Contract Terms and Conditions, No. 5 – Electronic Signatures and 25-Signature.

Witness:

By: _____
Vice President, Inspection Services

CHRIS LAMBING 10-15-18
Printed Name/Date

CONTRACTOR:

By: Bonnie Waldron
Government Contract, Operations & Compliance Manager

Bonnie Waldron 10/15/2018
Printed Name/Date

___ _____
Federal I.D. Number

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

By: To be obtained electronically
Deputy Secretary for Procurement Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically
Office of Chief Counsel Date

To be obtained electronically
Office of General Counsel Date

To be obtained electronically
Office of Attorney General Date

APPROVED FOR FISCAL RESPONSIBILITY, BUDGETARY APPROPRIATENESS AND AVAILABILITY OF FUNDS:

To be obtained electronically
Comptroller Date

EXHIBIT A

REQUEST FOR PROPOSAL

Department Of General Services

Determination To Use Competitive Sealed Proposals (RFP) Method of Procurement

Bureau Of Procurement

Instructions: This form is to be utilized by Issuing Officers wherein they are required to disclose the justification for use of the competitive sealed proposals method of procurement. Check the appropriate boxes and provide detailed explanation as to why it is not practical or advantageous for the Commonwealth to issue an Invitation for Bids.

The completed form should be submitted to DGS in conjunction with the Notice of Forthcoming Procurements and DGS will post with the solicitation when issued. For agency led procurements the form must be posted with the solicitation issuance.

Requesting Agency Information			
Agency:	General Services		
Address:	555 Walnut Street, 6th Floor, Forum Place, Harrisburg, PA 17111		
Agency Contact:	Jennifer Habowski	**Telephone No:**	717-703-2937

Contract Information	
Contract Title:	Online Auction Services

The use of competitive sealed bidding is <u>not practicable</u> for the Commonwealth to use to award this contract because: (check all the apply)	
☐	**The agency is seeking a contractor's solution to an agency need.**
☒	**The agency wants to provide offerors with flexibility in the contents of their proposals in terms of materials, services, or construction offered.**
☐	**The scope/statement of work/specifications lack sufficient clarity and specificity in terms of a detailed procurement description to enable submission of definitive bids.**

The use of competitive sealed bidding is <u>not advantageous</u> for the Commonwealth to use to award this contract because: (check all the apply)	
☒	**The agency wants to consider criteria other than price in the award process, in particular, criteria that are subjective in nature:** ☒ **Small Diverse Business** ☒**Domestic Workforce** ☒ **Contractor qualifications, experience and financial capability** ☒**Service & Delivery Capability** ☐ **Other Criteria**
☐	**It is not in the agency's or the Commonwealth's best interest to use competitive sealed bidding.** **Explain:**

Signature			
The printed name on this form shall constitute the signature of the individual and approval for the Agency request. Agencies must ensure that the individual reviews the completed form and gives their consent to apply their printed name on this form. No handwritten signature shall be required in order for the form to be considered "signed" by the individual.			
Issuing Office Signature:	**Jennifer Habowski**	**Date:**	**12/15/2017**

Event Summary - Auction Services (Surplus)

Type	Request for Proposal	**Number**	6100044453
Stage Title	-	**Organization**	CommonwealthPA
Currency	US Dollar	**Event Status**	Under Evaluation
Work Group	General Services	**Exported on**	6/13/2018
Exported by	Jennifer Habowski	**Estimated Value**	-
Payment Terms	-		

Bid and Evaluation

Respond by Proxy	Disallow	**Use Panel Questionnaire**	Yes
Sealed Bid	Yes	**Auto Score**	No
		Cost Analysis	No
Alternate Items	No	**Confidential Pricing**	No

Visibility and Com unication

Visible to Public Yes **Enter a short description for this public event**

The Commonwealth is seeking a contractor to provide and facilitate auction services for the purpose of selling the Commonwealth's state surplus property.

Commodity Codes

Commodity Code	Description
80160000	Business administration services
80140000	Marketing and distribution

Event Dates

Time Zone EDT **Released** -

Open	1/22/2018 12:00 PM
Close	2/21/2018 4:00 PM
Sealed Until	2/21/2018 4:00 PM
	• Show Sealed Bid Open Date to Supplier
Q&A Close	2/13/2018 1:00 PM

Event Users

Event Creator

Jennifer Habowski jhabowski@pa.gov

Phone +1 717-703-2937

Prerequisites

★ Required to Enter Bid

1 ★ **Instructions To Supplier:**

Responsibility to Review.

Prerequisite Content:

Responsibility to Review RFP

The Offeror acknowledges and accepts full responsibility to ensure that it has reviewed the most current content of the RFP including any amendments to the RFP.

Certification

I certify that I have read and agree to the terms above.

Supplier Must Also Upload a File:

No

Buyer Attachments

Auction Technical Submittal
Appendix A – Historical On-Site Staff Usage
Appendix B - Auction Overview and Historical Sale Information
Appendix C – NonCommonwealthHostedApplicationsServices
COSTARS Program Clause for Statewide Contracts
IT Terms and Conditions

Description

1. **Purpose.** This request for proposals (RFP) provides information to enable potential Offerors to prepare and submit proposals for the Commonwealth of Pennsylvania's consideration.

2. **Issuing Office.** The **Department of General Services** ("Issuing Office") has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be the Contact listed above, who is the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror may be disqualified.

3. **Project Description.** The Commonwealth is seeking a contractor to provide and facilitate auction services (via online and public on-site auctions) for the purpose of selling Commonwealth's state surplus property. The Department of General Services (DGS), Bureau of Supplies and Surplus Operations (BSSO) is responsible for facilitating the sale of state surplus property by public auction, in particular the sale of used heavy equipment and general merchandise.

   The goals of this project are to:

   - Provide auction service (both online auctions and public onsite auctions) at no additional cost to the Commonwealth.
   - Maximize the net proceeds to the Commonwealth for the sale of its surplus property by determining the best auction format that will maximize sale proceeds while minimizing internal costs.
   - Maintain low buyer's fees.
   - Make effective use of advance and targeted advertising of sales.

   For additional information regarding the types of auctions conducted and historical sale information, refer to **Appendix B** in the **Buyer Attachments**.

   The Commonwealth reserves the right to utilize a separate auction services contract when deemed to be in the best interest of the Commonwealth.

4. **Type of Contract.** If the Issuing Office enters into a contract as a result of this RFP, it will be a **No Cost** contract and will contain the **Contract Terms and Conditions** attached to this RFP in the **Buyer Attachments** section.

5. **Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.

6. **Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

7. **Questions & Answers.** Questions must be submitted by the posted deadline. All questions and responses are considered an addendum to and part of this RFP. The Issuing Office shall not be bound by any verbal information, nor shall it be bound by any written information that is not either contained

within the RFP or formally issued by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

8. **Addenda to the RFP.** Any revisions to this RFP will be made electronically within this site.

9. **Response Date.** To be considered for selection, electronic proposals must be submitted on or before the time and date specified. The Issuing Office will reject any late proposals.

10. **Proposal Submission:** To be considered, Offerors must submit a complete response to this RFP by the due date and time from an official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the **Proposal Cover Sheet** contained in **Additional Required Documents** section, and the Proposal Cover Sheet is scanned and provided in a PDF version in the Offeror's electronically submitted proposal, the requirement will be met. A proposal being timely submitted and electronically signed by the Offeror are the two (2) mandatory responsiveness requirements and are non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal. The proposal must remain valid for **120 days** or until a contract is fully executed, whichever is later. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

11. **Proposal Format:** To be considered, the proposal must respond to all proposal requirements. Each proposal consists of three submittal components: Technical, Cost, and Small Diverse Business and Small Business Participation. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as attachments.The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP. The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data.

12. **Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

13. **Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

14. **Oral Presentations.** Offerors will be required to present a live demonstration of their online auction tool. Offerors will be provided up to 1 hour for their live system demonstration, which shall include but not be limited to: website functionality from a bidder's prospective, including bidder registration process; general auction tool functionality from the user's prospective (creation of auction, uploading photos, etc.) and reporting capabilities. The issuing office will schedule the demonstrations.

15. **Prime Contractor Responsibilities.** The selected Offeror must perform at least 50% Nevertheless, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.

16. **Proposal Contents.**

A. Confidential Information. The Commonwealth is not requesting confidential proprietary information or trade secrets to be included as part of Offerors' submissions. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below. After contract award, the selected Offeror must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

B. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained in proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure **requirements** under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

C. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Rightto-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to the **Additional Required Documentation** section for a **Trade Secret Confidential Proprietary Information Notice Form** that may be utilized as the signed written statement, if applicable. If financial capability information is submitted, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

17. **Best and Final Offers (BAFO).** The Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining "best and final offers" in one or more of the following ways, in any combination and order: schedule oral presentations, request revised proposals, conduct an online auction, and enter into pre-selection negotiations.

The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer: those Offerors which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive; those Offerors which the Issuing Office has determined in accordance with the **Offeror Responsibility** subsection from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract; and those Offerors whose score for their technical submittal of the proposal is less than 75 % of the total amount of technical points allotted to the technical criterion.

The Issuing Office may further limit participation in the best and final offers process to those remaining responsible Offerors which the Issuing Office has determined to be within the top competitive range of responsive proposals. The Evaluation Criteria shall also be used to evaluate the Best and Final offers. Price reductions offered through any online auction shall have no effect upon the Offeror's Technical Submittal. Any reduction to commitments to Small Diverse Businesses and Small Businesses must be proportional to the reduction in the total price offered through any BAFO

process or contract negotiations unless approved by the Bureau of Diversity Inclusion and Small Business Opportunities (BDISBO).

18. **News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

19. **Term of Contract.** The term of the contract will commence on the Effective Date and will end **three (3) years** after commencement. The Commonwealth shall have the option to renew the Contract for an additional **two (2) on-year renewals**. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract, and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

20. **Notification of Selection for Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office. Prior to execution of the contract resulting from the RFP, the selected Offeror must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, Offerors must visit the Pa Supplier Portal at https://www.pasupplierportal.state.pa.us/ or call the Customer Support Center at 877-435-7363 or 717-346-2676.

21. **Notification of Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed, and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

22. **Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest.

23. **RFP Protest Procedure.** The RFP Protest Procedure is on the DGS website at click here . A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline. Offerors may file a protest within seven days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than seven days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

24. **COSTARS Program.** Information related to the COSTARS Program is contained in Buyer Attachments. If the Offeror elects to permit COSTARS members to participate in the contract resulting from this RFP, the Offeror should complete and sign the **COSTARS Election to Participate Form** contained in **Additional Required Documents** section. If the Offeror is asserting that it is a Department of General Services Certified Small Business, also provide an active Department of General Services Small Business Certificate.

25. **Attachments to the RFP.** All attachments to the RFP, including those contained in the **Buyer Attachments** and **Additional Required Documentation** sections, are incorporated into and made part of the RFP.

26. **Evaluation Criteria.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Issuing Office with a rating for this component of each proposal. The following criteria will be used in evaluating each proposal:

    A. Technical: The Issuing Office has established the weight for the Technical criterion for this RFP as **50**% of the total points. Evaluation will be based upon the following: **Soundness of Approach and Offeror/Personnel Qualifications.** The final Technical scores are determined by giving the maximum number of technical points available to the proposal(s) with the highest raw technical score.
    The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage: click here

    B. Cost: The Issuing Office has established the weight for the Cost criterion for this RFP as **30**% of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage: click here

    C. Small Diverse Business and Small Business Participation: BDISBO has established the minimum evaluation weight for the Small Diverse Business and Small Business Participation criterion for this RFP as **20%** of the total points. Refer to the **Small Diverse Business and Small Business Participation** document contained in the **RFP Question** section for more information and scoring methodology.

    D. Domestic Workforce Utilization: Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this RFP. The maximum amount of bonus points available is 3% of the total points for this RFP. To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. The Domestic Workforce Utilization Formula is at the following webpage: Click here

27. **Offeror Responsibility.** To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance of the contract. In order for an Offeror to be considered responsible for this RFP and therefore eligible for selection for best and final offers or selection for contract negotiations:

The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **75%** of the available technical points and the Offeror must demonstrate the financial capability to assure good faith performance of the contract.

An Offeror who fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror and cannot increase the Offeror's cost proposal or the contract cost to the Commonwealth.

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

28. **Final Ranking and Award.** After any best and final offer process is conducted, the Issuing Office will combine the evaluation committee's final technical scores, BDISBO's final Small Diverse Business and Small Business Participation Submittal scores, the final cost scores, and the domestic workforce utilization scores. The Issuing Office will rank responsible Offerors according to the total overall score assigned to each in descending order. The Issuing Office must select for contract negotiations the Offeror with the highest overall score. The Issuing Office has the discretion to reject all proposals or cancel the request for proposals at any time prior to the time a contract is fully executed when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.

TECHNICAL SUBMITTAL

I-1. Statement of the Project. State in succinct terms your understanding of the project presented or the service required by this RFP.

Offeror Response

I-2. Qualifications.

A. **Company Overview**.

1. An Offeror shall have three years of experience in the delivery of an online auction service/solution and with conducting public (on-site) auctions.

2. Offeror's solution must currently be in production.

   a) Offeror shall provide a list of customers currently using the solution in a production environment for the three years

   b) Offeror shall provide a report showing the online solutions availability (uptime) for its customers for the past year.

3. Offeror shall provide the number of public (on-site) auctions it has conducted in the past three years along with the total dollar amount of each sale.

Offeror Response

B. **Prior Experience.** Include experience in creating, coordinating and managing both online auctions and public (on-site) auctions for heavy equipment, general merchandise and specialty auctions similar to PennDOT's right of way auctions. Projects described shall be similar in size and scope to the services requested in this RFP. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

Offeror Response

C. Personnel. Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel (Project Manager and on-site staff), include the employee's name and, through a resume or similar document, the Project personnel's education and experience in creating, coordinating, marketing and managing auctions similar to the services identified in this RFP. The Project Manager will work in partnership with BSSO to manage the Commonwealth's state surplus property program and will serve as the primary

point of contact and liaison with the Commonwealth. Indicate the responsibilities each individual will have in this Project and how long each has been with your company.

The Commonwealth must approve all key personnel appointments and replacements prior to those individuals being assigned to the Commonwealth account throughout the term of this contract

Offeror Response

D. **Subcontractors:** Provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors, who will be assigned to the Project. The selected Offeror is prohibited from subcontracting or outsourcing any part of this Project without the express written approval from the Commonwealth. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:

1. Name of subcontractor;

2. Primary Contact Name and Email

3. Address of subcontractor;

4. Description of services to be performed;

5. Number of employees by job category assigned to this project; and;

6. Resumes (if appropriate and available).

Offeror Response

I-3. Training. If appropriate, indicate recommended training of agency personnel. Include the agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

Offeror Response

I-4. Tasks. Describe in narrative form your technical plan for accomplishing the work using the task descriptions as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review

Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

A. Implementation Plan. Offeror(s) shall submit their proposed implementation methodology and/or draft plans for this project. The implementation plan shall include all activities necessary for the implementation of service. The selected Offeror shall meet with the Commonwealth to review the draft implementation plan and gather any additional details required to finalize the implementation plan. A finalized implementation plan shall be submitted to the Commonwealth within ten (10) calendar days from the effective date of the contract. The implementation plan shall account for a Go Live date of no later than 30 calendar days from the effective date of the contract.

Offeror Response

B. Staffing. The selected Offeror is responsible for providing a Project Manager who is responsible for managing and coordinating auction events on behalf of the Commonwealth and for providing additional on-site staff (as needed) for auction preparation/removal. Staff must be able to travel to any location within the Commonwealth of Pennsylvania within two business days of request by the BSSO. For Additional details of staffing usage and auction events refer to **Appendix A – Historical On-Site Staff Usage** and **Appendix B – Auction Overview and Historical Sales Information** located in the **Buyer Attachments** section**.** More specifically, on-site staff duties include, but not limited to:

1. Auction preparation as determined by BSSO (i.e. putting lots together, inventorying and tagging items to be sold, writing up descriptions, ensuring auction details are accurate (i.e. description, quantities, etc.), ensuring all items are recorded with a digital image and that the proper descriptions are attached to each image and assisting with auction previews.

2. Creating and managing auction events on behalf of the Commonwealth

3. Monitoring the removal of assets purchased from an auction event where the total proceeds are expected to be in excess $25,000 and the assets are in a single location. Monitoring of asset removal involves verifying payment by customers via copy of paid invoice, oversight of property not yet picked up, general assistance with customer pick-ups (i.e. questions, etc.) and coordination of customer pickups (if necessary). For auction events that are expected to generate sales below $25,000, a Commonwealth employee will be responsible to monitor the removal of assets from the auction location. All removal dates and times will be coordinated with the selected Offeror, but shall be at the discretion of the Commonwealth.

Due to potential liability, the selected Offeror is not responsible for physically assisting or helping customers in the removal of their property (i.e. moving or lifting), but shall require a buyer to show proof of insurance prior to removing a particular piece of

property in accordance with industry standard/Commonwealth requirements. The BSSO reserves the right to waive on-site assistance if other Commonwealth staff is available at the pickup location or if the value of the sale does not warrant staffing.

Offeror Response

C. Marketing. The selected Offeror shall develop and implement a marketing plan for each of the types of auctions described in **I-5 C** of the technical submittal, which will draw greater attention to the sale of surplus property.

All marketing plans shall be submitted to and approved by BSSO on an annual basis. Any changes to a marketing plan must be approved, in writing, by BSSO.

The selected Offeror will work with the Commonwealth on any press release language. Marketing costs, including but not limited to advertising costs, may not be deducted from gross or net sales proceeds.

Offeror(s) shall:

1. Describe the methods or processes (including type(s) of media outlet(s)) that will be used to generate awareness of surplus property for sale, attract potential buyers, and increase revenues.

2. Describe the ability to provide "proof" of successful marketing activities to the Commonwealth on a regular basis.

3. Provide samples of current and past marketing efforts that have proven successful.

4. Provide website usage statistics including, but not necessarily limited to:

    a. The number of unique, registered buyers and sellers who have used the website within the last year.
    b. The number of unique visitors to the website within the last year.
    c. The average number of transactions occurring annually over the last three years.
    d. The average value of transactions annually over the last three years.

Offeror Response

D. Advertising. The selected Offeror will be required to advertise all sales prior to the start date/time of all auctions and must meet, at a minimum, the advertisement requirements listed in § 45.16. Advertisement of the PA Code.

The selected Offeror is responsible for all advertising costs as well as providing cut sheets and/or proofs of advertising to BSSO for review and approval at least 2 weeks prior to booking the advertising. A report illustrating the breakdown in cost to advertise/market each auction shall be provided to BSSO no later than 15 days after the

end of each quarter and shall include information such as advertising venue (i.e. mail, email, publication), date of service and cost. The Commonwealth reserves the right to request advertisement in specialty publications appropriate for the nature of the merchandise being sold.

Offeror(s) shall describe an advertising plan for each of the types of auctions (refer to I-5 C.) in this RFP. At a minimum, the plan shall include the type of advertisement (paper, electronic, email, etc.), the timeframe (i.e. length of ad or # of days prior to event) and the intended audience. Offeror(s) shall also describe correlation between the type of media outlet chosen and targeted audience. Additional information regarding current advertising practices are located in the current Contract.

Offeror Response

E. System Functionality. The selected Offeror shall provide an online auction tool as described in **I-5, C.** Online Auction Tool. Offeror(s) shall describe the functionality of its online auction tool, at a minimum describe:

1. The recruiting and registration process for new bidders as well as password reset functionality

2. The ability to create, upload photos, tag, and search for items that are up for bid.

3. The ability to create different types of auction formats (i.e. proxy bidding, restricted auctions, etc.) and options for extending a bid in order to generate the highest available sale prices for items.

4. Tracking results of multiple auction bidding events that end simultaneously or separately.

5. Additional Functionality. Offeror(s) shall describe any additional functions or features included with its solution.

6. Upcoming Enhancements. Offeror(s) shall describe additional capabilities of its system that are not included as part of the proposed solution or are currently in development which could be made available in future releases or upon request.

Offeror Response

F. Reporting. The Commonwealth requires various types of reports to monitor the effectiveness and efficiency of the overall state surplus auction program. The types of reports used to monitor the program are:

a. Surplus property sold and the associated value.
   i. By Event and by Municipality
      - Number of items/lots sold

- List of selling prices by item/lot number
- Total Sales
- Buyer Premium Breakdown & Receipt Data

b. Surplus property currently available for sale or up for auction.
c. Upcoming sales or auctions.
d. Sales to program members and sales to all other buyers.
e. User management reports.
f. Historical reports breaking down most popular types of surplus property bought, types of surplus property generating the most revenue, number of bids received for auctions, etc.
g. Buyer history.
h. Buyer feedback and seller ratings.
i. Number of bidders for auctions and number of bidders registered.
j. Number of unique visitors to site

Offerors shall describe its ability to provide detailed item and sales reports, which includes the method to obtain the report(s), format type(s) (i.e. Microsoft Format, excel, etc.) and if the report(s) are available in real-time.

G. Release Management. The selected Offeror shall have a Release Management process in place. Offerors shall describe:

1. How new functions and features are released to customers and a customer's ability to control which new features are implemented.

2. How it will communicate new releases and enhancements in advance.

Offeror Response

H. Quality Control. Offeror(s) must describe its procedures for monitoring the quality of services for both online auctions and during public (on-site) auction events. The procedures are to include a method for monitoring, identifying and correcting deficiencies in the quality of service provided and its impact on the overall project and on each affected task.

For online auctions or public (on-site) auctions with webcasting, describe how you will ensure a secure and reliable online presence during an auction event and what contingencies are in place should a major technical problem disrupt an auction. Describe how you will ensure that a server failure will not occur in the course of an online auction or during webcasting. Include contingencies and redundancies in your plan.

Offeror Response

I. Employee Participation in Bidding. DGS has a policy in place restricting purchase of state surplus property by Commonwealth employees. The current policy is stated as follows:

When state surplus property is made available for sale to the public through auction, the internet or Department of General Services' warehouse, the following prohibitions and limitations apply:

- Employees of the Department of General Services' Bureau of Supplies and Surplus may not purchase the property.
- Property Control Officer(s) and their supervisor(s) of the Commonwealth agency which declares the property "surplus" may not purchase the property.
- State employees may not purchase any item with a price greater than $500.
- State employees are also subject to any specific guidelines of their respective agencies in regard to purchases of items with a price of $500 or less.
- Employees should check agency policy on purchasing of state property to identify any additional restrictions

Offeror(s) shall describe its policy on the participation of its employees or subcontractors in online auctions conducted on behalf of the offeror or its clients.

Offeror Response

J. Training. The selected Offeror shall provide training on the online auction tool to designated staff (Approx. 4 users) at contract set-up and to any new users throughout the term of the Contract. Initial training shall consist of navigation and site functionality and generation of online reports.

Offeror(s) shall describe its training plan and include what additional online documentation/training is available, such as user manuals, how-to documents and videos, FAQs, and self-help.

Offeror Response

K. Customer Support. The selected Offeror shall provide technical and end-user support to assist all users in the use and operation of the system. Offeror(s) shall describe:

1. **Types of support.** The types of support provided (e.g. telephone, email, chat, web form, etc.) and the associated hours the support is available. Describe support for Users (both Commonwealth and potential bidders).

2. **Resolution Process.** Its resolution process for tracking and monitoring unresolved issues. The process shall include, at a minimum the issue description/summary, priority level indicator, escalation process and current status. For issues not

resolved in a timely manner, the Commonwealth may request a corrective action plan.

3. **Notifications.** Its notification policies and procedures. Offeror(s) must include policies and procedures for notifications to service subscribers and users in the event of scheduled maintenance, unscheduled maintenance, emergency maintenance, downtime, system errors, degraded performance, product releases, or other user impacting events.

Offeror Response

L. Buyer's Premium. All commissions earned by the selected Offeror shall be based on the actual sale price and paid from the Buyer's premium. The Buyer's premium shall be applied to all Commonwealth auction as outlined in the cost submittal. The policy of a Buyer's premium must be clearly available and visible to all consumers who utilize the online sale/auction process for surplus property. The Commonwealth shall not be invoiced for any services.

Offeror(s) shall describe how it will ensure the Buyer Premium (as outlined in the cost submittal) will be correctly applied to each type of sale and what reporting mechanism is available to the Commonwealth to ensure the accuracy of the buyer premium fee to actual sale price.

Offeror Response

M. Collection of Money. The selected Offeror is responsible for the collection of all monies, including any associated late fees for failure on the bidders' part to remove purchased items in a timely manner. The selected Offeror shall collect only the sale amount or amount of the high bid for each item sold, the buyer's premium, taxes (if applicable), and late fees (if applicable), and **shall not** charge any additional surcharge(s) or fees of any kind (e.g. sign-up/registration, participation, etc.), other than as addressed herein. BSSO reserves the right to specify/restrict certain types of payments for auction events and reserves the right to waive any late fees.

No later than seven days after close of the auction and prior to pick-up of the merchandise, the selected Offeror shall provide to BSSO copies of the sales receipts.

All sale proceeds must be deposited into a segregated, interest bearing Federal Deposit Insurance Corporation (FDIC) approved account and funds must remain in the account until paid to the Commonwealth. These funds may not be co-mingled with the selected Offeror's business or personal funds and any interest earned must be forwarded with the sales proceeds.

Offeror(s) shall describe the types of payments it accepts (ACH, check, credit card, etc.) and what measures are taken to prevent fraudulent transactions on part of the

bidders. Also, describe what process will be used to ensure sales receipts contain accurate information.

Offeror Response

N. Default by High Bidders. Offeror(s) shall describe its policies and procedures in the case of default by the highest successful bidder after close of sale. Include in the description:

1. Techniques used to discourage highest successful bidders from defaulting on commitment to buy an item after close of sale.

2. In the case of default by the highest bidder,

   a. What is the process and procedure for awarding the items to another bidder?

   b. Describe any curative measures that are taken against default bidders, including but not limited to: collection of monies due from the highest successful bidder, attempts to recoup the difference in lost sale revenue from the defaulting highest bidder to the next highest bidder, etc.

Offeror Response

O. Payment of Proceeds. Within 30 days of each auction, the selected Offeror must wire transfer to BSSO the full proceeds of each sale conducted on behalf of the Commonwealth and any interest earned minus the Buyer's Premium fee. Upon execution of the wire transfer, the selected Offeror must send BSSO a copy of the final auction results and supporting documentation identifying the breakdown of the sale, associated Buyer's Premium fee and proof of payment of all sales taxes in accordance with Department of Revenue's requirements.

For any auctions conducted on behalf to the Attorney General or PA Turnpike, payment of proceeds and associated supporting documents must be submitted directly to the end using agency.

Offeror(s) shall acknowledge its understanding of this requirement.

Offeror Response

P. Appraisal Services. Offeror(s) shall describe any basic appraisal (i.e. setting the reserve price) services that is offered at no additional cost Commonwealth.

Offeror Response

Q. Innovative Concepts. Offeror(s) shall describe any additional innovative concepts that may be beneficial to the Commonwealth.

Offeror Response

R. Turnover. Upon expiration or termination of the Project, the selected Offeror shall provide for a smooth and timely turnover of its services to the Commonwealth and its successor contractor, as applicable.

Offeror Response

I-5. Requirements. Offeror(s) shall acknowledge each of the requirements and, if necessary, describe how the requirement will be met.

A. Licensure. The selected Offeror must provide an auctioneer with a valid PA Auctioneers license to conduct public (on-site) auctions. As part of the proposal submission, include a copy of the valid auctioneer license. Refer to the State Board of Auctioneer Examiners for licensing requirements. Refer to I-5, C (6) for information on public (on-site) auctions.

Offeror Response

B. Policies, Procedures and Standards.

1. The selected Offeror must maintain compliance with all applicable local, state and federal regulations and laws.

2. The selected Offeror shall:

   a. Provide all services in accordance with the policies, procedures and standards of the Commonwealth.

   b. Abide by Management Directive 205.40 Amended, Commonwealth Branding (as applicable).

   c. Abide by all the Commonwealth's policies (Information Technology Policies (ITPs)). If an Offeror feels any of the ITPs are not applicable to this procurement, please identify which ones.

   d. Abide by the Commonwealth's Non-Commonwealth Hosting Requirements **(Appendix C)** located in the **Buyer Attachment** section**.**

Offeror Response

3. Click-Through Terms. The terms and conditions attached to this RFP in Buyer Attachments section (Contract Terms and Conditions) shall be the exclusive terms of agreement between the selected Offeror and the Commonwealth. Other terms and conditions included in a click-through agreement or referenced in the selected

Offeror's quotations, invoices, business forms, or other documentation shall not become part of the contract and shall be disregarded by the parties. Any such terms shall be unenforceable and not binding on the Commonwealth.

Offeror Response

C. Types of Auctions. The selected Offeror shall conduct, at a minimum, the following types of auctions listed below. All online auctions must be open for bidding for a minimum of fourteen (14) consecutive days or at the discretion of the BSSO. The Commonwealth reserves the right to determine how an auction is conducted (online or public (on-site) auction).

1. **Private Heavy Equipment Auction for Municipalities.** This auction consists of conducting online private heavy equipment auctions for Pennsylvania Counties, Cities, Boroughs, Incorporated Towns, Townships and Municipalities prior to the public online heavy equipment auction. Surplus heavy equipment from the Pennsylvania Department of Transportation (PennDOT) and other Commonwealth agencies must be made available to municipalities first through an online private auction. Any un-sold and/or remaining surplus heavy equipment is then offered to the general public via an online public auction. The selected Offeror will generally receive at least eight (8) weeks advance notification prior to the date of any sale. It will be the responsibility of the selected Offeror to ensure interested municipalities and their authorized bidding representatives are qualified to participate in the private online auction. Any questions regarding final determination of eligibility will be made by the BSSO. For historical auction information refer to **Appendix B** located in the **Buyer Attachment** section**.**

2. **Public Heavy Equipment Auctions.** This auction consists of conducting, at a minimum, two (2) online heavy equipment auctions annually from April to November at the discretion of the BSSO. Additional auctions may be held as needed by the Commonwealth. The Commonwealth will provide space for the selected Offeror to set up a temporary work area for conducting post auction activities. Administrative costs may not be deducted from gross or net sales proceeds.

3. **General Merchandise Auction.** This auction consists of conducting multiple online general merchandise auctions throughout the year at the discretion of the BSSO on behalf of various state agencies.

4. **Right of Way Sales.** This auction consists of conducting multiple online right of way sales obtained as a result of right of way acquisitions.

5. **Special Sales.** This auction consists of conducting any additional types of online auctions throughout the term of the Contract as needed by BSSO.

6. **Public (on-site) Auction.** This auction consists of conducting periodic on-site auctions anywhere throughout the Commonwealth. Auctioneer must be visible to all registered bidders and must use a public wireless system.

Offeror Response

D. Webcasting Capabilities. The selected Offeror shall have the ability to webcast auctions simultaneously during public auctions.

E. Online Auction Tool. The selected Offeror shall provide an online auction tool (hosted by the selected Offeror) for the purpose of selling state surplus property. The online auction tool must encompass all aspects of online sales, including but not limited to bidder registration, placement of bids, receipt of electronic communication, payment option, etc. At a minimum, the auction tool must meet the following requirements:

1. Buyer-facing components

   a. Allow for bidders to enter their maximum price they are willing to pay in an auction for a piece of surplus property, and automatically place incremental bids on the bidder's behalf as necessary up to the maximum price.

   b. Allow bidders to sign up to receive automatic notifications when certain types of surplus property are uploaded to the website and made available for sale/auction.

   c. Provide browse and search features, including basic and advanced search functionality.

   d. Provide automatic notification to buyers who submitted a winning bid for auctions.

2. Seller-facing components

   a. Allow for pictures, conditions, descriptions (including free-form text, categories, and UNSPS commodity codes), minimum reserves, and prices of surplus property for sale to be uploaded and/or updated at any time. Permissible formats or types of upload files should include comma separated values (CSV) files.

   b. Automatically track surplus property from the time it is entered into the system until the surplus property is disposed of.

   c. Set time frames for sales or auctions.

   d. Limit what types of users can see or purchase certain pieces of surplus property (i.e., Private Heavy Equipment for Municipal Auctions)

e. Ability to offer any asset to the next highest bidder due to events such as bidder default.

f. Display the terms and conditions of the sale and obtain buyers' agreement to the terms and conditions of sale by digital signature prior to allowing them to purchase or participate in auctions for surplus property.

g. The ability to withdraw, cancel or remove an item from a lot during an event. Identify how the buyers get notified of changes to an event.

h. The ability to block individual buyers from participating in auctions or buying surplus property.

i. Ability for user to reset login/password credentials

Offeror Response

F. Meetings. The selected Offeror shall meet with DGS on an annual basis to go over its marketing plan strategy for the new year (refer to I-4, C.) and to assess the progress of the overall program. The selected Offeror shall provide an annual report to BSSO and the Contract Administrator at least 1 week prior to the meeting.

Offeror Response

G. Disaster Recovery (DR).

1. The selected Offeror must employ disaster recovery procedures to assist in preventing interruption in the use of the solution. Offeror(s) must describe its disaster recovery plans for maintaining operations during disasters. Offeror must provide detailed information regarding its DR systems, architecture/frameworks, capabilities, governance, and procedures.

2. Offeror(s) must describe the frequency of testing of its DR plans. Offeror(s) must describe how its disaster recovery plans support compliance with the required system availability.

Offeror Response

H. Emergency Preparedness.

To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

1. Describe how you anticipate such a crisis will impact your operations.

2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:

   a. Employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)

   b. Identified essential business functions and key employees (within your organization) necessary to carry them out

   c. Contingency plans for:

      i. How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness.

      ii. How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.

   d. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.

   e. How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

Offeror Response

I-6. Additional Contract Terms.

All references to a "Purchase Order" in the contract terms and conditions contained in **Buyer Attachment** section shall be substituted with either the term Contract, or the phrase "formal written notice to proceed" as appropriate.

I-7. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions contained in the **Buyer Attachments** section that it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror

shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for this RFP. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in the terms and conditions contained in the **Buyer Attachment** section. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in the terms and conditions contained in the **Buyer Attachment** section or to other provisions of the RFP.

Offeror Response

IT CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS.

(a) Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this Contract, that entity shall also be identified as "Agency."

(b) Commonwealth: The Commonwealth of Pennsylvania.

(c) Contract: The integrated documents as defined in **Section 11, Order of Precedence**.

(d) Contracting Officer. The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.

(e) Data. Any recorded information, regardless of the form, the media on which it is recorded or the method of recording.

(f) Days. Calendar days, unless specifically indicated otherwise.

(g) Developed Works. All of the fully or partially complete property, whether tangible or intangible prepared by the Contractor for ownership by the Commonwealth in fulfillment of the requirements of this Contract, including but not limited to: documents; sketches; drawings; designs; works; papers; files; reports; computer programs; documentation; data; records; software; samples; literary works and other works of authorship. Developed Works include all material necessary to exercise all attributes of ownership or of the license granted in **Section 45, Ownership of Developed Works**.

(h) Documentation. All materials required to support and convey information about the Services or Supplies required by this Contract, including, but not limited to: written reports and analyses; diagrams maps, logical and physical designs; system designs; computer programs; flow charts; and disks and/or other machine-readable storage media.

(i) Expiration Date: The last valid date of the Contract, as indicated in the Contract documents to which these IT Contract Terms and Conditions are attached.

(j) Purchase Order: Written authorization for Contractor to proceed to furnish Supplies or Services.

(k) Proposal. Contractor's response to a Solicitation issued by the Issuing Agency, as accepted by the Commonwealth.

(l) Services. All Contractor activity necessary to satisfy the Contract.

(m) Software. A collection of one or more programs, databases or microprograms fixed in any tangible medium of expression that comprises a sequence of instructions (source code) to carry out a process in, or convertible into, a form executable by an electronic computer (object code).

(n) Solicitation. A document issued by the Commonwealth to procure Services or Supplies, e.g., Request for Proposal; Request for Quotation; Supplier Pricing Request; or Invitation for Bid, including all attachments and addenda thereto.

(o) Supplies. All tangible and intangible property including, but not limited to, materials and equipment provided by the Contractor to satisfy the Contract.

2. TERM OF CONTRACT

(a) Term. The term of the Contract shall commence on the Effective Date and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

(b) Effective Date: The Effective Date shall be one of the following:

(i) the date the Contract has been fully executed by the Contractor and all approvals required by Commonwealth contracting procedures have been obtained; or

(ii) the date stated in the Contract, whichever is later.

3. COMMENCEMENT OF PERFORMANCE

(a) General. The Contractor shall not commence performance and the Commonwealth shall not be liable to pay the Contractor for any supply furnished or work performed or expenses incurred, until both of the following have occurred:

(i) the Effective Date has occurred; and

(ii) the Contractor has received a Purchase Order or other written notice to proceed signed by the Contracting Officer.

(b) Prohibition Prior to Effective Date. No Commonwealth employee has the authority to verbally direct the commencement of any Service or delivery of any Supply under this Contract prior to the date performance may commence. The Contractor hereby waives any claim or cause of action for any Service performed or Supply delivered prior to the date performance may commence.

4. EXTENSION OF CONTRACT TERM

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions.

5. ELECTRONIC SIGNATURES

(a) The Contract and/or Purchase Orders may be electronically signed by the Commonwealth.

(i) Contract. "Fully Executed" at the top of the first page of the Contract output indicates that the signatures of all the individuals required to bind the Commonwealth to the terms of the Contract have been obtained. If the Contract output form does not have "Fully Executed" at the top of the first page, the Contract has not been fully executed.

(ii) Purchase Orders. The electronically-printed name of the Purchasing Agent on the Purchase Order indicates that all approvals required by Commonwealth contracting procedures have been obtained.

(b) The Commonwealth and the Contractor specifically agree as follows:

(i) Written signature not required. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

(ii) Validity; admissibility. The parties agree that no writing shall be required in order to make the Contract or Purchase Order legally binding, notwithstanding contrary requirements in any law or regulation. The parties hereby agree not to contest the validity or enforceability of the Contract executed electronically, or acknowledgement issued electronically, under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement executed or issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

(iii) Verification. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

6. PURCHASE ORDERS

(a) Purchase Orders. The Commonwealth may issue Purchase Orders against the Contract or issue a Purchase Order as the Contract. These Purchase Orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to, and including, the Expiration Date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

(b) Electronic transmission. Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor.

(c) Receipt. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of a Purchase Order.

(d) Received next business day. Purchase Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

(e) Commonwealth Purchasing Card. Purchase Orders under $10,000 in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number and expiration date of the card. The Contractor agrees to accept payment through the use of a Commonwealth Purchasing card.

7. CONTRACT SCOPE

The Contractor agrees to furnish the requested Services and Supplies to the Commonwealth as such Services and Supplies are defined in this Contract.

8. ACCESS TO COMMONWEALTH FACILITIES.

If the Contractor must perform work at a Commonwealth facility outside of the daily operational hours set forth by the Commonwealth, it must make arrangements with the Commonwealth to assure access to the facility and equipment. No additional payment will be made on the basis of lack of access.

9. NON-EXCLUSIVE CONTRACT

The Commonwealth reserves the right to purchase Services and Supplies within the scope of this Contract through other procurement methods whenever the Commonwealth deems it to be in its best interest.

10. INFORMATION TECHNOLOGY POLICIES

(a) General. The Contractor shall comply with the IT standards and policies issued by the Governor's Office of Administration, Office for Information Technology (located at http://www.oa.pa.gov/Policies/Pages/itp.aspx), including the accessibility standards set out in IT Policy ACC001, *Accessibility Policy*. The Contractor shall ensure that Services and Supplies procured under the Contract comply with the applicable standards. In the event such standards change during the Contractor's performance, and the Commonwealth requests that the Contractor comply with the changed standard, then any incremental costs incurred by the Contractor to comply with such changes shall be paid for pursuant to a change order to the Contract.

(b) Waiver. The Contractor may request a waiver from an ITP by providing detailed written justification as to why the ITP cannot be met. The Commonwealth may waive the ITP in whole, in part or conditionally, or require that the Contractor provide an acceptable alternative. Any Commonwealth waiver of the requirement must be in writing.

11. ORDER OF PRECEDENCE

If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence shall be:

(a) The documents containing the parties' signatures;

(b) The IT Contract Terms and Conditions;

(c) The Proposal; and

(d) The Solicitation.

12. CONTRACT INTEGRATION

(a) Final contract. This Contract constitutes the final, complete, and exclusive Contract between the parties, containing all the terms and conditions agreed to by the parties.

(b) Prior representations. All representations, understandings, promises, and agreements pertaining to the subject matter of this Contract made prior to or at the time this Contract is executed are superseded by this Contract.

(c) Conditions precedent. There are no conditions precedent to the performance of this Contract except as expressly set forth herein.

(d) Sole applicable terms. No contract terms or conditions are applicable to this Contract except as they are expressly set forth herein.

(e) Other terms unenforceable. The Contractor may not require the Commonwealth or any user of the Services or Supplies acquired within the scope of this Contract to sign, click through, or in any other way agree to any terms associated with use of or interaction with those Services and/or Supplies, unless the Commonwealth has approved the terms in writing in advance under this Contract, and the terms are consistent with this Contract. Further, changes to terms may be accomplished only by processes set out in this Contract; no quotations, invoices, business forms or other documentation, or terms referred to therein, shall become part of this Contract merely by their submission to the Commonwealth or their ordinary use in meeting the requirements of this Contract. Any terms imposed upon the Commonwealth or a user in contravention of this **Subsection 12(e)** must be removed at the direction of the Commonwealth, and shall not be enforced or enforceable against the Commonwealth or the user.

13. PERIOD OF PERFORMANCE

The Contractor, for the term of this Contract, shall complete all Services and provide all Supplies as specified under the terms of this Contract. In no event shall the Commonwealth be responsible or liable to pay for any Services or Supplies provided by the Contractor prior to the Effective Date, and the Contractor hereby waives any claim or cause of action for any such Services or Supplies.

14. INDEPENDENT PRIME CONTRACTOR

(a) Independent contractor. In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.

(b) Sole point of contact. The Contractor will be responsible for all Services and Supplies in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

15. SUBCONTRACTS

The Contractor may subcontract any portion of the Services or Supplies described in this Contract to third parties selected by Contractor and approved in writing by the Commonwealth, whose approval shall not be unreasonably withheld. Notwithstanding the above, if Contractor has disclosed the identity of subcontractor(s) together with the scope of work to be subcontracted in its Proposal, award of the Contract is deemed

approval of all named subcontractors and a separate approval is not required. The existence of any subcontract shall not change the obligations of Contractor to the Commonwealth under this Contract. Upon request of the Commonwealth, the Contractor must provide the Commonwealth with an un-redacted copy of the subcontract agreement between the Contractor and the subcontractor. The Commonwealth reserves the right, for good cause, to require that the Contractor remove a subcontractor from the project. The Commonwealth will not be responsible for any costs incurred by the Contractor in replacing the subcontractor if good cause exists.

16. OTHER CONTRACTORS

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its Services and/or its provision of Supplies with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This section shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this section as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

17. ENHANCED MINIMUM WAGE

(a) Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than $10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

(b) Adjustment. Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Subsection 17(a) above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of $0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

(c) Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

(i) exempt from the minimum wage under the Minimum Wage Act of 1968;

(ii) covered by a collective bargaining agreement;

(iii) required to be paid a higher wage under another state or federal law governing the services, including the *Prevailing Wage Act* and *Davis-Bacon Act*; or

(iv) required to be paid a higher wage under any state or local policy or ordinance.

(d) Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

(e) Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

(f) Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

(g) Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

18. COMPENSATION

(a) General. The Contractor shall be required to perform at the price(s) quoted in the Contract. All items shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for items supplied and Services performed to the satisfaction of the Commonwealth.

(b) Travel. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract. If not otherwise specified in the Contract, travel and related expenses shall be reimbursed in accordance with Management Directive 230.10 Amended, *Commonwealth Travel Policy*, and Manual 230.1, *Commonwealth Travel Procedures Manual*.

19. BILLING REQUIREMENTS

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

(a) Vendor name and "Remit to" address, including SAP Vendor number;

(b) Bank routing information, if ACH;

(c) SAP Purchase Order number;

(d) Delivery Address, including name of Commonwealth agency;

(e) Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);

(f) Quantity provided;

(g) Unit price;

(h) Price extension;

(i) Total price; and

(j) Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this section, and comply with the provisions located at http://www.budget.pa.gov/Programs/Pages/E-Invoicing.aspx, relating to the Commonwealth E-Invoicing Program, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

20. PAYMENT

(a) Payment Date. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is:

(i) the date on which payment is due under the terms of the Contract;

(ii) **thirty (30) days** after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or

(iii) the payment date specified on the invoice if later than the dates established by paragraphs (a)(i) and (ii), above.

(b) Delay; Interest. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made

within **fifteen (15) days** after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act of December 13, 1982, P.L. 1155, No. 266, 72 P. S. § 1507, (relating to interest penalties on Commonwealth accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40 (relating to interest penalties for late payments to qualified small business concerns).

(c) Payment should not be construed by the Contractor as acceptance of the Service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications.

(d) Electronic Payments

(i) The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within **ten** (**10) days** of award of the Contract, the Contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).

(ii) The Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.

(iii) It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

21. ASSIGNABILITY

(a) Subject to the terms and conditions of this **Section 21**, the Contract is binding upon the parties and their respective successors and assigns.

(b) The Contractor may not assign, in whole or in part, the Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Commonwealth, which consent may be withheld at the sole and absolute discretion of the Commonwealth.

(c) For the purposes of the Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, encumbrance, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

(d) Any assignment consented to by the Commonwealth shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

(e) Notwithstanding the foregoing, the Contractor may, without the consent of the Commonwealth, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Commonwealth together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of the Contract.

(f) A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, is not considered to be an assignment. The Contractor shall give the Commonwealth written notice of any such change of name.

22. INSPECTION AND ACCEPTANCE

(a) Developed Works and Services:

(i) Acceptance. Acceptance of any Developed Work or Service will occur in accordance with an acceptance plan (Acceptance Plan) submitted by the Contactor and approved by the Commonwealth. Upon approval of the Acceptance Plan by the Commonwealth, the Acceptance Plan becomes part of this Contract.

(ii) Software Acceptance Test Plan. For contracts where the development of Software, the configuration of Software or the modification of Software is being inspected and accepted, the Acceptance Plan must include a Software Acceptance Test Plan. The Software Acceptance Test Plan will provide for a final acceptance test, and may provide for interim acceptance tests. Each acceptance test will be designed to demonstrate that the Software conforms to the functional specifications, if any, and the requirements of this Contract. Contractor shall notify the Commonwealth when the Software is completed and ready for acceptance testing. The Commonwealth will not unreasonably delay commencement of acceptance testing.

(1) If software integration is required at the end of the project, as set out in the Solicitation, the Commonwealth's acceptance of the Software shall be final unless at the time of final acceptance, the Software does not meet the acceptance criteria set forth in the Contract.

(2) If software integration is not required at the end of the project, as set out in the Solicitation, the Commonwealth's acceptance of the Software shall be complete and final.

(iii) Certification of Completion. Contractor shall certify, in writing, to the Commonwealth when an item in the Acceptance Plan is completed and ready for acceptance. Unless otherwise agreed to by the Commonwealth in the Acceptance Plan, the acceptance period shall be **10 business days** for interim items and **30 business days** for final items. Following receipt of Contractor's certification of completion of an item, the Commonwealth shall, either:

(1) Provide the Contractor with Commonwealth's written acceptance of the work product; or

(2) Identify to Contractor, in writing, the failure of the work product to comply with the specifications, listing all such errors and omissions with reasonable detail.

(iv) Deemed Acceptance. If the Commonwealth fails to notify the Contractor in writing of any failures in the work product within the applicable acceptance period, the work product shall be deemed accepted.

(v) Correction upon Rejection. Upon the Contractor's receipt of the Commonwealth's written notice of rejection, which must identify the reasons for the failure of the work product to comply with the specifications, the Contractor shall have **15 business days**, or such other time as the Commonwealth and Contractor may agree is reasonable, within which to correct all such failures, and resubmit the corrected item, certifying to the Commonwealth, in writing, that the failures have been corrected, and that the items have been brought into compliance with the specifications. Upon receipt of such corrected and resubmitted items and certification, the Commonwealth shall have **30 business days** to test the corrected items to confirm that they are in compliance with the specifications. If the corrected items are in compliance with the specifications, then the Commonwealth shall provide the Contractor with its acceptance of the items in the completed milestone.

(vi) Options upon Continued Failure. If, in the opinion of the Commonwealth, the corrected items still contain material failures, the Commonwealth may either:

(1) Repeat the procedure set forth above; or

(2) Proceed with its rights under **Section 27, Termination**, except that the cure period set forth in **Section 27(c)** may be exercised in the Commonwealth's sole discretion.

(b) Supplies.

(i) Inspection prior to Acceptance. No Supplies received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the Supplies.

(ii) Defective Supplies. Any Supplies discovered to be defective or that fail to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Supplies or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection.

(1) The Contractor shall remove rejected item(s) from the premises without expense to the Commonwealth within **15 days** after notification.

(2) Rejected Supplies left longer than **30 days** will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the Supplies.

(3) Upon notice of rejection, the Contractor shall immediately replace all such rejected Supplies with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth may procure, in such manner as it determines, supplies similar or identical to the those that Contractor failed, neglected or refused to replace, and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

23. DEFAULT

(a) The Commonwealth may, subject to the provisions of **Section 24, Notice of Delays**, and **Section 65, Force Majeure**, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in **Section 27, Termination)** the whole or any part of this Contract for any of the following reasons:

(i) Failure to begin Services within the time specified in the Contract or as otherwise specified;

(ii) Failure to perform the Services with sufficient labor, equipment, or material to insure the completion of the specified Services in accordance with the Contract terms;

(iii) Unsatisfactory performance of the Services;

(iv) Failure to meet requirements within the time periods(s) specified in the Contract;

(v) Multiple failures over time of a single service level agreement or a pattern of failure over time of multiple service level agreements;

(vi) Failure to provide a Supply or Service that conforms with the specifications referenced in the Contract;

(vii) Failure or refusal to remove material, or remove, replace or correct any Supply rejected as defective or noncompliant;

(viii) Discontinuance of Services without approval;

(ix) Failure to resume a Service, which has been discontinued, within a reasonable time after notice to do so;

(x) Insolvency;

(xi) Assignment made for the benefit of creditors;

(xii) Failure or refusal, within **10 days** after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due subcontractors for materials furnished, labor supplied or performed, for equipment rentals or for utility services rendered;

(xiii) Failure to protect, repair or make good any damage or injury to property;

(xiv) Breach of any provision of this Contract;

(xv) Any breach by Contractor of the security standards or procedures of this Contract;

(xvi) Failure to comply with representations made in the Contractor's Proposal; or

(xvii) Failure to comply with applicable industry standards, customs and practice.

24. NOTICE OF DELAYS

Whenever the Contractor encounters any difficulty that delays or threatens to delay the timely performance of this Contract (including actual or potential labor disputes), the Contractor shall promptly give notice thereof in writing to the Commonwealth stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Commonwealth of any rights or remedies to which it is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay. If an extension of the delivery schedule is granted, it will be done consistent with **Section 26, Changes**.

25. CONDUCT OF SERVICES

(a) Following the Effective Date of the Contract, Contractor shall proceed diligently with all Services and shall perform such Services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

(b) In determining whether the Contractor has performed with due diligence under the Contract, it is agreed and understood that the Commonwealth may measure the amount and quality of the Contractor's effort against the representations made in the Contractor's Proposal. The Contractor's Services hereunder shall be monitored by the Commonwealth and the Commonwealth's designated representatives. If the Commonwealth reasonably determines that the Contractor has not performed with due diligence, the Commonwealth and the Contractor will attempt to reach agreement with respect to such matter. Failure of the Commonwealth or the Contractor to arrive at such mutual determinations shall be a dispute concerning a question of fact within the meaning of **Section 29, Contract Controversies**.

26. CHANGES

(a) At any time during the performance of the Contract, the Commonwealth or the Contractor may request a change to the Contract. Contractor will make reasonable efforts to investigate the impact of the change request on the price, timetable, specifications, and other terms and conditions of the Contract. If the Commonwealth is the requestor of the change, the Contractor will inform the Commonwealth of any charges for investigating the change request prior to incurring such charges. If the Commonwealth and the Contractor agree on the results of the investigation and any necessary changes to the Contract, the parties must complete and execute a change order to modify the Contract and implement the change. The change order will be evidenced by a writing in accordance with the Commonwealth's change order procedures. No work may begin on the change order until the Contractor has received the executed change order. If the

parties are not able to agree upon the results of the investigation or the necessary changes to the Contract, a Commonwealth-initiated change request will be implemented at Commonwealth's option and the Contractor shall perform the Services; and either party may elect to have the matter treated as a dispute between the parties under **Section 29, Contract Controversies**. During the pendency of any such dispute, Commonwealth shall pay to Contractor any undisputed amounts.

(b) Changes outside the scope of this Contract shall be accomplished through the Commonwealth's procurement procedures, and may result in an amended Contract or a new contract. No payment will be made for services outside of the scope of the Contract for which no amendment has been executed.

27. TERMINATION

(a) For Convenience

(i) The Commonwealth may terminate the Contract or a Purchase Order issued against the Contract, in whole or in part, without cause by giving Contractor **30 days'** prior written notice (Notice of Termination) whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth (Termination for Convenience). Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance under this Contract is terminated either in whole or in part and the date on which such termination becomes effective.

In the event of termination hereunder, Contractor shall receive payment for the following:

(1) all Services performed consistent with the terms of the Contract prior to the effective date of termination;

(2) all actual and reasonable costs incurred by Contractor as a result of the termination of the Contract; and

In no event shall the Contractor be paid for any loss of anticipated profit (by the Contractor or any subcontractor), loss of use of money, or administrative or overhead costs.

Failure to agree on any termination costs shall be a dispute handled in accordance with **Section 29, Contract Controversies**, of this Contract.

(ii) The Contractor shall cease Services as of the date set forth in the Notice of Termination, and shall be paid only for such Services as have already been satisfactorily rendered up to and including the termination date set forth in

said notice, or as may be otherwise provided for in said Notice of Termination, and for such services performed during the **30-day** notice period, if such services are requested by the Commonwealth, for the collection, assembling, and transmitting to the Commonwealth of at least all materials, manuals, magnetic media, studies, drawings, computations, maps, supplies, and survey notes including field books, which were obtained, prepared, or developed as part of the Services required under this Contract.

(iii) The above shall not be deemed to limit the Commonwealth's right to terminate this Contract for any reason as permitted by the other provisions of this Contract, or under applicable law.

(b) Non-Appropriation

Any payment obligation or portion thereof of the Commonwealth created by this Contract is conditioned upon the availability and appropriation of funds. When funds (state or federal) are not appropriated or otherwise made available to support continuation of performance or full performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract in whole or in part. The Contractor shall be reimbursed in the same manner as that described in **Subsection 27(a)** to the extent that appropriated funds are available.

(c) Default

The Commonwealth may, in addition to its other rights under this Contract, terminate this Contract in whole or in part by providing written notice of default to the Contractor if the Contractor materially fails to perform its obligations under the Contract and does not cure such failure within **30 days** or, if a cure within such period is not practical, commence a good faith effort to cure such failure to perform within the specified period or such longer period as the Commonwealth may specify in the written notice specifying such failure, and diligently and continuously proceed to complete the cure. The Contracting Officer shall provide any notice of default or written cure notice for Contract terminations.

(i) Subject to **Section 37, Limitation of Liability**, in the event the Commonwealth terminates this Contract in whole or in part as provided in this **Subsection 27(c)**, the Commonwealth may procure services similar to those so terminated, and the Contractor, in addition to liability for any liquidated damages, shall be liable to the Commonwealth for the difference between the Contract price for the terminated portion of the Services and the actual and reasonable cost (but in no event greater than the fair market value) of producing substitute equivalent services for the terminated Services, provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this **Section 27.**

(ii) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control of the Contractor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism and unusually severe weather. The Contractor shall notify the Contracting Officer promptly in writing of its inability to perform because of a cause beyond the control of the Contractor.

(iii) Nothing in this **Subsection 27(c)** shall abridge the Commonwealth's right to suspend, debar or take other administrative action against the Contractor.

(iv) If it is later determined that the Commonwealth erred in terminating the Contract for default, then the Contract shall be deemed to have been terminated for convenience under **Subsection 27(a)**.

(v) If this Contract is terminated as provided by this **Subsection 27(c)**, the Commonwealth may, in addition to any other rights provided in this **Subsection 27(c)**, and subject law and to other applicable provisions of this Contract, require the Contractor to deliver to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such Software, Data, Developed Works, Documentation and other materials as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated.

(d) The rights and remedies of the Commonwealth provided in this **Section 27** shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

(e) The Commonwealth's failure to exercise any rights or remedies provided in this **Section 27** shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

(f) Following exhaustion of the Contractor's administrative remedies as set forth in **Section 29, Contract Controversies**, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

28. BACKGROUND CHECKS

(a) The Contractor, at its expense, must arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth IT facilities, either through on-site access or

through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx. The background check must be conducted prior to initial access and on an annual basis thereafter.

(b) Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that an employee of the Contractor or an employee of a subcontractor of the Contractor has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this **Section 28** on more than one occasion or Contractor's failure to cure any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.

(c) The Commonwealth specifically reserves the right of the Commonwealth to conduct or require background checks over and above that described herein.

29. CONTRACT CONTROVERSIES

(a) Pursuant to Section 1712.1 of the *Commonwealth Procurement Code*, 62 Pa. C.S. § 1712.1, in the event of a claim arising from the Contract or a purchase order, the Contractor, within **six (6) months** after the cause of action accrues, must file a written claim with the Contracting Officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within **60 days** thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program, http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx.

(b) If the Contractor or the Contracting Officer requests mediation, and the other party agrees, the Contracting Officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required **120 days** after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the Contracting Officer shall review timely-filed

claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within **120 days** of the receipt of the claim, unless extended by consent of the Contracting Officer and the Contractor. The Contracting Officer shall send his/her written determination to the Contractor. If the Contracting Officer fails to issue a final determination within the **120 days** (unless extended by consent of the parties), the claim shall be deemed denied. The Contracting Officer's determination shall be the final order of the purchasing agency.

(c) Within **15 days** of the mailing date of the determination denying a claim or within **135 days** of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract or purchase order in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract or purchase order.

30. CONFIDENTIALITY, PRIVACY AND COMPLIANCE

(a) General. The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. Unless the context otherwise clearly indicates the need for confidentiality, information is deemed confidential only when the party claiming confidentiality designates the information as "confidential" in such a way as to give notice to the other party (for example, notice may be communicated by describing the information, and the specifications around its use or disclosure, in the Solicitation or in the Proposal). Neither party may assert that information owned by the other party is such party's confidential information. Notwithstanding the foregoing, all Data provided by, or collected, processed, or created on behalf of the Commonwealth is Confidential Information unless otherwise indicated in writing.

(b) Copying; Disclosure; Termination. The parties agree that confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon expiration or termination of this Contract or any license granted hereunder, the receiving party will return to the disclosing party, or certify as to the destruction of, all confidential information in the receiving party's possession, other than one copy (where permitted by law or regulation), which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions. A material breach of

these requirements may result in termination for default pursuant to **Subsection 27(c)**, in addition to other remedies available to the non-breaching party.

(c) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this **Section 30** do not apply to information:

(i) already known to the recipient at the time of disclosure other than through the contractual relationship;

(ii) independently generated by the recipient and not derived from the information supplied by the disclosing party;

(iii) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;

(iv) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or

(v) required to be disclosed by the recipient by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(d) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

(i) Prepare and submit an un-redacted version of the appropriate document;

(ii) Prepare and submit a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret. The Contractor shall use a redaction program that ensures the information is permanently and irreversibly redacted; and

(iii) Prepare and submit a signed written statement that identifies confidential or proprietary information or trade secrets and that states:

(1) the attached material contains confidential or proprietary information or trade secrets;

(2) the Contractor is submitting the material in both redacted and un-redacted format, if possible, in accordance with 65 P.S. § 67.707(b); and

(3) the Contractor is requesting that the material be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

(e) Disclosure of Recipient or Beneficiary Information Prohibited. The Contractor shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from Services under the Contract for any purpose not connected with the Contractor's responsibilities, except with consent pursuant to applicable law or regulations. All material associated with direct disclosures of this kind (including the disclosed information) shall be provided to the Commonwealth prior to the direct disclosure.

(f) Compliance with Laws. Contractor will comply with all applicable laws or regulations related to the use and disclosure of information, including information that constitutes Protected Health Information (PHI) as defined by the *Health Insurance Portability and Accountability Act* (HIPAA). Further, by signing this Contract, the Contractor agrees to the terms of the Business Associate Agreement, which is incorporated into this Contract as Exhibit A, or as otherwise negotiated by the Contractor and the purchasing agency. It is understood that Exhibit A is only applicable if and to the extent indicated in the Contract.

(g) Additional Provisions. Additional privacy and confidentiality requirements may be specified in the Contract.

(h) Restrictions on Use. All Data and all intellectual property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract shall be used only for the work of this Contract. No Data, intellectual property, Documentation or Developed Works may be used, disclosed, or otherwise opened for access by or to the Contractor or any third party unless directly related to and necessary under the Contract.

31. PCI SECURITY COMPLIANCE

(a) General. By providing the Services under this Contract, the Contractor may create, receive, or have access to credit card records or record systems containing cardholder data including credit card numbers (collectively the "Cardholder Data"). Contractor shall comply with the Payment Card Industry Data Security Standard ("PCI DSS") requirements for Cardholder Data that are prescribed by the payment brands (including, but not limited to, Visa, MasterCard, American Express, and Discover), as they may be amended from time to time. Contractor acknowledges and agrees that Cardholder Data may only be used for assisting in

completing a card transaction, for fraud control services, for loyalty programs, or as specifically agreed to by the payment brands, for purposes of this Contract or as required by applicable law or regulations.

(b) Compliance with Standards. Contractor shall conform to and comply with the PCI DSS standards as defined by The PCI Security Standards Council at: https://www.pcisecuritystandards.org/security_standards/index.php. Contractor shall monitor these PCI DSS standards and will promptly notify the Commonwealth if its practices should not conform to such standards. Contractor shall provide a letter of certification to attest to meeting this requirement within **seven (7) days** of Contractor's receipt of the annual PCI DSS compliance report.

32. DATA BREACH OR LOSS

(a) Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification laws, including but not limited to the *Breach of Personal Information Notification Act*, Act of December 22, 2005, P.L. 474, No. 94,as amended, 73 P.S. §§ 2301—2329.

(b) For Data and Confidential Information in the possession, custody, and control of the Contractor or its employees, agents, and/or subcontractors:

(i) The Contractor shall report unauthorized access, use, release, loss, destruction or disclosure of Data or Confidential Information ("Incident") to the Commonwealth within **two (2) hours** of when the Contractor knows of or reasonably suspects such Incident, and the Contractor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such Data or Confidential Information.

(ii) Contractor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of an Incident. The notice must be pre-approved by the Commonwealth. At the Commonwealth's request, Contractor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any Incident requiring notice.

(iii) Contractor shall be solely responsible for any costs, losses, fines, or damages incurred by the Commonwealth due to Incidents.

(c) As to Data and Confidential Information fully or partially in the possession, custody, or control of the Contractor and the Commonwealth, the Contractor shall diligently perform all of the duties required in this **Section 32** in cooperation with the Commonwealth, until the time at which a determination of responsibility for the Incident, and for subsequent action regarding the Incident, is made final.

33. INSURANCE

(a) General. Unless otherwise indicated in the Solicitation, the Contractor shall maintain at its expense and require its agents, contractors and subcontractors to procure and maintain, as appropriate, the following types and amounts of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth:

(i) Workers' Compensation Insurance for all of the Contractor's employees and those of any subcontractor engaged in performing Services in accordance with the *Worker's Compensation Act*, Act of June 2, 1915, P.L. 736, No. 338, reenacted and amended June 21, 1939, P.L. 520, No. 281, as amended, 77 P.S.§§ 1—2708.

(ii) Commercial general liability insurance providing coverage from claims for damages for personal injury, death and property of others, including loss of use resulting from any property damage which may arise from its operations under this Contract, whether such operation be by the Contractor, by any agent, contractor or subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than $500,000 per person and $2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured, as its interests may appear. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth as an additional insured against the insurance coverages in regard to the Services performed for or Supplies provided to the Commonwealth.

(iii) Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of $2,000,000, per accident/occurrence/annual aggregate.

(iv) Professional Liability/Errors and Omissions Insurance in the amount of $2,000,000, per accident/occurrence/annual aggregate, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.

(v) Network/Cyber Liability Insurance (including coverage for Professional and Technology-Based Services Liability if not covered under Company's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of $3,000,000, per accident/occurrence/annual aggregate,

covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.

(vi) Completed Operations Insurance in the amount of $2,000,000, per accident/occurrence/annual aggregate, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.

(vii) Comprehensive crime insurance in an amount of not less than $5,000,000 per claim.

(b) Certificate of Insurance. Prior to commencing Services under the Contract, and annually thereafter, the Contractor shall provide the Commonwealth with a copy of each current certificate of insurance required by this section. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed in such a way to cause the coverage to fail to comply with the requirements of this section until at least **15 days'** prior written notice has been given to the Commonwealth. Such cancellation or change shall not relieve the Contractor of its continuing obligation to maintain insurance coverage in accordance with this section.

(c) Insurance coverage length. The Contractor agrees to maintain such insurance for the life of the Contract.

34. CONTRACTOR RESPONSIBILITY PROGRAM

(a) The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.

(b) The Contractor must also certify, in writing, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.

(c) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within fifteen **(15) days** of the date of suspension or debarment.

(d) The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

(e) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

(f) The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at http://www.dgs.pa.gov or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No. (717) 783-6472
FAX No. (717) 787-9138

35. OFFSET PROVISION FOR COMMONWEALTH CONTRACTS

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

36. TAXES-FEDERAL, STATE, AND LOCAL

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23-7400001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this **Section 36** is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

37. LIMITATION OF LIABILITY

(a) General. The Contractor's liability to the Commonwealth under this Contract shall be limited to the greater of $250,000 or the value of this Contract (including any amendments). This limitation will apply, except as otherwise stated in this **Section 37**, regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not, however, apply to any damages:

(i) for bodily injury;

(ii) for death;

(iii) for intentional injury;

(iv) for damage to real property or tangible personal property for which the Contractor is legally liable;

(v) under **Section 41, Patent, Copyright, Trademark and Trade Secret Protection**;

(vi) under **Section 32, Data Breach or Loss**; or

(vii) under **Section 40, Virus, Malicious, Mischievous or Destructive Programming**.

(b) The Contractor will not be liable for consequential or incidental damages, except for damages as set forth in **Section 37(a)(i)—(vii),** or as otherwise specified in the Contract.

38. COMMONWEALTH HELD HARMLESS

(a) The Contractor shall indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. § 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

(b) Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

39. SOVEREIGN IMMUNITY

No provision of this Contract may be construed to waive or limit the sovereign immunity of the Commonwealth of Pennsylvania or its governmental sub-units.

40. VIRUS, MALICIOUS, MISCHIEVOUS OR DESTRUCTIVE PROGRAMMING

(a) The Contractor shall be liable for any damages incurred by the Commonwealth if the Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Commonwealth's software or computer networks and has failed to comply with the Commonwealth software security standards. The Commonwealth must demonstrate that the Contractor or any of its employees, subcontractors or consultants introduced the virus or malicious, mischievous or destructive programming. The Contractor's liability shall cease if the Commonwealth has not fully complied with its own software security standards.

(b) The Contractor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that results from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.).

(c) In the event of destruction or modification of Software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages.

(d) The Contractor shall be responsible for reviewing Commonwealth software security standards and complying with those standards.

(e) The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide Services to the Commonwealth for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be

disconnected and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made.

(f) The Contractor may use the anti-virus software used by the Commonwealth to protect Contractor's computing devices used in the course of providing services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.

(g) The Commonwealth will not be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.

41. PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET PROTECTION

(a) The Contractor shall hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States or foreign patents, copyrights, or trademarks, or for a misappropriation of trade secrets arising out of performance of this Contract, including all work, services, materials, reports, studies, and computer programs provided by the Contractor, and in any such suit or proceeding will satisfy any final award for such infringement, including costs. The Commonwealth agrees to give Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. § 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG, however, in its sole discretion and under the terms it deems appropriate, may delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits. No settlement that prevents the Commonwealth from continuing to use the Developed Works as provided herein shall be made without the Commonwealth's prior written consent. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Contractor that, in the event it requests that the Commonwealth provide support to the Contractor in defending any such claim, the Contractor shall reimburse the Commonwealth for all expenses (including attorneys' fees, if such are made necessary by the Contractor's request) incurred by the Commonwealth for such support. If OAG does not delegate the defense of the matter, the Contractor's obligation to indemnify ceases. The Contractor, at its expense, will provide whatever cooperation OAG requests in the defense of the suit.

(b) The Contractor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Contractor certifies that, in all respects applicable to this Contract, it has exercised and will continue to exercise due diligence to ensure that all works produced under this Contract do not infringe on the patents, copyrights, trademarks, trade secrets or other proprietary interests of any kind which may be held by third parties. The Contractor also agrees to certify that work produced for the Commonwealth under this contract shall be free and clear from all claims of any nature.

(c) If the defense of the suit is delegated to the Contractor, the Contractor shall pay all damages and costs awarded therein against the Commonwealth. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

(d) If, in the Contractor's opinion, the products, materials, reports, studies, or computer programs furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, or trademark, or for a misappropriation of trade secret, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, at its option and expense, substitute functional equivalents for the alleged infringing products, materials, reports, studies, or computer programs or, at the Contractor's option and expense, obtain the rights for the Commonwealth to continue the use of such products, materials, reports, studies, or computer programs.

(e) If any of the products, materials, reports, studies, or computer programs provided by the Contractor are in such suit or proceeding held to constitute infringement and the use or publication thereof is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing products, materials, reports, studies, or computer programs, replace them with non-infringing items, or modify them so that they are no longer infringing.

(f) If the Contractor is unable to do any of the preceding, the Contractor agrees to pay the Commonwealth:

(i) any amounts paid by the Commonwealth less a reasonable amount based on the acceptance and use of the deliverable;

(ii) any license fee less an amount for the period of usage of any software; and

(iii) the prorated portion of any service fees representing the time remaining in any period of service for which payment was made.

(g) Notwithstanding the above, the Contractor shall have no obligation for:

(i) modification of any product, service, or deliverable provided by the Commonwealth;

(ii) any material provided by the Commonwealth to the Contractor and incorporated into, or used to prepare, a product, service, or deliverable;

(iii) use of the product, service, or deliverable in other than its specified operating environment;

(iv) the combination, operation, or use of the product, service, or deliverable with other products, services, or deliverables not provided by the Contractor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Contractor did not provide;

(v) infringement of a non-Contractor product alone;

(vi) the Commonwealth's distribution, marketing or use beyond the scope contemplated by the Contract; or

(vii) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Contractor at no charge.

(h) The obligation to indemnify the Commonwealth, under the terms of this Section, shall be the Contractor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

42. CONTRACT CONSTRUCTION

The provisions of this Contract shall be construed in accordance with the provisions of all applicable laws and regulations of the Commonwealth. However, by executing this Contract, the Contractor agrees that it has and will continue to abide by the intellectual property laws and regulations of the United States of America.

43. USE OF CONTRACTOR AND THIRD PARTY PROPERTY

(a) Definitions.

(i) "Contractor Property" refers to Contractor-owned tangible and intangible property.

(ii) "Third Party" refers to a party that licenses its property to Contractor for use under this Contract.

(iii) "Third Party Property" refers to property licensed by the Contractor for use in its work under this Contract.

(b) Contractor Property shall remain the sole and exclusive property of the Contractor. Third Party Property shall remain the sole and exclusive property of the Third Party. The Commonwealth acquires rights to the Contractor Property and Third Party Property as set forth in this Contract.

(i) Where the Contractor Property or Third Party Property is integrated into the Supplies or Services which are not Developed Works), or the Contractor Property is otherwise necessary for the Commonwealth to attain the full benefit of the Supplies or Services in accordance with the terms of the Contract, the Contractor hereby grants to the Commonwealth a non-exclusive, fully-paid up, worldwide license to use the Contractor Property as necessary to meet the requirements of the Contract, including the rights to reproduce, distribute, publicly perform, display and create derivative works of the Contractor Property. These rights are granted for a duration and to an extent necessary to meet the requirements under this Contract. If the Contractor requires a separate license agreement, such license terms shall include the aforementioned rights, be acceptable to the Commonwealth and include the applicable provisions set forth in these terms at **Exhibit B, Software License Requirements Agreement Template**.

(ii) If Third Party Property is integrated into the Supplies or Services which are not Developed Works, or the Third Party Property is otherwise necessary for the Commonwealth to attain the full benefit of the Supplies or Services in accordance with the terms of the Contract, the Contractor shall gain the written approval of the Commonwealth prior to the use of the Third Party Property or the integration of the Third Party Property into the Supplies or Services. Third Party Property approved by the Commonwealth is hereby licensed to the Commonwealth as necessary to meet the Contract requirements.

(1) If the Third Party requires a separate license agreement, the license terms shall be acceptable to the Commonwealth and include the applicable provisions set forth in these terms at Exhibit B, Software License Requirements Agreement Template.

(2) If the use or integration of the Third Party Property is not approved in writing under this Section, the Third Party Property shall be deemed to be licensed under **Paragraph 43(b)(i)** above.

(iii) If the Contract expires or is terminated for default pursuant to **Section 27(c)** before the Contract requirements are complete, all rights are granted for a duration and for purposes necessary to facilitate Commonwealth's or a Commonwealth-approved vendor's completion of the Supplies, Services or Developed Works under this Contract. The Contractor, in the form

used by Contractor in connection with the Supplies, Services, or Developed Works, shall deliver to Commonwealth the object code version of such Contractor Property, the Third Party Property and associated licenses immediately prior to such expiration or termination to allow the Commonwealth to complete such work.

(iv) Where third party users are reasonably anticipated by the Contract, all users are granted the right to access and use Contractor Property for the purposes of and within the scope indicated in the Contract.

(c) The Commonwealth will limit its agents and contractors' use and disclosure of the Contractor Property as necessary to perform work on behalf of the Commonwealth.

(d) The parties agree that the Commonwealth, by acknowledging Contractor Property, does not agree to any terms and conditions of the Contractor Property agreements that are inconsistent with or supplemental to this Contract.

(e) Reports: When a report is provided under this Contract, but was not developed specifically for the Commonwealth under this Contract, the ownership of the report will remain with the Contractor, provided, however, that the Commonwealth has the right to use, copy and distribute the report within the executive agencies of the Commonwealth.

44. USE OF COMMONWEALTH PROPERTY

"Commonwealth Property" refers to Commonwealth-owned Software, Data and property (including intellectual property) and third party owned Software and property (including intellectual property) licensed to the Commonwealth.

(a) Confidentiality of Commonwealth Property. All Commonwealth Property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract shall be considered confidential information under Section 30, Confidentiality, Privacy, and Compliance.

(b) License grant and restrictions. During the term of this Contract, Commonwealth grants to Contractor and its subcontractors for the limited purpose of providing the Services covered under this Contract, a limited, nonexclusive, nontransferable, royalty-free right (subject to the terms of any third party agreement to which the Commonwealth is a party) to access, use, reproduce, and modify Commonwealth Property in accordance with the terms of the Contract. The Commonwealth's license to Contractor is limited by the terms of this Contract.

(i) The Contractor hereby assigns to the Commonwealth its rights, if any, in any derivative works resulting from Contractor's modification of the

Commonwealth Intellectual Property. Contractor agrees to execute any documents required to evidence this assignment and to waive any moral rights and rights of attribution provided for in Section 106A of Title 17 of the United States Code, the *Copyright Act of 1976,* as amended.

(ii) Neither Contractor nor any of its subcontractors may decompile or reverse engineer, or attempt to decompile or reverse engineer, any of the Commonwealth Intellectual Property. Commonwealth hereby represents that it has the authority to provide the license grant and rights set forth in this **Section 44**.

(c) Reservation of rights. All rights, not expressly granted here to Contractor are reserved by the Commonwealth.

(d) Termination of Commonwealth license grant.

(i) Rights Cease: Upon the expiration or termination for any reason of Contractor's obligation to provide the Services under this Contract, all rights granted to Contractor under this **Section 44** shall immediately cease.

(ii) Return Commonwealth Property: Contractor shall, at no cost to Commonwealth, deliver to Commonwealth all of the Commonwealth Intellectual Property (including any related source code then in Contractor's possession or under its control) in the form in use as of the Effective Date of such expiration or termination (except that Commonwealth Data shall be turned over in a form acceptable to the Commonwealth).

(iii) List of utilized Commonwealth Property/Destruction: Within **15 days** after termination, Contractor shall provide the Commonwealth with a current copy of the list of Commonwealth Intellectual Property in use as of the date of such expiration or termination. Concurrently therewith, Contractor shall destroy or erase all other copies of any of the Commonwealth Software then in Contractor's possession or under its control unless otherwise instructed by Commonwealth, in writing; provided, however, that Contractor may retain one archival copy of such Commonwealth Software and tools, until final resolution of any actively asserted pending disputes between the Parties, such retention being for the sole purpose of resolving such disputes.

(e) Effect of license grant termination. Consistent with the provisions of this **Section 44**, Contractor shall refrain from manufacturing, copying, marketing, distributing or using any Commonwealth Software or Commonwealth Tools or any other work which incorporates the Commonwealth Software or Commonwealth Tools.

(f) Commonwealth Property Protection.

(i) Contractor acknowledges Commonwealth's exclusive right, title and interest, including without limitation copyright and trademark rights, in and to Commonwealth Data, Commonwealth Software, Commonwealth Tools and the Developed Works developed under the provisions of this Contract, and Contractor shall not, directly or indirectly, do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of said right, title, and interest, and shall not use or disclose the Commonwealth Data, Commonwealth Software, Commonwealth Tools or the Developed Works without Commonwealth's written consent, which consent may be withheld by the Commonwealth for any reason.

(ii) Contractor shall not, in any manner, represent that Contractor has any ownership interest in the Commonwealth Data, Commonwealth Software, Commonwealth Tools, or the Developed Works.

45. OWNERSHIP OF DEVELOPED WORKS

Unless otherwise specified in the Contract's Statement of Work, ownership of all Developed Works shall be in accordance with the provisions set forth in this **Section 45**.

(a) Rules for usage for Developed Works.

(i) Property of Contractor: If Developed Works modify, improve, contain, or enhance application software programs or other materials generally licensed by the Contractor, then such Developed Works shall be the property of the Contractor, and Contractor hereby grants Commonwealth an irrevocable, nonexclusive, worldwide, fully paid-up license (to include source code and relevant documentation) in perpetuity to use, modify, execute, reproduce, display, perform, prepare derivative works from and distribute, within the Commonwealth, such Developed Works.

(1) For purposes of distribution under the license grant created by this **Section 45**, Commonwealth includes any government agency, department, instrumentality, division, unit or other office that is part of the Commonwealth of Pennsylvania, together with the State System of Higher Education (including any of its universities), any county, borough, commonwealth, city, municipality, town, township special purpose district, or other similar type of governmental instrumentality located within the geographical boundaries of the Commonwealth of Pennsylvania.

(2) If federal funds are used in creation of the Developed Works, the Commonwealth also includes any other state government as well as the federal government.

(ii) Property of Commonwealth/licensor: If the Developed Works modify, improve or enhance application software or other materials not licensed to the Commonwealth by the Contractor, then such modifications, improvements and enhancements shall be the property of the Commonwealth or its licensor.

(b) Copyright Ownership.

(i) Works made for hire; general: Except as indicated in **Paragraph 45(a)(i)**, above, Developed Works developed as part of the scope of work for the Project, including Developed Works developed by subcontractors, are the sole and exclusive property of the Commonwealth and shall be considered "works made for hire" under the *Copyright Act of 1976*, as amended, 17 United States Code.

(ii) Assignment: In the event that the Developed Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, Contractor agrees to assign and, upon their authorship or creation, expressly and automatically assigns, all copyright interests, proprietary rights, trade secrets, and other right, title, and interest in and to such Developed Works to Commonwealth. Contractor further agrees that it will have its subcontractors assign, and upon their authorship or creation, expressly and automatically assigns all copyright interest, proprietary rights, trade secrets, and other right, title, and interest in and to the Developed Works to the Commonwealth.

(iii) Rights to Commonwealth: Commonwealth shall have all rights accorded an owner of copyright under the United States copyright laws including, but not limited to, the exclusive right to reproduce the Developed Works in multiple copies, the right to distribute copies by sales or other transfers, the right to register all copyrights in its own name as author in the United States and in foreign countries, the right to prepare derivative works based upon the Developed Works and the right to display the Developed Works.

(iv) Subcontracts: The Contractor further agrees that it will include the requirements of this **Section 45** in any subcontractor or other agreement with third parties who in any way participate in the creation or development of Developed Works.

(v) Completion or termination of Contract: Upon completion or termination of this Contract, Developed Works, or completed portions thereof, shall immediately be delivered by Contractor to the Commonwealth.

(vi) Warranty of noninfringement: Contractor represents and warrants that the Developed Works are original and do not infringe any copyright, patent,

trademark, or other intellectual property right of any third party and are in conformance with the intellectual property laws and regulations of the United States.

(c) Patent ownership. Contractor and its subcontractors shall retain ownership to patentable items, patents, processes, inventions or discoveries (collectively, the Patentable Items) made by the Contractor during the performance of this Contract. Notwithstanding the foregoing, the Commonwealth shall be granted a nonexclusive, nontransferable, royalty free license to use or practice the Patentable Items. Commonwealth may disclose to third parties any such Patentable Items made by Contractor or any of its subcontractors under the scope of work for the Project that have been previously publicly disclosed. Commonwealth understands and agrees that any third party disclosure will not confer any license to such Patentable Items.

(d) Federal government interests. Certain funding under this Contract may be provided by the federal government. Accordingly, the rights to Developed Works or Patentable Items of Contractors or subcontractors hereunder will be further subject to government rights as set forth in 37 C.F.R. § 401, as amended, and other applicable law or regulations.

(e) Usage rights. Except as otherwise covered by this **Section 45**, either Party, in the ordinary course of conducting business, may use any ideas, concepts, know-how, methodologies, processes, components, technologies, algorithms, designs, modules or techniques relating to the Services.

(f) Contractor's copyright notice obligations. Contractor will affix the following Copyright Notice to the Developed Works developed under this **Section 45** and all accompanying documentation: "*Copyright © [year] by the Commonwealth of Pennsylvania. All Rights Reserved*." This notice shall appear on all versions of the Developed Works delivered under this Contract and any associated documentation. It shall also be programmed into any and all Developed Works delivered hereunder so that it appears at the beginning of all visual displays of such Developed Works.

46. SOURCE CODE AND ESCROW ITEMS OBLIGATIONS

(a) Source code. Simultaneously with delivery of the Developed Works to Commonwealth, Contractor shall deliver a true, accurate and complete copy of all source codes relating to the Developed Works.

(b) Escrow. To the extent that Developed Works and/or any perpetually-licensed software include application software or other materials generally licensed by the Contractor, Contractor agrees to place in escrow with an escrow agent copies of the most current version of the source code for the applicable software that is

included as a part of the Services, including all updates, improvements, and enhancements thereof from time to time developed by Contractor.

(c) Escrow agreement: An escrow agreement must be executed by the parties, with terms acceptable to the Commonwealth prior to deposit of any source code into escrow.

(d) Obtaining source code. Contractor agrees that upon the occurrence of any event or circumstance which demonstrates with reasonable certainty the inability or unwillingness of Contractor to fulfill its obligations to Commonwealth under this Contract, Commonwealth shall be able to obtain the source code of the then-current source codes related to Developed Works and/or any Contractor Property placed in escrow under **Section 46(b)** from the escrow agent.

47. LOCATION, STATUS AND DISPOSITION OF DATA

Unless the Solicitation specifies otherwise:

(a) All Data must be stored within the United States.

(b) The Contractor shall be responsible for maintaining the privacy, security and integrity of Data in the Contractor's or its subcontractors' possession.

(c) All Data shall be provided to the Commonwealth upon request, in a form acceptable to the Commonwealth and at no cost.

(d) Any Data shall be destroyed by the Contractor at the Commonwealth's request.

(e) Any Data shall be held for litigation or public records purposes by the Contractor at the Commonwealth's request, and in accordance with the security, privacy and accessibility requirements of this Contract.

48. PUBLICATION RIGHTS AND/OR COPYRIGHTS

(a) Except as otherwise provided in **Section 43, Ownership of Developed Works**, the Contractor shall not publish any of the results of the work without the written permission of the Commonwealth. The publication shall include the following statement: "The opinions, findings, and conclusions expressed in this publication are those of the author and not necessarily those of the Commonwealth of Pennsylvania." The Contractor shall not include in the documentation any copyrighted matter, unless the Contractor provides the Commonwealth with written permission of the copyright owner.

(b) Except as otherwise provided in the Contract, the Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report or

data designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

49. CHANGE OF OWNERSHIP OR INSOLVENCY

In the event that the Contractor should change ownership for any reason whatsoever, the Commonwealth shall have the exclusive option of continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns for the full remaining term of this Contract, or continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns for such period of time as is necessary to replace the products, materials, reports, studies, or computer programs, or immediately terminating this Contract. Nothing in this **Section 49** limits the Commonwealth's exercise of any rights that the Commonwealth may have under **Section 27, Termination**.

50. OFFICIALS NOT TO BENEFIT

No official or employee of the Commonwealth and no member of its General Assembly who exercises any functions or responsibilities under this Contract shall participate in any decision relating to this Contract which affects their personal interest or the interest of any corporation, partnership, or association in which they are, directly or indirectly, interested; nor shall any such official or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Contract or the proceeds thereof.

51. COMPLIANCE WITH LAWS

(a) The Contractor shall comply with all federal, state and local laws, regulations and policies applicable to its Services, including, but not limited to, all statutes, regulations and rules that are in effect as of the Effective Date of the Contract and shall procure at its expense all licenses and all permits necessary for the fulfillment of its obligation.

(b) If any existing law, regulation or policy is changed or if any new law, regulation or policy is enacted that affects the Services provided under this Contract, the Parties shall modify this Contract, via Section 25, Changes, to the extent reasonably necessary to:

(i) Ensure that such Services will be in full compliance with such laws, regulations and policies; and

(i) Modify the rates applicable to such Supplies or Services, unless otherwise indicated in the Solicitation.

52. THE AMERICANS WITH DISABILITIES ACT

During the term of this Contract, the Contractor agrees as follows:

(a) Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R.§ 35.101, *et seq*., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through Contracts with outside Contractors.

(b) The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from losses, damages, expenses claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of **Subsection 52(a)**.

53. EXAMINATION OF RECORDS

(a) The Contractor agrees to maintain, using its standard procedures, and in accordance with Generally Accepted Accounting Principles, books, records, documents, and other evidence pertaining to the charges under this Contract to the extent and in such detail as will properly reflect all charges for which reimbursement is claimed under the provisions of this Contract.

(b) The Contractor agrees to make available at the office of the Contractor at all reasonable times, and upon reasonable written notice, during the term of this Contract and the period set forth in **Subsection 53(c)**, any of the records for inspection, audit, or reproduction by any authorized Commonwealth representative. To the extent allowed by applicable laws or regulations, the Commonwealth agrees to maintain any documents so provided in accordance with the confidentiality provisions in **Section 29, Confidentiality, Privacy and Compliance**.

(c) The Contractor shall preserve and make available its records for a period of **three (3) years** from the date of final payment under this Contract:

(i) If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of **three (3) years** from the date of any resulting final settlement.

(ii) Non-privileged records which relate to litigation or the settlement of claims arising out of the performance of this Contract, or charges under this Contract as to which exception has been taken by the auditors, shall be

retained by the Contractor until such litigation, claims, or exceptions have been finally resolved.

(d) Except for documentary evidence retained pursuant to **Paragraph 53(c)(2)**, the Contractor may in fulfillment of its obligation to retain its records as required by this **Section 53** substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of **two (2) years** following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Commonwealth with the concurrence of its auditors.

(e) The provisions of this **Section 53** shall be applicable to and included in each subcontract hereunder.

54. SINGLE AUDIT ACT OF 1984

In compliance with the *Single Audit Act of 1984,* as amended, the Contractor agrees to the following:

(a) This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in *Government Auditing Standards,* 1994 Revisions (Yellow Book).

(b) The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the *Single Audit Act of 1984,* as amended, 31 U.S.C. § 7501, *et seq*., and all rules and regulations promulgated pursuant to the Act.

(c) The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.

(d) The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the *Single Audit Act of 1984*, as amended.

55. AGENCY-SPECIFIC SENSITIVE AND CONFIDENTIAL COMMONWEALTH DATA (IF APPLICABLE)

(a) Contractor understands that its level of access may allow or require it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws, regulations and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the Supplies or Services, the Contractor must receive and sign off on particular instructions and limitations as dictated by that

Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements. This sign-off document, a sample of which is attached as Exhibit C, will include a description of the nature of the data which may be implicated based on the nature of the Contractor's access, and will incorporate the Business Associate Agreement if it is applicable.

(b) Contractor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Supplies, the Contractor is and shall remain compliant with all applicable state and federal laws, regulations and policies regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract.

(c) This Section 55 does not require a Commonwealth agency to exhaustively list the laws, regulations or policies to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Contractor's access, to refer the Contractor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with applicable laws, regulations and policies.

(d) The requirements of this Section 55 are in addition to and not in lieu of other requirements of this Contract, its Exhibits, Appendices and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Contractor comply with all applicable Commonwealth ITPs, which can be found at http://www.oa.pa.gov/Policies/Pages/itp.aspx.

(e) Contractor shall conduct additional background checks, in addition to those required in **Section 28, Background Checks**, as may be required by a Commonwealth agency in its sign-off documents. The Contractor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Contract. The Contractor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

56. FEDERAL REQUIREMENTS

If applicable, the Contractor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Supplies and Services. This sign-off document, in addition to any applicable requirements of **Section 55, Agency-Specific Sensitive and Confidential Commonwealth Data**, will include a description of the required federal provisions, along with the applicable forms necessary for the Contractor and/or Software Licensor execute, as necessary. Every sign-off document completed by a Commonwealth agency

and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract.

57. ADDITIONAL FEDERAL PROVISIONS

Additional contract provisions may be incorporated into this Contract pursuant to federal law, regulation or policy.

58. ENVIRONMENTAL PROTECTION

In carrying out this Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including the *Clean Streams Law*, Act of June 22, 1937 (P.L. 1987, No. 394), *as amended*, 35 P.S. § 691.601 *et seq*; the *Pennsylvania Solid Waste Management Act*, Act of July 7, 1980 (P.L. 380, No. 97), *as amended*, 35 P.S. § 6018.101 *et seq*; and the *Dam Safety and Encroachment Act*, Act of November 26, 1978 (P.L. 1375, No. 325), *as amended*, 32 P.S. § 693.1.

59. NONDISCRIMINATION CLAUSE/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

(a) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

(b) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

(c) The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

(d) The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

(e) The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII* of the *Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

(f) The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

(g) The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

(h) The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

60. CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

(a) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.

(b) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

(c) Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act,* 65 Pa. C. S. §§ 1101, et seq.; *the State Adverse Interest Act, 71 P.S. § 776.1, et seq*.; and the *Governor's Code of Conduct,* Executive Order 1980-18, 4 Pa. Code § 7.151, *et seq*., or to breach any other state or federal law or regulation.

(d) Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

(e) Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18,* 4 Pa. Code § 7.151, *et seq*. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

(f) Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

(g) Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

(h) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project,

unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

(i) Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania *Right-to-Know Law*, 65 P.S. §§ 67.101—3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

(i) Approved in writing by the Commonwealth prior to its disclosure; or

(ii) Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

(iii) Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

(iv) Necessary for purposes of Contractor's internal assessment and review; or

(v) Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

(vi) Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or

(vii) Otherwise required by law.

(j) Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

(i) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

(ii) Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

(1) obtaining;

(2) attempting to obtain; or

(3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

(iii) Violation of federal or state antitrust statutes.

(iv) Violation of any federal or state law regulating campaign contributions.

(v) Violation of any federal or state environmental law.

(vi) Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

(vii) Violation of the *Act of June 2, 1915* (P.L. 736, No. 338), known as the *Workers' Compensation Act*, 77 P.S. § 1 *et seq*.

(viii) Violation of any federal or state law prohibiting discrimination in employment.

(ix) Debarment by any agency or department of the federal government or by any other state.

(x) Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

(k) If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

(i) Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

(ii) Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

(l) Contractor shall comply with requirements of the *Lobbying Disclosure Act*, 65 Pa. C. S. § 13A01, *et seq*., and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

(m) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

(n) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

(o) Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times

and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

(p) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

(q) For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph (q).

(i) "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

(ii) "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

(iii) "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

(iv) "Financial interest" means:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

(v) "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the 4 Pa. Code § 7.153(b), shall apply.

(vi) "Immediate family" means a spouse and any unemancipated child.

(vii) "Non-bid basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

(viii) "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

61. ASSIGNMENT OF RIGHTS UNDER THE ANTITRUST LAWS

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by Contractor's suppliers resulting from violations of state and federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of this Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all rights, title, and interest in and to any claims Contractor now has or may hereafter acquire under state and federal antitrust laws relating to the goods and services which are subject to this Contract.

62. WARRANTIES

Except as otherwise set forth in the Contract, the Contractor warrants that the Services, Supplies and Developed Works will conform in all material respects to the functional specifications for the Services, Supplies and Developed Works and/or the requirements of the Contract. The warranty period for the Services, Supplies and Developed Works shall be **90 days** from final acceptance. If third-party Services, Supplies or Developed Works are subject to a warranty that exceeds **90 days** from final acceptance, the longer warranty period shall apply. The Contractor shall correct any non-conformity within the warranty period specified herein.

(a) Disruption. The Contractor hereby represents and warrants to the Commonwealth that the Contractor will not cause, or take any action that, directly or indirectly, may cause a disruption of the Commonwealth's operations.

(b) Nonconformity. In the event of any nonconformity with the foregoing warranties, the Commonwealth will provide written notification of such nonconformity to the Contractor and the Contractor, at no cost to the Commonwealth, shall within **10 days'** notice of the nonconformity, commence work to remedy the nonconformity and shall work diligently, at no charge to the Commonwealth, until such time as the deliverable conforms, in all material respects, to the Service requirements and/or the functional specifications of the Developed Works set forth in this Contract. The Contractor shall have no obligation with respect to nonconformities arising out of:

(i) Modifications to Developed Works made by the Commonwealth;

(ii) Use of the Developed Works not in accordance with the documentation or specifications applicable thereto;

(iii) Failure by the Commonwealth to implement any corrections or enhancements made available by the Contractor;

(iv) Combination of the Developed Works with any items not supplied or approved by the Contractor; or

(v) Failure of any software licensed under a separate license agreement to conform to its specifications or documentation.

(c) Industry standards. The Contractor hereby represents and warrants to the Commonwealth that the Services shall be performed in accordance with industry standards using the utmost care and skill.

(d) Right to perform. The Contractor hereby represents and warrants to the Commonwealth that the Contractor has the necessary legal rights, including licenses to third party products, tools or materials, to perform the Services and deliver the Developed Works under this Contract.

(e) Sole warranties. THE FOREGOING EXPRESS WARRANTIES ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED, SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

63. LIQUIDATED DAMAGES

(a) By accepting this Contract, the Contractor agrees to the delivery and acceptance requirements of this Contract. If a due date is not met, the delay will interfere with the Commonwealth's program. In the event of any such delay, it would be impractical and extremely difficult to establish the actual damage for which the

Contractor is the material cause. The Commonwealth and the Contractor therefore agree that in the event of any such delay, the amount of damage shall be the amount set forth in this **Section 62**, unless otherwise indicated in the Contract, and agree that the Contractor shall pay such amount as liquidated damages, not as a penalty. Such liquidated damages are in lieu of all other damages arising from such delay.

(b) The amount of liquidated damages shall be as set out in the Solicitation. If not amount is set out in the Solicitation, the amount of liquidated damages for failure to meet a due date shall be three-tenths of a percent **(.3%)** of the price of the deliverable for each calendar day following the scheduled completion date. If the price of the deliverable associated with the missed due date is not identified, liquidated damages shall apply to the total value of the Contract. Liquidated damages shall be assessed each calendar day until the date on which the Contractor meets the requirements for the deliverable associated with the due date, up to a maximum of **30 days**. If indicated in the Contract, the Contractor may recoup all or some of the amount of liquidated damages assessed if the Contractor meets the final project completion date set out in the Contract.

(c) If, at the end of the **30-day** period specified in **Subsection 62(b)** above, the Contractor still has not met the requirements for the deliverable associated with the due date, then the Commonwealth, at no additional expense and at its option, may either:

(i) Immediately terminate the Contract in accordance with **Subsection 26(c)** and with no opportunity to cure; or

(ii) Order the Contractor to continue with no decrease in effort until the work is completed in accordance with the Contract and accepted by the Commonwealth or until the Commonwealth terminates the Contract. If the Contract is continued, any liquidated damages will also continue until the work is completed.

(d) At the end of a calendar month, or at such other time(s) as identified in the Contract, liquidated damages shall be paid by the Contractor and collected by the Commonwealth by:

(i) Deducting the amount from the invoices submitted under this Contract or any other contract Contractor has with the Commonwealth;

(ii) Collecting the amount through the performance security, if any; or

(iii) Billing the Contractor as a separate item.

64. SERVICE LEVELS

(a) The Contractor shall comply with the procedures and requirements of the Service Level Agreements, if any, which are made part of this Contract.

(b) Where there are expressly defined Service Levels, Contractor shall measure and report its performance against these standards on at least a monthly basis, except as may otherwise be agreed between the parties. Regardless of the presence or absence of expressly defined Service Levels, any failure to adequately or timely perform a Service may result in consequences under this Contract, up to and including Contract termination.

(c) The Commonwealth's acceptance of any financial credit incurred by the Contractor in favor of the Commonwealth for a Service Level default ("Service Level Credit") shall not bar or impair Commonwealth's rights and remedies in respect of the failure or root cause as set forth elsewhere in this Contract, including without limitation other claims for liquidated damages, injunctive relief and termination rights; provided however, Service Level Credits paid would be credited against any such claims for damages.

65. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within **5 days** and in writing within **10 days** of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract.

66. PUBLICITY/ADVERTISEMENT

The Contractor shall not issue news releases, internet postings, advertisements, endorsements, or any other public communication without prior written approval of the Commonwealth, and then only in coordination with the Commonwealth. This includes the use of any trademark or logo.

67. TERMINATION ASSISTANCE

(a) Upon the Commonwealth's request, Contractor shall provide termination assistance services (Termination Assistance Services) directly to the Commonwealth, or to any vendor designated by the Commonwealth. The Commonwealth may request termination assistance from the Contractor upon full or partial termination of the Contract and/or upon the expiration of the Contract term, including any renewal periods. Contractor shall take all necessary and appropriate actions to accomplish a complete, timely and seamless transition of any Services from Contractor to the Commonwealth, or to any vendor designated by the Commonwealth, without material interruption of or material adverse impact on the Services. Contractor shall cooperate with the Commonwealth and any new contractor and otherwise promptly take all steps required or reasonably requested to assist the Commonwealth in effecting a complete and timely transition of any Services.

(b) Such Termination Assistance Services shall first be rendered using resources included within the fees for the Services, provided that the use of such resources shall not adversely impact the level of service provided to the Commonwealth; then by resources already included within the fees for the Services, to the extent that the Commonwealth permits the level of service to be relaxed; and finally, using additional resources at costs determined by the Parties via **Section 26, Changes**.

68. NOTICE

Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address such party may designate by notice given pursuant to this **Section 68**.

69. *RIGHT-TO-KNOW LAW*

(a) The Pennsylvania *Right-to-Know Law*, 65 P.S. §§ 67.101—3104, *as amended*, ("RTKL") applies to this Contract. For the purpose of this **Section 69**, the term "the Commonwealth" shall refer to the contracting Commonwealth organization.

(b) If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL that is related to this Contract, it shall notify the Contractor using the

legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

(c) Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

(i) Provide the Commonwealth, within **10 days** after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

(ii) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

(d) If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within **seven (7) days** of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

(e) The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within **five (5) business days** of receipt of written notification of the Commonwealth's determination.

(f) If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

(g) The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

(h) The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

(i) The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

70. GOVERNING LAW

This Contract shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. Except as set forth in **Section 29, Contract Controversies**, Commonwealth and Contractor agree that the courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof. Any legal action relating to this Contract must be brought in Dauphin County, Pennsylvania, and the parties agree that jurisdiction and venue in such courts is appropriate.

71. CONTROLLING TERMS AND CONDITIONS

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's website, quotations, invoices, business forms, click-through agreements, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor, and not binding on the Commonwealth.

72. SMALL DIVERSE BUSINESS/SMALL BUSINESS COMMITMENT

Contractor shall meet and maintain the commitments to small diverse businesses in the Small Diverse Business and Small Business ("SDB/SB") portion of its Proposal. Any proposed change to a SDB/SB commitment must be submitted to the DGS Bureau of Diversity, Inclusion and Small Business Opportunities ("BDISBO"), which will make a recommendation as to a course of action to the Commonwealth Contracting Officer. Contractor shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the Commonwealth Contracting Officer and BDISBO within **10 business days** at the end of each calendar quarter that the Contract is in effect.

73. RECYCLED MATERIALS

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified below.

74. SURVIVAL

Sections 11, 30, 34, 35, 36, 37, 38, 40, 41, 44, 45, 46, 48, 52, 53, 54, 62, 67, 69 and 74 shall survive the expiration or termination of the Contract.

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA
BUSINESS ASSOCIATE AGREEMENT

Health Insurance Portability and Accountability Act (HIPAA) Compliance

WHEREAS, the [*name of program and/or Department*] (Covered Entity) and the **Contractor (Business Associate)**, intend to protect the privacy and provide for the security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, Public Law 111-5, and the HIPAA/HITECH regulations at 45 CFR Parts 160, 162 and 164.

WHEREAS, Business Associate may receive PHI in any format including electronic form, from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI must be handled, disclosed or used only in accordance with this Exhibit A, the Underlying Agreement, and the standards established by the HIPAA Rules.

NOW, THEREFORE, Covered Entity and Business Associate agree as follows:

1. Definitions. The following terms used in this Exhibit A shall have the same meaning as those terms in the HIPPA/HITECH Regulations: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (PHI), Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific Definitions:

a. "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR § 160.103.
b. "Covered Entity" shall have the same meaning as the term "covered entity" at 45 CFR § 160.103.
c. "HIPAA Rules" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, Public Law 111-5, and the regulations at 45 CFR Part 160, 162, and 164.
d. "Underlying Agreement" shall mean Contract/Purchase Order # _____.

2. Changes in Law. Business Associate agrees that it will comply with any changes in the HIPAA Rules by the compliance date established by any such changes and will provide the Covered Entity with written certification of such compliance.

3. Stated Purposes for Which Business Associate May Use or Disclose PHI. Except as otherwise limited in this Exhibit A, Business Associate shall be permitted to use or

disclose PHI provided by or obtained by or obtained on behalf of Covered Entity to perform those functions, activities, or services for, or on behalf of, Covered Entity which are specified in Appendix A to this Exhibit A, provided that such use or disclosure would not violate the HIPPA Rules if done by Covered Entity. Business Associate agrees to make uses, disclosures and requests for PHI consistent with Covered Entity's minimum policies and procedures.

4. Additional Purposes for Which Business Associate May Use or Disclose Information. Business Associate shall not use or disclose PHI provided by, or created or obtained on behalf of Covered Entity for any other purposes except as required by law. Business Associate shall not use PHI to de-identify the information in accordance with 45 CFR § 164.514(a)-(c) without the Covered Entity's express written authorization(s). Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

5. Business Associate Obligations:

a. **Limits on Use and Further Disclosure Established by Appendix and Law**. Business Associate hereby agrees that the PHI provided by, or created or **obtained** on behalf of Covered Entity shall not be further used or disclosed other than as permitted or required by this Exhibit A or as required by law.

b. **Appropriate Safeguards**. Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Exhibit A that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity as required by Subpart C of 45 CFR Part 164. Appropriate safeguards shall include but are not limited to implementing:

i. administrative safeguards required by 45 CFR § 164.308;
ii. physical safeguards as required by 45 CFR § 164.310;
iii. technical safeguards as required by 45 CFR § 164.312; and
iv. policies and procedures and document requirements as required by 45 CFR § 164.316.

c. **Training and Guidance**. Business Associate shall provide annual training to relevant contractors, Subcontractors, employees, agents and representatives on how to prevent the improper use or disclosure of PHI. Business Associate shall also comply with annual guidance on the most effective and appropriate technical safeguards issued by the Secretary of Health and Human Services.

d. **Reports of Improper Use or Disclosure or Breach**. Business Associate hereby agrees that it shall notify the Covered Entity's Project Officer and the Covered Entity's Legal Office within **two (2) days** of discovery of any use or disclosure of PHI not provided for or allowed by this Exhibit A, including breaches of

unsecured PHI as required by 45 CFR § 164.410. Such notification shall be written and shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the improper use or disclosure or Breach. Business Associate shall furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to individuals under 45 CFR § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. An improper use or disclosure or Breach shall be treated as discovered by the Business Associate on the **first day** on which it is known to the Business Associate (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of the Business Associate) or should reasonably have been known to the Business Associate to have occurred.

Business Associate Agrees that if any of its employees, agents, contractors, Subcontractors, and representatives use or disclose PHI received from, or created or received on behalf of, Covered Entity, or any derivative de-identified information, Business Associate shall ensure that such employees, agents, contractors, Subcontractors, and business representatives shall receive training on Business Associate's procedure for compliance with the HIPAA Rules. Business Associate Agrees that if any of its employees, agents, contractors, Subcontractors, and representatives use or disclose PHI received from, or created or received on behalf of, Covered Entity, or any derivative de-identified information in a manner not provided for in this Exhibit A, Business Associate shall ensure that such employees, agents, contractors, Subcontractors, and business representatives are sanctioned or prevented from accessing any PHI Business Associate receives from, or creates or receives on behalf of Covered Entity. Use or disclosure of PHI in a manner contrary to the terms of this Exhibit A shall constitute a material breach of the Underlying Agreement.

e. **Contractors, Subcontractors, Agents and Representatives**. In accordance with 45 CFR § 164.502(e)(1)(ii) and § 164.308(b)(2), if applicable, ensure that any contractors, Subcontractors, agents and representatives that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information. The existence of any contractors, Subcontractors, agents and representatives shall not change the obligations of Business Associate to the Covered Entity under this Exhibit A.

f. **Reports of Security Incidents**. Business Associate hereby agrees that it shall notify, in writing, the Department's Project Officer within **two (2) days** of discovery of any Security Incident at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available.

g. **Right of Access to PHI**. Business Associate hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to

and copy that individual's PHI within **10 business days** of receiving a written request from the Covered Entity or an authorized individual in accordance with the HIPAA Rules. Business Associate shall provide PHI in the format requested, unless it cannot readily be produced in such format, in which case it shall be provided in standard hard copy. If any individual requests from Business Associate or its contractors, Subcontractors, agents and representatives access to PHI, Business Associate shall notify Covered Entity of same within **five (5) business days**. Business Associate shall further conform with and meet all of the requirements of 45 CFR § 164.524.

h. **Amendment and Incorporation of Amendments**. Within **five (5) business days** of receiving a request from Covered Entity or from the individual for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available to the Covered Entity and incorporate the amendment to enable Covered Entity to comply with 45 CFR 164.526. If any individual requests an amendment from Business Associate or its contractors, Subcontractors, agents and representatives, Business Associate shall notify Covered Entity of same within **five (5) business days**.

i. **Provide Accounting of Disclosures**. Business Associate agrees to maintain a record of all disclosures of PHI in accordance with 45 CFR § 164.528. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, the purpose of the disclosure, and shall include disclosures made on or after the date which is **six (6) years** prior to the request. Business Associate shall make such record available to the individual or the Covered Entity within **10 business days** of a request for an accounting of disclosures and in accordance with 45 CFR §164.528.

j. **Access to Books and Records**. Business Associate hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Covered Entity and the Secretary of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules.

k. **Return or Destruction of PHI**. At termination of this Exhibit A, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this Exhibit A. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this Exhibit A to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.

l. **Maintenance of PHI**. Notwithstanding section 4(k) of this Appendix, Business Associate and its contractors, Subcontractors, agents and representatives shall retain all PHI throughout the term of the Underlying Agreement and shall continue to maintain the information required under section 4(h) of this Appendix for a period of six (6) years after termination of the Underlying Agreement, unless Covered Entity and Business Associate agree otherwise.

m. **Mitigation Procedures**. Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Exhibit A or the HIPAA Rules. Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Appendix or the Privacy Rule.

n. **Sanction Procedures**. Business Associate agrees that it shall develop and implement a system of sanctions for any contractor, Subcontractor, employee, agent and representative who violates this Exhibit or the HIPAA Rules.

o. **Application of Civil and Criminal Penalties.** All Civil and Criminal Penalties under the HIPAA Rules shall apply to Business Associate's violation of any provision contained in the HIPAA Rules.

p. **Breach Notification**. Business Associate shall comply with the Breach notification requirements of 45 CFR 164. In the event of a Breach requiring indemnification in accordance with Section 5(u), below, Covered Entity may elect to directly comply with Breach notification requirements or require Business Associate to comply with all Breach notifications requirements of 45 CFR § 164 on behalf of Covered Entity. If Covered Entity requires Business Associate to comply with Breach notification requirements, Business Associate shall provide Covered Entity with a detailed weekly, written report, starting one week following discovery of the Breach. The report shall include, at a minimum, Business Associate's progress regarding Breach notification and mitigation of the Breach. If Covered Entity elects to directly meet the requirements of 45 CFR § 164, Business Associate shall be financially responsible to Covered Entity for all resulting costs and fees incurred by Covered Entity, including, but not limited to, labor, materials, or supplies. Covered Entity may at its sole option: 1) offset amounts otherwise due and payable to Business Associate under the Underlying Agreement; or 2) seek reimbursement of or direct payment to a third party of Covered Entity's costs and fees incurred under this paragraph. Business Associate shall make payment to Covered Entity (or a third party as applicable) within **30 days** from the date of Covered Entity's written notice to Business Associate.

q. **Grounds for Breach.** Any non-compliance by Business Associate with this Exhibit A or the HIPAA Rules will automatically be considered to be a breach of the Underlying Agreement.

r. **Termination by Commonwealth.** Business Associate authorizes termination of this Exhibit A or Underlying Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion that the Business Associate has violated a material term of this Exhibit A.

s. **Failure to Perform Obligations**. In the event Business Associate including its contractors, Subcontractors, agents and representatives fails, to perform its obligations under this Appendix, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Exhibit and applicable law.

t. **Privacy Practices**. The Covered Entity will provide and Business Associate shall immediately begin using and/or distributing to clients any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date of this Exhibit A, or as otherwise designated by the Program or Covered Entity. The Covered Entity retains the right to change the applicable privacy practices, documents and forms. The Business Associate shall implement changes as soon as practicable, but not later than **45** days from the date of notice of the change.

u. **Indemnification**. Business Associate shall indemnify, defend and hold harmless Covered Entity from and all claims and actions, whether in law or equity, resulting from Business Associate's Breach or other violation of the HIPAA Rules (this includes but is not limited to Breach and violations by Business Associate's contractors, Subcontractors, employees, agents and representatives). Additionally, Business Associate shall reimburse Covered Entity for any civil monetary penalties imposed on Covered Entity as a result of a Breach or violation cognizable under this Section 5(u).

6. Obligations of Covered Entity:

a. **Provision of Notice of Privacy Practices**. Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR § 164.520 (Attachment 1 to this Business Associate Appendix), as well as changes to such notice.

b. **Permissions**. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which

Covered Entity is aware, if such changes affect Business Associate's permitted or required uses and disclosures.

c. **Restrictions**. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR 164.522 to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

7. Survival:

The requirements, rights and obligations created by this Exhibit A shall survive the termination of the Underlying Agreement.

Appendix A to Exhibit A, Commonwealth Business Associate Agreement

Permitted Purposes for the Creation, Receipt, Maintenance, Transmission, Use and/or Disclosure of Protected Health Information

1. Purpose of Disclosure of PHI to Business Associate: To allow _____ to meet the requirements of the Underlying Agreement.

2. Information to be disclosed to Business Associate: _____.

3. Use shall Effectuate Purpose of Underlying Agreement: _____ may use and disclose PHI to the extent contemplated by the Underlying Agreement, and as permitted by law with Commonwealth approval.

EXHIBIT B

SOFTWARE LICENSE AGREEMENT TEMPLATE

PA Supplier ID Number: _____

AGREEMENT BETWEEN
THE COMMONWEALTH OF PENNSYLVANIA,
ACTING BY AND THROUGH THE GOVERNOR'S OFFICE OF ADMINISTRATION
AND

_____

(a)

(b) This Agreement by and between _____ (Licensor) and the Commonwealth of Pennsylvania, acting by and through the Governor's Office of Administration (Commonwealth) is effective the date the Agreement has been fully executed by the Licensor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained.

(c)

1. Order of Precedence. The terms and conditions of this Agreement supplement, and to the extent a conflict exists, supersede and take precedence over the terms and conditions of the attached [insert exhibits that are to be made part of this Agreement]. The parties agree that the terms of this Agreement supersede and take precedence over the terms included in any quote, purchase order, terms of any shrink-wrap agreement included with the Licensed Products, terms of any click through agreement included with the Licensed Products or any other terms purported to apply to the Licensed Products. The products specified in Attachment 1, along with support and services for said products, shall be referred to as "Licensed Products."

2. Enterprise Language.

(a) The parties agree that more than one agency of the Commonwealth ("Commonwealth Agency") may license products subject to this Agreement, provided that the procurement of any Licensed Products by any Commonwealth Agency must be made pursuant to one or more executed purchase orders or purchase documents submitted by each Commonwealth Agency seeking to use the Licensed Products.

(b) The parties agree that, if the licensee is a "Commonwealth Agency" as defined by Section 103 of the *Commonwealth Procurement Code*, 62 Pa. C. S. § 103, the terms and conditions of this Agreement apply to any purchase of Licensed Products made by the Commonwealth, and that the terms and conditions of this Agreement become part of the purchase document without further need for

execution. The parties agree that the terms of this Agreement supersede and take precedence over the terms included in any purchase order, terms of any shrink-wrap agreement included with the Licensed Products, terms of any click through agreement included with the Licensed Products or any other terms purported to apply to the Licensed Products.

3. List of Licensed Products.

(a) Attached hereto and made a part of this Agreement by reference is Attachment 1, which lists the Licensed Products that may be licensed under this Agreement. With the consent of the Commonwealth, the list of Licensed Products on Attachment 1 may be updated by the Licensor providing the Commonwealth with a revised Attachment 1 that adds the new product to the list. The Commonwealth, in its sole discretion, may consent either via written communication directly to the Licensor or, if applicable, providing the Commonwealth's reseller with a copy of Licensor's notification to update Attachment 1.

(b) No amendment will be required to add a new Licensed Product to the list. If, however, the Licensor desires to add a new Licensed Product to the list that requires additional licensing terms or other requirements, either an amendment to this Agreement or a new agreement will be required.

4. Choice of Law/Venue. This Agreement shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. The courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof.

5. Indemnification/Immunity. The Commonwealth does not have the authority to and shall not indemnify any entity. The Commonwealth agrees to pay for any loss, liability or expense, which arises out of or relates to the Commonwealth's acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the Commonwealth is established by a court of law or where settlement has been agreed to by the Commonwealth. This provision shall not be construed to limit the Commonwealth's rights, claims or defenses that arise as a matter of law or pursuant to any other provision of this Agreement. No provision in this Agreement shall be construed to limit the sovereign immunity of the Commonwealth.

6. Patent, Copyright, Trademark and Trade Secret Protection.

(a) The Licensor shall, at its expense, defend, indemnify and hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States patents, copyrights, trademarks or trade dress, or for a misappropriation of a United States trade secret arising out of performance of this Agreement ("Claim"), including all Licensed Products

provided by the Licensor. For the purposes of this Agreement, "indemnify and hold harmless" shall mean the Licensor's specific, exclusive, and limited obligation to (a) pay any judgments, fines and penalties finally awarded by a court of competent jurisdiction, governmental/administrative body or any settlements reached pursuant to a Claim and (b) reimburse the Commonwealth for its reasonable administrative costs or expenses, including without limitation reasonable attorney's fees, it necessarily incurs in handling the Claim. The Commonwealth agrees to give the Licensor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P. S. §§ 732-101—732-506, the Office of Attorney General ("OAG") has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG, however, in its sole discretion, and under the terms the OAG deems appropriate, may delegate its right of defense of a Claim. If the OAG delegates the defense to the Licensor, the Commonwealth will cooperate with all reasonable requests of Licensor made in the defense of and/or settlement of a Claim. The Licensor shall not, without the Commonwealth's consent, enter into any settlement agreement which (a) states or implies that the Commonwealth has engaged in any wrongful or improper activity other than the innocent use of the material which is the subject of the Claim, (b) requires the Commonwealth to perform or cease to perform any act or relinquish any right, other than to cease use of the material which is the subject of the Claim, or (c) requires the Commonwealth to make a payment which the Licensor is not obligated by this Agreement to pay on behalf of the Commonwealth. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Licensor that, in the event it requests that the Commonwealth provide support to the Licensor in defending any such Claim, the Licensor shall reimburse the Commonwealth for all necessary expenses (including attorneys' fees, if such are made necessary by the Licensor's request) incurred by the Commonwealth for such support. If the OAG does not delegate to the Licensor the authority to control the defense and settlement of a Claim, the Licensor's obligation under this section ceases. The Licensor, at its own expense, shall provide whatever cooperation the OAG requests in the defense of the suit.

(b) The Licensor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Licensor certifies that, in all respects applicable to this Agreement, it has exercised and will continue to exercise due diligence to ensure that all Licensed Products provided under this Agreement do not infringe on the patents, copyrights, trademarks, trade dress, trade secrets or other proprietary interests of any kind which may be held by third parties.

(c) If the defense of a Claim and the authority to control any potential settlements thereof is delegated to the Licensor, the Licensor shall pay all damages and costs finally awarded therein against the Commonwealth or agreed to by Licensor in

any settlement. If information and assistance are furnished by the Commonwealth at the Licensor's written request, it shall be at the Licensor's expense, but the responsibility for such expense shall be only that within the Licensor's written authorization.

(d) If, in the Licensor's opinion, the Licensed Products furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright or trademark, or for a misappropriation of trade secret, then without diminishing the Licensor's obligation to satisfy any final award, the Licensor may, at its option and expense:

(1) substitute functional equivalents for the alleged infringing Licensed Products; or

(2) obtain the rights for the Commonwealth to continue the use of such Licensed Products.

(e) If any of the Licensed Products provided by the Licensor are in such suit or proceeding held to constitute infringement and the use thereof is enjoined, the Licensor shall, at its own expense and at its option:

(1) procure the right to continue use of such infringing products;

(2) replace them with non-infringing items; or

(3) modify them so that they are no longer infringing.

(f) If use of the Licensed Products is enjoined and the Licensor is unable to do any of the preceding set forth in subsection (e) above, the Licensor agrees to, upon return of the Licensed Products, refund to the Commonwealth:

(1) the license fee paid for the infringing Licensed Products, less the amount for the period of usage of any software; and

(2) the pro-rated portion of any maintenance fees representing the time remaining in any period of services for which payment was made.

(g) The obligations of the Licensor under this section continue without time limit and survive the termination of this Agreement.

(h) Notwithstanding the above, the Licensor shall have no obligation under this section for:

(1) modification of any Licensed Products provided by the Commonwealth or a third party acting under the direction of the Commonwealth;

(2) any material provided by the Commonwealth to the Licensor and incorporated into, or used to prepare the product;

(3) use of the Software after Licensor recommends discontinuation because of possible or actual infringement and has provided one of the remedies under subsection (e) or subsection (f) above;

(4) use of the Licensed Products in other than its specified operating environment;

(5) the combination, operation, or use of the Licensed Products with other products, services, or deliverables not provided by the Licensor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Licensor did not provide;

(6) infringement of a non-Licensor product alone;

(7) the Commonwealth's use of the Licensed Product beyond the scope contemplated by the Agreement; or

(8) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Licensor at no charge.

(i) The obligation to indemnify the Commonwealth, under the terms of this Section 5, shall be the Licensor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

7. Virus, Malicious, Mischievous or Destructive Programming.

(a) The Licensor warrants that the Licensed Products as delivered by the Licensor does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code to allow unauthorized intrusion upon, disabling of, or erasure of the Licensed Products (each a "Virus"). However, the Licensed Products may contain a key limiting use to the scope and quantity of the license(s) granted, and license keys issued by Licensor for temporary use are time-sensitive.

(b) The Licensor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that results from the Licensor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Licensor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and security updates (such as operating systems security patches, etc.).

(c) In the event of destruction or modification of any Licensed Products, the Licensor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages.

8. Limitation of Liability.

(a) The Licensor's liability to the Commonwealth under this Agreement shall be limited the total dollar amount of purchase orders issued for Licensed Products and services covered by this Agreement during the during the twelve (12)-month period prior to the event giving rise to the damage claim. This limitation does not apply to damages:

(1) for bodily injury;

(2) for death;

(3) for intentional injury;

(4) to real property or tangible personal property for which the Licensor is legally liable;

(5) Under **Section 6**, Patent, Copyright, Trade Secret and Trademark Protection;

(6) for damages related to a breach of the security of a system maintained or managed by the Licensor, including the costs for notification, mitigation and credit monitoring services required due to such breach; or

(7) under **Section 7**, Virus, Malicious, Mischievous or Destructive Programming.

(b) In no event will the Licensor be liable for consequential, indirect, or incidental damages unless otherwise specified in the Agreement.

9. Payment. The Commonwealth will make purchase and make payment through a reseller contract or another procurement document, which shall control with regard to payment amounts and provisions.

10. Termination.

(a) The Licensor may not terminate for non-payment of an order issued through a reseller contract or another procurement document that controls payment.

(b) The Commonwealth may terminate this Agreement without cause by giving Licensor **30 calendar days**' prior written notice ("Notice of Termination")

whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth ("Termination for Convenience").

11. Background Checks.

(a) Upon prior written request by the Commonwealth, Licensor must, at its expense, arrange for a background check for each of its employees, as well as for the employees of its subcontractors, who will have access to the Commonwealth's IT facilities, either through on site or remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx. The background check must be conducted prior to initial access by an IT employee and annually thereafter.

(b) Before the Commonwealth will permit an employee access to the Commonwealth's facilities, the Licensor must provide written confirmation to the office designated by the applicable Commonwealth Agency that the background check has been conducted. If, at any time, it is discovered that an employee has a criminal record that includes a felony or misdemeanor involving terrorist threats, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility; or which raises concerns about building, system, or personal security, or is otherwise job-related, the Licensor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee, and shall not permit that employee remote access to Commonwealth facilities or systems, unless the Commonwealth Agency consents, in writing, prior to the access being provided. The Commonwealth Agency may withhold its consent at its sole discretion. Failure of the Licensor to comply with the terms of this subsection may result in the default of the Licensor under its Agreement with the Commonwealth..

(c) The Commonwealth specifically reserves the right to conduct background checks over and above that described herein.

(d) Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the applicable Commonwealth Agency and the Department of General Services set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended, *Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings.* The requirements, policy and procedures include a processing fee payable by the Licensor for contracted personnel photo identification or access badges.

(d)

12. Confidentiality.

(a) Definition. "Confidential Information:"

(1) For the Commonwealth: All data and other information of or in the possession of the Commonwealth or any Commonwealth Agency or any private individual, organization or public agency, in each case to the extent such information and documentation is not permitted to be disclosed to third parties under local, Commonwealth or federal laws and regulations or pursuant to any policy adopted by the Commonwealth or pursuant to the terms of any third-party agreement to which Commonwealth is a party.

(2) For the Licensor: All information identified in writing by the Licensor as confidential or proprietary to Licensor or its subcontractors.

(b) Confidential Information. All Confidential Information of or relating to a party shall be held in confidence by the other party to the same extent and in at least the same manner as such party protects its own confidential or proprietary information. Neither party shall disclose, publish, release, transfer or otherwise make available any Confidential Information of the other party in any form to, or for the use or benefit of, any person or entity without the other party's consent. Subject to the other provisions of this Agreement, each party shall, however, be permitted to disclose relevant aspects of the other party's Confidential Information to its officers, agents, subcontractors and personnel and to the officers, agents, subcontractors and personnel of its corporate affiliates or subsidiaries to the extent that such disclosure is reasonably necessary for the performance of its duties and obligations under this Agreement; provided, however, that such party shall take all reasonable measures to ensure that Confidential Information of the other party is not disclosed or duplicated in contravention of the provisions of this Agreement by such officers, agents, subcontractors and personnel and that such party shall be responsible for any unauthorized disclosure of the Confidential Information of the other party by such officers, agents, subcontractors or personnel; and further provided, that if the disclosure is by the Commonwealth to another contractor or sub-contractor, such disclosure is subject to a suitable non-disclosure agreement imposing equally or more stringent requirements for data privacy and security. Except to the extent provided otherwise by any applicable law, the obligations of this subsection (b) shall not apply with respect to information which:

(1) is developed by the other party without violating the disclosing party's proprietary rights,

(2) is or becomes publicly known (other than through unauthorized disclosure),

(3) is disclosed by the owner of such information to a Third Party free of any obligation of confidentiality,

(4) is already known by such party without an obligation of confidentiality other than pursuant to this Agreement or any confidentiality contract entered into before the Effective Date of the Agreement between the Commonwealth and the Licensor, or

(5) is rightfully received by the disclosing party free of any obligation of confidentiality.

(c) Obligations. Each party shall:

(1) Notify the other party promptly of any known unauthorized possession, use or knowledge of the other party's Confidential Information by any person or entity.

(2) Promptly furnish to the other party full details known by such party relating to the unauthorized possession, use or knowledge thereof and shall use reasonable efforts to assist the other party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge of the other party's Confidential Information.

(3) Use reasonable efforts to cooperate with the other party in any litigation and investigation against third parties deemed necessary by the other party to protect its proprietary rights.

(4) Promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of the other party's Confidential Information.

(d) Cost of compliance; required disclosure. Each party shall bear the cost it incurs as a result of compliance with this section. The obligations in this section shall not restrict any disclosure by either party pursuant to any applicable law or pursuant to the order of any court or other legal process or government agency of competent jurisdiction (provided that the disclosing party shall give prompt notice to the non-disclosing party of such disclosure or order in a timeframe to allow the non-disclosing party to resist the disclosure or order).

(e) Submitting Confidential Information to the Commonwealth. The Licensor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

(1) Prepare an un-redacted version of the appropriate document;

(2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret;

(3) Prepare a signed written statement that states:

1. the attached document contains confidential or proprietary information or trade secrets;

2. the Licensor is submitting the document in both redacted and un-redacted format in accordance with Section 707(b) of the *Right-to-Know Law*, 65 P.S. § 67.707(b); and

3. the Licensor is requesting that the document be considered exempt under Section 708(b)(11) of the *Right-to-Know Law*, 65 P.S. § 67.708(b)(11) from public records requests; and

(4) Submit the **two (2)** documents with the signed written statement to the Commonwealth.

(f) Confidential Information at termination. Upon expiration or termination of this Agreement, or a purchase order or other procurement document for Licensed Products governed by the terms of this Agreement, and at any other time at the written request of a party, the other party must promptly return to such party all of such party's Confidential Information and Data (and all copies of this information) that is in the other party's possession or control, in whatever form. With regard to the Commonwealth's Confidential Information and/or Data, the Licensor shall comply with the requirements of subsection (e).

(g) Not confidential. Additionally, neither the Agreement nor any pricing information related to the Agreement, nor purchase orders issued pursuant to the Agreement, will be deemed confidential.

13. Agency-specific Sensitive and Confidential Commonwealth Data (If applicable).

(a) Licensor understands that its level of access may allow it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the Licensed Products on any Commonwealth agency facilities, the Licensor must receive and sign off on particular instructions and limitations as dictated by that Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements. This sign-off document, Attachment 3, will include a description of the nature of the data which may be implicated based on the nature of the Licensor's access, and will incorporate the Business Associate Agreement if it is applicable.

(b) Licensor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and

prior to the installation of the Licensed Products), the Licensor is and shall remain compliant with all applicable state and federal law and policy regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory of the Licensor authorized to bind the Licensor is valid and is hereby integrated and incorporated by reference into this Agreement.

(c) This section does not require a Commonwealth agency to exhaustively list the law to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Licensor's access, to refer the Licensor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with law and policy.

(d) The requirements of this section are in addition to and not in lieu of other requirements of this Agreement, its Exhibits and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Licensor comply with the Commonwealth's *Requirements for Non-Commonwealth Hosting Applications/Services*, attached as Attachment 2, and all applicable Commonwealth ITPs, which can be found at http://www.oa.pa.gov/Policies/Pages/itp.aspx.

(e) Licensor shall conduct additional background checks, in addition to those required in Section 12 of this Agreement, as may be required by a Commonwealth agency in its sign-off documents. The Licensor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Agreement. The Licensor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

14. Sensitive Information

(a) The Licensor shall not publish or otherwise disclose, except to the Commonwealth or the Licensor's subcontractors, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a way that allows the information or data furnished by or about any particular person or establishment to be identified.

(b) The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Agreement for any purpose not connected with the parties' Agreement responsibilities.

(c) The Licensor will comply with all obligations applicable to it under all applicable data protection legislation in relation to all personal data that is processed by it in the course of performing its obligations under this Agreement including by:

(1) Maintaining a valid and up to date registrations and certifications; and

(2) Complying with all data protection legislation applicable to cross border data flows of personal data and required security measures for personal data.

15. Publicity/Advertisement. The Licensor must obtain written Commonwealth approval prior to mentioning the Commonwealth or a Commonwealth agency in an advertisement, endorsement, or any other type of publicity. This includes the use of any trademark or logo.

16. Portability. The parties agree that a Commonwealth Agency may move a Licensed Product from machine to machine, whether physical or virtual, and to other locations, where those machines and locations are internal to the Commonwealth or to a Commonwealth contractor, as long as such relocation and the use being made of the Licensed Product comports with the license grant and restrictions. Notwithstanding the foregoing, a Commonwealth Agency may move the machine or appliance provided by the Licensor upon which the Licensed Product is installed.

17. Taxes-Federal, State and Local. Taxes-Federal, State and Local.

(a) The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this section is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

(b) The only interest the Commonwealth is authorized to pay is in accordance with Act of December 13, 1982, P.L. 1155, No. 266, as amended, 72 P. S. § 1507, (relating to Interest Penalties on Commonwealth Accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40 (relating to Interest Penalties for Late Payments).

18. Commonwealth Audit Responsibilities.

(a) The Commonwealth will maintain, and promptly provide to the Licensor upon its request, accurate records regarding use of the Licensed Product by or for the Commonwealth. If the Commonwealth becomes aware of any unauthorized use of all or any part of the Licensed Product, the Commonwealth will notify the Licensor promptly, providing reasonable details. The limit of the Commonwealth's responsibility for use of the Licensed Products by more individuals than are permitted by the licensing terms applicable to the Licensed Products shall be to purchase additional licenses and Maintenance and Support (if applicable) for such Licensed Products through a reseller contract or procurement document.

(b) The Commonwealth will perform a self-audit upon the request of the Licensor, which request may not occur more often than annually, and report any change in user count (hereinafter "True up number"). The Commonwealth shall notify the Licensor of the True up number no later than **45 calendar days** after the request that the Commonwealth perform a self-audit. If the user count has increased, the Commonwealth will make an additional purchase of the Licensed Products through a reseller contract or another procurement document, which is equivalent to the additional users. This section sets out the sole license audit right under this Agreement.

19. ***Right-to-Know Law***. The Pennsylvania *Right-to-Know Law*, Act of February 14, 2008, P.L. 6, No. 3, 65 P.S. §§ 67.101—3104 ("RTKL"), applies to this Agreement.

20. **Third party software**. If the software utilizes or includes third party software and other copyrighted material and is subject, therefore, to additional licensing terms, acknowledgements or disclaimers compliance with this Agreement constitutes compliance with those third-party terms. The parties agree that the Commonwealth, by acknowledging third party software, does not agree to any terms and conditions of the third party software agreements that are inconsistent with or supplemental to this Agreement.

21. **Attorneys' Fees.** The Commonwealth will not pay attorneys' fees incurred by or paid by the Licensor.

22. **Controversies.**

(a) Pursuant to Section 1712.1 of the *Commonwealth Procurement Code*, 62 Pa. C.S. § 1712.1, in the event of a claim arising from the Agreement or a purchase order, the Licensor, within **six (6) months** after the claim accrues, must file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Licensor asserts a controversy exists. If the Licensor fails to file a claim or files an untimely claim, the Licensor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within **60 days** thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program,

http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx.

(b) If the Licensor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required **120 days** after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within **120 days** of the receipt of the claim, unless extended by consent of the contracting officer and the Licensor. The contracting officer shall send a written determination to the Licensor. If the contracting officer fails to issue a final determination within the **120 days** (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

(c) Within **15 days** of the mailing date of the determination denying a claim or within **135 days** of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Licensor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Licensor shall proceed diligently with the performance of the Agreement or purchase order in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Licensor pursuant to the terms of the Agreement, purchase order or other procurement document.

23. Insurance.

(a) Licensor shall procure and maintain at its expense or cause to be maintained by any agents, contractors and subcontractors, as appropriate, the following types of insurance or maintain such self-insurance plans as shall be sufficient to insure against any claims, covering Licensor, its employees, agents, contractors and subcontractors:

(1) Workers' Compensation Insurance for all of Licensor's employees and those of any subcontractor engaged in performing Services in accordance with the *Workers' Compensation Act* (77 P.S.§ 101, *et seq*).

(2) Commercial general liability insurance providing coverage from claims for damages for personal injury, death and property of others. The limits of such insurance shall be in an amount not less than $500,000 per person and $2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured, as its interests may appear. The insurance shall not contain any endorsements or any other form designed to limit and restrict

any action by the Commonwealth as an additional insured against the insurance coverages in regard to the Services performed for the Commonwealth.

(3) Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of $5,000,000, per accident/occurrence/annual aggregate.

(4) Technology Products Liability/Professional Liability/Errors & Omissions Insurance in the aggregate amount of not less than $5,000,000.

(5) Comprehensive crime insurance in an amount of not less than $5,000,000 per claim.

(6) Information Security and Privacy Liability Insurance including Privacy Notification Costs (including coverage for Technology Professional Liability if not covered under Licensor's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of $5,000,000, per occurrence.

(b) Prior to the expiration of any then effective insurance policy, Contractor shall furnish to Commonwealth certificates of insurance or other appropriate documentation (including evidence of renewal of insurance) evidencing all coverage referenced in this Section 23, as applicable, and naming Commonwealth as an additional insured to the extent of Licensor's indemnities contained in this Agreement. Licensor shall have included in all policies of insurance required hereunder a waiver by the insurer of all right of subrogation against Commonwealth in connection with any loss or damage thereby insured against. Such certificates or other documentation will include a provision whereby 30 days' notice must be received by Commonwealth prior to coverage cancellation or alteration of the coverage by either Licensor or its Subcontractors or the applicable insurer. Such cancellation or alteration shall not relieve Licensor of its continuing obligation to maintain insurance coverage in accordance with this Section 23.

(c) Licensor agrees to maintain such insurance for the life of any applicable purchase order issued pursuant to the Agreement.

(d) Upon request to and approval by the Commonwealth, Licensor's self-insurance of the types and amounts of insurance set for above shall satisfy the requirements of this provision, provided the Commonwealth may request of Licensor evidence each year, during the term of the purchase order issued under the Agreement, that Licensor has sufficient assets to cover such losses.

24. **Federal Requirements**. If applicable, in addition to the requirements set forth in Section 12 of this Agreement, the Licensor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Licensed Products. This sign-off document, in addition to any applicable requirements of Section 12 of this Agreement, will include a description of the required federal provisions, along with the applicable forms necessary for the Licensor execute, as necessary. The sign-off document, along with attachments, must be attached to the purchase order.

25. **Signatures.** The fully executed Agreement may not contain ink signatures by the Commonwealth. In that event, the Licensor understands and agrees that the receipt of an electronically-printed Agreement with the printed name of the Commonwealth purchasing agent constitutes a valid, binding contract with the Commonwealth. The printed name of the purchasing agent represents the signature of that individual who is authorized to bind the Commonwealth to the obligations contained in the Agreement. The printed name also indicates that all approvals required by Commonwealth contracting procedures have been obtained.

26. **Travel**. The Licensor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Agreement or Statement of Work. If not otherwise specified in the Agreement or Statement of Work, travel and related expenses shall be reimbursed in accordance with Management Directive 230.10 Amended, *Commonwealth Travel Policy*, and Manual 230.1, *Commonwealth Travel Procedures Manual*.

27. **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes and integrates all prior discussions, agreements and understandings pertaining thereto. No modification of this Agreement will be effective unless in writing and signed by both Parties. Other terms and conditions or additional terms and conditions included or referenced in the Licensor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Licensor and not binding on the Commonwealth. No modification of this Agreement will be effective unless in writing and signed by both Parties.

28. **Notice**. Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address such party may designate by notice given pursuant to this section.

29. **Survival**. The termination or expiration of this Agreement will not affect any provisions of this Agreement which by their nature survive termination or expiration, including the provisions that deal with the following subject matters: definitions, confidentiality, term and termination, effect of termination, intellectual property, license compliance, limitation of liability, indemnification and privacy.

30. **Waiver.** Failure to enforce any provision will not constitute a waiver.

31. **Severability.** If any provision is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.

32. **Nonexclusive Remedy.** Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

33. **Integration**. This Agreement, including all exhibits and referenced documents, and any Purchase Orders referencing this Agreement, constitutes the entire agreement between the parties. No agent, representative, employee or officer of the Commonwealth or of Licensor has authority to make any statement, agreement, or representation, oral or written, in connection with this Agreement, which in any way can be deemed to modify, add to, or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of this Agreement. No modifications, alterations, changes, or waiver to this Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment executed by the parties.

34.

(e) IN WITNESS WHEREOF, the Parties to this Agreement have executed it, through their respective duly authorized representatives.

Witness:	**Licensor:**
Signature Date	Signature Date
Printed Name	Printed Name
Title	Title

If a corporation, the Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer and Chief Operating Officer must sign; if a sole proprietor, then the owner must sign; if a general or limited partnership, a general partner must sign; if a limited liability company, then a member must sign, unless it is a managed by a manager, then the manager must sign; otherwise a resolution indicating authority to bind the corporation must be attached to this Agreement.

COMMONWEALTH OF PENNSYLVANIA

See Section 25
Agency Head or Designee

APPROVED AS TO FORM AND LEGALITY:

See Section 25	*See Section 25*
Office of Chief Counsel	Office of General Counsel

See Section 25
Office of Attorney General

APPROVED:

See Section 25

Office of the Budget, Office of Comptroller Operations

ATTACHMENT 1

LIST OF LICENSED PRODUCTS

With the consent of the Commonwealth, Licensor may add additional Licensed Products to this attachment by providing Commonwealth with a new copy of this Attachment 1.

Licensed Product:

The Licensed Product includes (list all titles covered by this agreement):

ATTACHMENT 2

HOSTING REQUIREMENTS

1. The Contractor shall supply all hosting equipment (hardware and software) required for performance of the Contract.

2. The Contractor shall provide secure access to all levels of users via the internet.

3. The Contractor shall use commercially reasonable resources and efforts to maintain adequate internet connection bandwidth and server capacity.

4. The Contractor shall maintain all hosting equipment (hardware and software) and replace as necessary to maintain compliance with the Service Level Agreements.

5. The Contractor shall make available the system and any custom software on a 24 x 7 basis as established by the Solicitation.

6. The Contractor shall perform routine maintenance during the planned weekly maintenance period. Routine maintenance shall include, but is not limited to, server upgrades/patching, software upgrades/patching and hardware maintenance. In order to maintain system availability, the Contractor is expected to rollover to a backup site during maintenance periods.

7. The Contractor shall perform non-routine maintenance at a mutually agreeable time with **two (2) weeks** advance notice to the Commonwealth.

8. From time to time, emergency maintenance may be required to bring down the system. In such situations, if possible, the Contractor shall give advance notice, before the system goes down for maintenance, to the Commonwealth. The Contractor will limit the emergency maintenance to those situations which require immediate action of bringing down the system that cannot wait for the next scheduled maintenance period. It is expected that the Contractor will rollover to a backup site during any such emergency maintenance.

9. The Contractor shall monitor, prevent and deter unauthorized system access. Any and all known attempts must be reported to the Commonwealth within the timeframe set out by the Solicitation. In the event of any impermissible disclosure, loss or destruction of Confidential Information, the receiving Party must immediately notify the disclosing Party and take all reasonable steps to mitigate any potential harm or further disclosure, loss or destruction of such Confidential Information. In addition, pertaining to the unauthorized access, use, release, or disclosure of data, the Provider shall comply with state and federal data breach notifications regulations and is to report security incidents to

the Commonwealth within **one (1) hour** of when the Provider knew of such unauthorized access, use, release, or disclosure of data.

10. The Contractor shall allow the Commonwealth or its delegate, at times chosen by the Commonwealth, to review the hosted system's location and security architecture.

11. The Contractor shall conduct a third party independent security/vulnerability assessment at its own expense on an annual basis and submit the results of such assessment to the Commonwealth within the timeframe set forth in the RFP.

12. The Contractor shall comply with Commonwealth directions/resolutions to remediate the results of the security/vulnerability assessment to align with the standards of the Commonwealth.

13. The Contractor shall use industry best practices to protect access to the system with a firewall and firewall rules to prevent access by non-authorized users and block all improper and unauthorized access attempts.

14. The Contractor shall use industry best practices to provide system intrusion detection and prevention in order to detect intrusions in a timely manner.

15. The Contractor shall use industry best practices to provide virus protection on all servers and network components.

16. The Contractor shall use industry best practices to update all systems and third party software security patches to reduce security risk. The Provider shall protect their systems with anti-virus, host intrusion protection, incident response monitoring and reporting, network firewalls, application firewalls, and employ system and application patch management to protect its network and customer data from unauthorized disclosure.

17. The Contractor shall be solely responsible for all data storage required.

18. The Contractor shall take all necessary measures to protect the data including, but not limited to, the backup of the servers on a daily basis in accordance with industry best practices and encryption techniques.

19. The Contractor shall employ reasonable disaster recovery procedures to assist in preventing interruption in the use of the system.

20. The Contractor support and problem resolution solution shall provide a means to classify problems as to criticality and impact and with appropriate resolution procedures and escalation process for each classification of problem.

21. The Contractor staff, directly responsible for day-to-day monitoring and maintenance, shall have industry standard certifications applicable to the environment and system architecture used.

22. The Contractor shall limit access to the system and servers and provide access only to those staff that must have access to provide services proposed.

23. The Contractor will provide all Services, using security technologies and techniques in accordance with industry best practices and the Commonwealth's security policies, procedures, and requirements, including those relating to the prevention and detection of fraud and any other inappropriate use or access of systems and networks.

24. The Contractor shall locate servers in a climate-controlled environment. Contractor shall house all servers and equipment in an operational environment that meets industry standards including climate control, fire and security hazard detection, electrical needs, and physical security.

25. The Contractor shall examine system and error logs daily to minimize and predict system problems and initiate appropriate action.

26. The Contractor shall utilize a secured backup solution to prevent loss of data, back up all data every day and store backup media. Storage of backup media offsite is required. Stored media must be kept in an all-hazards protective storage safe at the worksite and when taken offsite. All back up data and media shall be encrypted.

27. The Contractor shall completely test and apply patches for all third-party software products before release.

ATTACHMENT 3

Sign-Off Document No. ____, under Agreement No. _____
Between
[Licensor_____]. and the Commonwealth of PA, [Agency]
[Licensor_____] Agency-level Deployment

This document becomes, upon its execution by the signatories named below, a legally valid, binding part of Software/Services License Requirements Agreement No. _____ between the Commonwealth and _____(Licensor)., and is subject to the terms of that Agreement.

1. Scope of Deployment (need not be entire agency):

2. Nature of Data implicated or potentially implicated:

3. Agency Policies to which Licensor. is subject (incorporated by reference):

4. Background checks (describe if necessary):

5. Additional requirements (describe with specificity):

6. Is Licensor. a Business Associate (yes or no)?

   If yes, the attached Business Associates Agreement, as completed by the Agency, is applicable and is hereby incorporated into this Sign-Off Document by reference.

Agency Contact Person signature and Date: _____

[Licensor_____]

Authorized Signatory and Date: _____

REVISED 01-17-2017

COSTARS PROGRAM CLAUSE

COSTARS Purchasers. Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 ("Section 1902"), authorizes local public procurement units and state-affiliated entities (together, "COSTARS Members") to participate in Commonwealth procurement contracts that the Department of General Services ("DGS") may choose to make available to COSTARS Members. DGS has identified this Contract as one which will be made available for COSTARS Members' participation.

A. Only those entities registered with DGS are authorized to participate as COSTARS Members in this Contract. A COSTARS Member may be either a local public procurement unit or a state-affiliated entity.

1. A "local public procurement unit" is:

- Any political subdivision (local government unit), such as a municipality, school district, or commission;
- Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
- Any tax-exempt, nonprofit educational institution or organization;
- Any tax-exempt, nonprofit public health institution or organization;
- Any nonprofit fire, rescue, or ambulance company; and
- Any other entity that spends public funds for the procurement of supplies, services, and construction (such as a council of governments, an area government, or an organization that receives public grant funds).

The Department reserves the right to review and determine eligible applicants as local public procurement units on a case-by-case basis.

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:

- The Pennsylvania Turnpike Commission;
- The Pennsylvania Housing Finance Agency;
- The Pennsylvania Municipal Retirement System;
- The Pennsylvania Infrastructure Investment Authority;
- The State Public School Building Authority;
- The Pennsylvania Higher Education Facilities Authority, and
- The State System of Higher Education.

The COSTARS Program is not available for use by Executive Agencies and Independent Agencies as defined by the Commonwealth Procurement Code, or any agency or entity using funds appropriated to the Department of General Services through Capital Budget Project Itemization legislation for the procurement of furniture, fixtures, and equipment.

3. A complete list of local public procurement units and state-affiliated entities that have registered with DGS and that are authorized to procure items from the Contract can be found at http://www.costars.state.pa.us/SearchCOMember.aspx.

B. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.

C. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue purchase orders ("POs") to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.

D. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.

E. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor's classification:

Contractor Classification	Required Administrative Fee
DGS-verified Small Diverse Business Bidder	$166
DGS Self-Certified Small Business Bidder	$500
All Other Bidders	$1,500

1. Each bidder electing to permit COSTARS Members to participate in the Contract must submit the COSTARS Program Election to Participate form with its bid submittal and pay the applicable Administrative Fee upon Contract award in order to sell the awarded items/services to COSTARS Members. If the bidder is a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, a copy of its active Small Business Contracting Program certificate must be included with the bid submittal.

2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to "Commonwealth of PA". The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members.

F. DGS has registered the COSTARS name and logo (together, the "COSTARS Brand") as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.

1. The Contractor shall pay the Administrative Fee covering its participation in the program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract award and prior to the renewal date for each succeeding Contract period.

2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:

   a. The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or suppliers, any privileges it may have to use the COSTARS Brand under this Contract.

   b. The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.

   c. The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.

   d. Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.

   e. The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor's use of the COSTARS Brand.

   f. The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.

G. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter's Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. The Contractor shall submit the reports through the web-based COSTARS Suppliers' Gateway of the PA Supplier Portal at https://pasupplierportal.state.pa.us/irj/portal/anonymous, Enterprise Applications. If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal

Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1914.

2. For each PO received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.

3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.

H. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at www.costars.state.pa.us.

1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at www.costars.state.pa.us, where it may register by completing the online registration form and receiving DGS confirmation of its registration. To view a list of currently-registered COSTARS member entities, please visit the COSTARS website.

2. Direct all questions concerning the COSTARS Program to:

Department of General Services
COSTARS Program
555 Walnut Street, 6th Floor
Harrisburg, PA 17101
Telephone: 1-866-768-7827
E-mail GS-PACostars@pa.gov

Offeror's Representations and Authorizations. By submitting its proposal, each Offeror understands, represents, and acknowledges that:

A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

B. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.

C. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the RFP.

D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

F. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.

G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.

H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.

I. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.

J. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.

K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

L. The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

Appendix A
Historical On-Site Staff Usage

The selected Offeror is responsible for creating and managing auction events on behalf of the Commonwealth and for providing additional staff for on-site assistance (as needed by BSSO) for auction preparation and auction events. Provided below is an estimated breakdown of current on-site contractor staffing usage. For additional details on staffing requirements, refer to I-4, B of the technical submittal.

PennDOT – Heavy Equipment Auctions

Estimated # of Personnel	Task	Estimate Time
2	Take photographs on site during delivery and provide assistance with problems/issues that may occur during delivery	70 hours for spring auctions 35 hours for fall auctions
1	Conduct Data Collection	1-3 days following the week of delivery
2 – 3	Assist with auction preview	20 hours for spring/fall auctions
2 – 3	Assist with auction removal	70 hours for spring auctions 35 hours for fall auctions

Other Agency Auctions* and Right of Way (ROW)

Estimated # of Personnel	Task	Estimate Time
1	Take photographs and build Right of Way (ROW) auctions.	Staffing varies and is dependent upon the size of the project and time-sensitivity.
1	Take photographs and build larger agency auctions.	Staffing varies and is dependent upon the size of the project and time-sensitivity.

***The PA Turnpike Heavy Equipment Auction requirements are similar to PennDOT's Heavy Equipment requirements listed above, however the PA Turnpike Sales currently fall under the auction category "Special Sales."**

General Staff On-site Assistance

Estimated # of Personnel	Task	Estimate Time
1	Take photographs and build auctions.	Staffing varies and is dependent upon the volume of surplus items available for sale.

**Currently, on-site assistance is on an as needed basis. Due to the BSSO surplus store closing to the public in December 2017, it is expected that on-site staff assistance will increase due to more field auctions being created as well as an increase in the monthly warehouse auctions at the Forster Street location.

Appendix B - Overview of Online Auction Services and Historial Usage

The Commonwealth currently conducts the 5 types of auctions identified in this workbook as a mean to sell surplus items. The types of items sold during the auctions are: Heavy equipment, construction equipment, trucks, office equipment, furniture, electronic equipment, tools, miscellaneous property and items obtained as a result of right of way acquisitions, seized property obtained through law enforcement proceedings, used and no longer needed property resulting from the closure of state facilities; specialty items such as snow plow blades, tires, etc., and other general surplus property as determined by BSSO.

In addition to the auctions identified in this workbook, the Commonwealth is also interested in conducting periodic on-site public auctions. Since public (on-site) auctions were not included in the the scope of the previous Contract, spend data is not available. The Commonwealth reserves the right to determine which items shalll be sold online or via a live auction.

Historical usage by auction type are located on tabs 1-5 in this workbook.

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
56874	Commonwealth of PA	DGS	1	285,000	-	-	-	-
52986	Commonwealth of PA	Variety of Commonwealth loacations	6	5,567	-	-	-	-
53071	Commonwealth of PA	DCNR & DEP	11	33,686	-	-	-	-
54173	Commonwealth of PA	PA Historical Museum Commission	18	40,273	-	-	-	-
58292	Commonwealth of PA	PENNDOT	1	2,316	-	-	-	-
54096	Commonwealth of PA	PA Historical Museum Commission	24	4,078	-	-	-	-
54172	Commonwealth of PA - DGS Warehouse	DGS Warehouse	24	19,205	-	-	-	-
54518	Commonwealth of PA - DGS Warehouse	DGS Warehouse	24	27,047	-	-	-	-
54920	Commonwealth of PA - Putter	DGS Warehouse	4	980	-	-	-	-
55699	Commonwealth of PA	DGS Warehouse	2	2,901	-	-	-	-
55870	Commonwealth of PA	DGS Warehouse	1	40,250	-	-	-	-
55910	Commonwealth of PA	DGS	1	4,220	-	-	-	-
55918	Commonwealth of PA	DPW #23 Powerhouse	2	3,525	-	-	-	-
56010	Commonwealth of PA - DGS Warehouse	DGS Warehouse	42	18,108	-	-	-	-
56229	Commonwealth of PA	PENNDOT	271	34,783	-	-	-	-
56577	Commonwealth of PA	Blue Bell Plant	1	3,410	-	-	-	-
56836	Commonwealth of PA - Whipple Trailer	PA Game Commission	1	9,900	-	-	-	-
56946	Commonwealth of PA	Military & Veterans Affairs Bldg	2	376	-	-	-	-
57004	Commonwealth of PA	DGS Sale from Various locations	25	2,054	-	-	-	-
57078	Commonwealth of PA	DGS Sale from Various locations	8	12,757	-	-	-	-
57080	Commonwealth of PA	DGS Warehouse	6	3,979	-	-	-	-

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
57258	Commonwealth of PA	DGS Sale from Various locations	24	24,143	-	-	-	-
57634	Commonwealth of PA - Dons Auto & Philly	DGS	18	6,945	-	-	-	-
59119	Commonwealth of PA	DGS Warehouse	20	8,909	-	-	-	-
59136	Commonwealth of PA - DPW Office Bldgs.	DPW	17	2,586	-	-	-	-
59197	Commonwealth of PA - Grumman Outlaw SX Boat	DEP	1	1,410	-	-	-	-
60232	Commonwealth of PA	DPW Storeroom	24	51,870	-	-	-	-
60341	Commonwealth of PA - DGS Warehouse	DGS Warehouse	25	12,019	-	-	-	-
60342	Commonwealth of PA - Annex	DGS	12	1,887	-	-	-	-
60552	Commonwealth of PA	Military & Veterans Affairs Bldg	5	322	-	-	-	-
60730	Commonwealth of PA - Annex 2 Laundry Building	Maintenance Bldg	7	628	-	-	-	-
60889	Commonwealth of PA	DGS Various locations	43	15,944	-	-	-	-
60929	Commonwealth of PA - Tire Casings	PENNDOT Tioga Cty	1	2,035	-	-	-	-
61276	Commonwealth of PA - Dept of Health - Toxicology Analyzer	PA Dept of Health	1	547	-	-	-	-
60499	Commonwealth of PA - South Mountain	DGS	-	-	138	19,908	-	-
60728	Commonwealth of PA - Senate	Technology Park	-	-	1	10	-	-
61445	Commonwealth of PA - replica durham boat from PA Historical Museum	PA Historical Museum Commission	-	-	2	471	-	-
61495	Commonwealth of PA - Thaddeus School grinder and wire edm	School of Tech	-	-	2	3,231	-	-
61523	Commonwealth of PA warehouse & agency items	DGS Warehouse	-	-	40	10,536	-	-
61568	Commonwealth of PA - Agency Items - equipment portion	DGS Warehouse	-	-	21	32,620	-	-
61570	Commonwealth of PA - seized fireworks	DGS Warehouse	-	-	2	4,725	-	-

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
62160	Commonwealth of PA - liquor license - washington county - king of the hill	Liquor License	-	-	1	26,027	-	-
62346	Commonwealth of PA DGS Warehouse surplus	DGS Warehouse	-	-	21	5,086	-	-
62664	Commonwealth of PA - Eaton Building surplus	DGS Sale	-	-	7	238	-	-
62725	Commonwealth of PA - Agency items submitted	DGS Warehouse	-	-	17	8,291	-	-
62785	Commonwealth of PA - agency items	DGS Warehouse	-	-	14	18,115	-	-
62795	Commonwealth of PA - lathe from Thaddeus Stevens College	DGS	-	-	2	5,012	-	-
63504	Commonwealth of PA Agency	DGS Warehouse	-	-	20	4,129	-	-
63560	Commonwealth of PA - warehouse surplus	DGS Warehouse	-	-	31	8,398	-	-
63561	Commonwealth of PA - Revenue print shop	DGS	-	-	27	18,902	-	-
63655	Commonwealth of PA - agency items E1 portion	DGS Warehouse	-	-	21	32,755	-	-
64607	Commonwealth of PA - DGS Warehouse surplus	DGS Warehouse	-	-	27	7,097	-	-
64654	Commonwealth of PA - Agency Items	DGS Warehouse	-	-	9	1,079	-	-
64757	Commonwealth of PA - SCI Greensburg	DGS	-	-	15	2,149	-	-
64768	Commonwealth of PA - Agency Items - equipment portion	DGS Warehouse	-	-	4	39,650	-	-
64985	Commonwealth of PA - SCI Greensburg - equipment portion	DGS	-	-	2	1,910	-	-
65179	Commonwealth of PA - South Mountain assets	DGS	-	-	60	8,397	-	-
65215	Commonwealth of PA - agency items from BSSO	DGS Warehouse	-	-	15	1,540	-	-

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
65241	Commonwealth of PA - agency items equipment portion	DGS Warehouse	-	-	11	8,741	-	-
65387	Commonwealth of PA - warehouse surplus	DGS Warehouse	-	-	43	20,290	-	-
66173	Commonwealth of PA - Eaton Building relist of DOR Gibson move	DGS	-	-	22	531	-	-
66175	Commonwealth of PA - DOP move	DGS	-	-	48	1,907	-	-
66207	Commonwealth of PA - DGS Warehouse - SSD - 7/20/2015 build	DGS Warehouse	-	-	33	10,965	-	-
66210	Commonwealth of PA - Agency items	DGS Warehouse	-	-	16	3,310	-	-
66225	Commonwealth of PA - Agency items - equipment portion	DGS Warehouse	-	-	33	46,393	-	-
67073	Commonwealth of PA - penndot print shop	PENNDOT	-	-	19	45,533	-	-
67421	Commonwealth of PA - DGS Warehouse /SSD	DGS Warehouse	-	-	32	6,740	-	-
67439	Commonwealth of PA - Danville State Hospital	DGS	-	-	51	4,382	-	-
67460	Commonwealth of PA - Tent Building	DGS	-	-	3	30	-	-
68189	Commonwealth of PA - Agency Items - equipment portion	DGS Warehouse	-	-	11	28,503	-	-
68190	Commonwealth of PA - Agency items - surplus portion	DGS Warehouse	-	-	15	2,205	-	-
68560	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	55	12,938	-	-
68856	Commonwealth of PA - Coal - SCI	DGS	-	-	2	280	-	-
68857	Commonwealth of PA - PennDOT sign shop shearer	PENNDOT	-	-	1	295	-	-
69267	Commonwealth of PA - Agency Items - Equipment Portion	DGS Warehouse	-	-	28	51,758	-	-
69268	Commonwealth of PA - Agency items - surplus portion	DGS Warehouse	-	-	9	236	-	-

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
69477	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	32	9,413	-	-
69588	Commonwealth of PA - Radio shelter	DGS	-	-	1	600	-	-
69937	Commonwealth of PA - DGS Warehouse /SSD 12/10 target writeup	DGS Warehouse	-	-	-	-	35	7,459
70389	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	-	-	33	5,438
70720	Commonwealth of PA - Agency items - surplus portion	DGS Warehouse	-	-	-	-	25	4,113
71071	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	-	-	36	6,425
71360	Commonwealth of PA - Agency Items surplus portion	DGS Warehouse	-	-	-	-	26	6,724
71420	Commonwealth of PA - Agency Items - equipment portion	DGS Warehouse	-	-	-	-	20	38,980
71734	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	-	-	36	7,971
72321	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	-	-	35	11,470
72539	Commonwealth of PA - Agency Items - equipment portion	DGS Warehouse	-	-	-	-	57	60,402
72677	Commonwealth of PA - DCNR vandalism items	DCNR	-	-	-	-	18	777
72755	Commonwealth of PA - DGS Warehouse / SSD	DGS Warehouse	-	-	-	-	38	7,319
73728	DCNR – Park Region 1 - BSSO	DCNR	-	-	-	-	163	43,106
74574	PA – DGS Warehouse	DGS Warehouse	-	-	-	-	35	7,397
75005	Comm of PA PennDOT - Tire Casings - BSSO	PENNDOT	-	-	-	-	1	51

Appendix B - General Merchandise (Recurring online)

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
75073	72539 Relists - Commonwealth of PA - Agency Items	DGS Warehouse	-	-	-	-	5	2,546
75443	Comm of PA DGS Warehouse - BSSO	DGS Warehouse	-	-	-	-	41	9,797
76535	PEMA - Comm of PA - BSSO	PEMA	-	-	-	-	2	40
77482	PA DGS Warehouse - August Sale - BSSO	DGS Warehouse	-	-	-	-	31	6,717
77562	Relists for Commonwealth of PA 73728- DCNR - Park Region 1	DCNR	-	-	-	-	12	265
77871	Comm of PA - Agency Auction - BSSO	DGS Warehouse	-	-	-	-	26	9,383
78261	PEMA - Battery Backup - Comm of PA - BSSO	PEMA	-	-	-	-	1	550
78695	Comm of PA DGS Sept Sale - BSSO	DGS Warehouse	-	-	-	-	45	15,351
80067	Comm of PA Agency Auction - BSSO	DGS Warehouse	-	-	-	-	23	24,195
80697	PA DGS Warehouse - October Writeup	DGS Warehouse	-	-	-	-	42	9,455
81268	Comm of PA Agency Items Oct 2016 - BSSO	DGS Warehouse	-	-	-	-	16	3,095
81682	77558 PennDOT Fall 2016 Sale - Relists	PENNDOT	-	-	-	-	5	682
82068	Comm of PA DGS - Nov Sale - BSSO	DGS Warehouse	-	-	-	-	32	9,101
83000	Comm of PA - BSSO	DGS Warehouse	-	-	-	-	32	28,213
84466	83000 Comm of PA Relists - BSSO	DGS Warehouse	-	-	-	-	2	30
		Total Sales Overall Per Year		$ 683,658.46		$ 515,324.98		$ 327,052.26
	Average of (30) Recurring Online Auctions per Year	Average Sale Amount Per Auction	$	22,788.62	$	17,177.50	$	10,901.74

Appendix B - Public Heavy Equipment Auctions

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
56287	Commonwealth of PA - PennDot Heavy Equipment	PENNDOT	231	2,570,737	-	-	-	-
59251	Commonwealth of PA - Fall Heavy Equipment	PENNDOT	89	569,059	-	-	-	-
64289	Commonwealth of PA - PennDOT Heavy Equipment Spring 2015 - Public	PENNDOT	-	-	311	1,877,081	-	-
66077	PennDOT relist items due to non-funding	PENNDOT	-	-	42	57,533	-	-
67717	PennDOT Heavy Equipment - public portion WPTA Fall 2015	PENNDOT	-	-	64	494,824	-	-
72911	PennDOT Public Portion - Spring Harrisburg, PA	PENNDOT	-	-	-	-	323	2,500,114
77558	Comm of PA HE: 2016 Fall PennDOT Public Portion - 9/27 to 10/11	PENNDOT	-	-	-	-	86	630,443
		Total Sales Overall Per Year		$ 3,139,796.00		$ 2,429,438.00		$ 3,130,557.00
	Average of (2) Public Heavy Equipment Auctions per Year	Average Sale Amount Per Auction	$	1,569,898.00	$	1,214,719.00	$	1,565,278.50

Appedix B - Municipal Heavy Equipment Auctions

Event #	Event Name		Lot Count	2014	Lot Count	2015	Lot Count	2016
55880	PennDot Equipment Municipal	PENNDOT	34	493,677	-	-	-	-
58688	PennDot Heavy Equipment Municipal	PENNDOT	12	57,180	-	-	-	-
64136	Commonwealth of PA - PennDOT Heavy Equipment Private Municipal Portion	PENNDOT	-	-	51	447,586	-	-
67105	PennDOT Heavy Equipment - municipal portion fall	PENNDOT	-	-	5	60,885	-	-
72454	PennDOT Spring 2016 Municipal Portion	PENNDOT	-	-	-	-	26	217,895
77557	Comm of PA HE: 2016 Fall PennDOT Private Municipal Portion - 8/24 to 9/7	PENNDOT	-	-	-	-	7	52,170
		Total Sales Overall Per Year		$ 550,857.00		$ 508,470.50		$ 270,065.00
	Average of (2) Municipal Heavy Equipment Auctions per Year	Average Sale Amount Per Auction		$ 275,428.50		$ 254,235.25		$ 135,032.50

Appendix B - Right of Way Auctions

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
54549	Commonwealth of PA - York	ROW	12	7,490	-	-	-	-
54828	Commonwealth of PA Rita's Water Ice	ROW	8	5,298	-	-	-	-
54923	Commonwealth of PA - York ROW	ROW	1	1,425	-	-	-	-
55414	Commonwealth of PA - Fastenal Right of Way	ROW	28	22,363	-	-	-	-
55730	Commonwealth of PA	ROW	14	3,410	-	-	-	-
56253	Commonwealth of PA	ROW	1	32	-	-	-	-
56968	Commonwealth of PA Right of Way	ROW	2	14,320	-	-	-	-
56990	Commonwealth of PA ROW Ligonier, PA	ROW	16	4,093	-	-	-	-
58631	Commonwealth of PA ROW	ROW	15	4,431	-	-	-	-
58909	Commonwealth of PA	ROW	9	30,256	-	-	-	-
58916	Commonwealth of PA - Randall Rauch ROW	ROW	14	5,470	-	-	-	-
59046	Commonwealth of PA - CI Pittsburgh Machinery	ROW	6	1,133	-	-	-	-
60092	Commonwealth of PA - ROW	ROW	13	458	-	-	-	-
60785	Commonwealth of PA - Ligonier ROW	ROW	8	2,860	-	-	-	-
60787	Commonwealth of PA - ROW Permaport Floating Jet Ski Dock	ROW	1	333	-	-	-	-
61130	Commonwealth of PA - Cherry Tree Cafe - Vehicle/Van portion	ROW	1	1,400	-	-	-	-
60802	Commonwealth of PA - Bruno Trucking	ROW	19	137,994	1	111	-	-
61097	Commonwealth of PA - right of way - Jarrett Computer	ROW	-	-	13	1,772	-	-
62091	Commonwealth of PA - right of way - Stake and Stake claimants	ROW	-	-	2	756	-	-
62092	Commonwealth of PA - right of way - Stake and Stake claimants	ROW	-	-	1	1,400	-	-
62096	Commonwealth of PA - right of way - beauty salon - Cambria City Tracey Mulvehill	ROW	-	-	12	4,694	-	-

Appendix B - Right of Way Auctions

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
62681	Commonwealth of PA - right of way - Max Auto Body and Repair	ROW	-	-	3	157	-	-
62858	Commonwealth of PA - right of way project - Hempfield Hunt Club	ROW	-	-	23	7,974	-	-
64185	Commonwealth of PA - Wasko right of way acquisition	ROW	-	-	29	6,357	-	-
64186	Commonwealth of PA - Accent Fuels right of way acquisition	ROW	-	-	6	1,512	-	-
65180	Commonwealth of PA right of way - Claim # 64011433001 Nets Pos	ROW	-	-	2	1,375	-	-
65347	Commonwealth of PA - ROW Claim #64011433001 Nets Pos, - non-equipment	ROW	-	-	2	96	-	-
66497	Commonwealth of PA - ROW 100322 claim 3300509001 Adagio Health	ROW	-	-	13	169	-	-
66504	PA right of way - Claim #0600589001 - Interstate Collision Center, LLC.	ROW	-	-	1	2,600	-	-
71469	Commonwealth of PA - right of way New Image Tatoo	ROW	-	-	-	-	25	3,512
71999	Commonwealth of PA - Right of Way - Coal Tubin - Johnstown	ROW	-	-	-	-	68	16,514
73820	DGS Auction On R/W Project - Kittanning, PA - BSSO	ROW	-	-	-	-	27	10,010
74486	PA DGS - L & I Kitchen Equipment - BSSO	ROW	-	-	-	-	17	2,144
74575	Commonwealth of PA - Right of Way Vehicles - Coal Tubin - Johnstown - Part 2	ROW	-	-	-	-	5	14,619
75738	Relists PA DGS - L & I Kitchen Equipment - BSSO	ROW	-	-	-	-	11	668
		Total Sales Overall Per Year		$ 242,765.81		$ 28,972.19		$ 47,467.14

Appendix B - Right of Way Auctions

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
	Average of (10) Right of Way Auctions per Year	Average Sale Amount Per Auction	$	24,276.58	$	2,897.22	$	4,746.71

Appendix B - Special Sales

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
56445	PA Turnpike Commission	PA Turnpike	50	18,056	-	-	-	-
57477	PA Turnpike Commission	PA Turnpike	1	10	-	-	-	-
57806	PA Turnpike	PA Turnpike	1	10	-	-	-	-
58649	PA Turnpike Commission - Wyoming Valley	PA Turnpike	8	2,720	-	-	-	-
58821	PA Turnpike Commission	PA Turnpike	7	8,935	-	-	-	-
58956	PA Turnpike	PA Turnpike	4	2,989	-	-	-	-
54062	PA Turnpike Commission	PA Turnpike	25	146,349	-	-	-	-
54255	PA Turnpike Commission - Newville	PA Turnpike	26	12,845	-	-	-	-
54713	PA Turnpike Commission	PA Turnpike	18	6,621	-	-	-	-
53492	PA Attorney General	PA Attorney General	2	53,472	-	-	-	-
53710	Commonwealth of PA	DGS Warehouse	1	725,000	-	-	-	-
54969	PA Attorney General	PA Attorney General	1	18,250	-	-	-	-
57233	PA Attorney General	PA Attorney General	27	9,700	-	-	-	-
57459	Attorney General	PA Attorney General	7	15,310	-	-	-	-
57752	Attorney General	PA Attorney General	1	5,500	-	-	-	-
58856	Attorney General - 1994 Rockwood Embassy Motor Home	PA Attorney General	1	9,412	-	-	-	-
59185	PA Attorney General	PA Attorney General	1	655	-	-	-	-
60548	PA Office of Attorney General	PA Attorney General	2	13,005	-	-	-	-
59412	PA Turnpike	PA Turnpike	82	317,640	-	-	-	-
60080	PA Turnpike Commission	PA Turnpike	61	16,078	-	-	-	-
60448	PA Turnpike	PA Turnpike	1	10,800	-	-	-	-
59996	PA Turnpike Commission	PA Turnpike	2	630	1	125	-	-
61482	PA Turnpike Commission - Newville relist items	PA Turnpike	-	-	4	13,120	-	-
61483	PA Turnpike Commission - Newville relists - surplus portion	PA Turnpike	-	-	5	197	-	-
61966	PA Turnpike Commission - Steelton Warehouse IT equip & surplus	PA Turnpike	-	-	44	12,466	-	-

Appendix B - Special Sales

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
62975	PA Turnpike Commission - 2 vehicles and tractor at Steelton warehouse	PA Turnpike	-	-	3	6,510	-	-
63509	PA Turnpike Commission - Gibsonia & Southern Beltway project	PA Turnpike	-	-	19	9,943	-	-
64156	PA Turnpike Commission - Southern Beltway property acquisition	PA Turnpike	-	-	8	20,994	-	-
64192	PA Turnpike Commission - Gibsonia Maintenance - equipment portion	PA Turnpike	-	-	4	16,967	-	-
65312	PA Turnpike Commission - Steelton Warehouse surplus	PA Turnpike	-	-	22	2,609	-	-
65895	PA Turnpike Commission - Newville Trucks and Equipment	PA Turnpike	-	-	159	1,039,401	-	-
65896	PA Turnpike Commission - Newville - surplus and blue building items	PA Turnpike	-	-	72	26,521	-	-
67858	PA Turnpike Commission - multiple maintenance locations	PA Turnpike	-	-	5	5,020	-	-
67859	PA Turnpike Commission - multiple maintenance locations	PA Turnpike	-	-	2	1,685	-	-
68336	PA Turnpike Commission - concrete barrier - Donegal Maintenance	PA Turnpike	-	-	1	365	-	-
68994	PA Turnpike Commission - Newville blue building surplus	PA Turnpike	-	-	34	7,576	-	-
65628	Commonwealth of PA - PSP Bell Helicopters	DGS	-	-	2	970,000	-	-
65743	PA Office of Attorney General - seized vehicles	PA Attorney General	-	-	7	34,586	-	-
70901	PA Turnpike Commission - furniture project 300 east park drive	PA Turnpike	-	-	-	-	14	259
72349	PA Turnpike Commission - Steelton Warehouse	PA Turnpike	-	-	-	-	7	6,971

Appendix B - Special Sales

Event #	Event Name		2014		2015		2016	
			Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)	Lot Count	Total Value of all Lots ($)
72393	PA Turnpike Commission - Tanks - multiple locations	PA Turnpike	-	-	-	-	27	9,500
73048	PA Turnpike Commission - Newville Vehicles & Equipment	PA Turnpike	-	-	-	-	228	823,899
73049	PA Turnpike Commission - Bedford	PA Turnpike	-	-	-	-	10	5,650
75224	73048 PA Turnpike Relists	PA Turnpike	-	-	-	-	2	4,375
75225	PA Turnpike Commission - Shade Gap, PA - Damaged Truck	PA Turnpike	-	-	-	-	1	335
77922	Mike Parpagene - PA Turnpike - Concrete Barriers, Somerset, PA	PA Turnpike	-	-	-	-	2	4,529
79142	PA Turnpike - Wyoming Valley - 7 Tanks	PA Turnpike	-	-	-	-	7	3,675
80180	PA Turnpike - Devault Facility Tanks	PA Turnpike	-	-	-	-	1	112
80338	PA Turnpike Commission - Newville	PA Turnpike	-	-	-	-	97	136,403
81675	PA Turnpike - Concrete Barriers	PA Turnpike	-	-	-	-	2	430
83039	PA Turnpike - Concrete Barriers	PA Turnpike	-	-	-	-	6	2,847
83327	PA Turnpike - Kegg Maintenance Sale	PA Turnpike	-	-	-	-	2	100
83988	80338 PA Turnpike Newville, PA Relists	PA Turnpike	-	-	-	-	1	126
77908	PA Attorney General - 1974 Cessna 421-B Aircraft	PA Attorney General	-	-	-	-	1	35,500
		Total Sales Overall Per Auction		$ 1,393,986.37		$ 2,168,084.98		$ 1,034,710.99
	Average of (18) Special Auctions per Year	Estimate Sales per Auction	$	77,443.69	$	120,449.17	$	57,483.94

Appendix C
Requirements for non-Commonwealth Hosted Applications/Services

The purpose of this appendix is to define requirements for technology solutions procured by the Commonwealth that are not hosted within Commonwealth infrastructure.

A. Hosting Requirements

1. The selected Offeror shall supply all hosting equipment (hardware and software) required for performance of the Contract.

2. The selected Offeror shall provide secure access to all levels of users via the internet.

3. The selected Offeror shall use commercially reasonable resources and efforts to maintain adequate internet connection bandwidth and server capacity.

4. The selected Offeror shall monitor, prevent and deter unauthorized system access. Any and all known attempts must be reported to the Commonwealth within the timeframe set out by the RFP. In the event of any impermissible disclosure, loss or destruction of Confidential Information, the receiving Party must immediately notify the disclosing Party and take all reasonable steps to mitigate any potential harm or further disclosure, loss or destruction of such Confidential Information. In addition, pertaining to the unauthorized access, use, release, or disclosure of data, the selected Offeror shall comply with state and federal data breach notifications regulations and is to report security incidents to the Commonwealth within one (1) hour of when the selected Offeror knew of such unauthorized access, use, release, or disclosure of data.

5. The selected Offeror shall allow the Commonwealth or its delegate, at times chosen by the Commonwealth, to review the hosted system's location and security architecture.

6. The selected Offeror staff, directly responsible for day-to-day monitoring and maintenance, shall have industry standard certifications applicable to the environment and system architecture used.

7. The selected Offeror shall locate servers in a climate-controlled environment. Offeror shall house all servers and equipment in an operational environment that meets industry standards including climate control, fire and security hazard detection, electrical needs, and physical security.

8. The selected Offeror shall examine system and error logs daily to minimize and predict system problems and initiate appropriate action.

9. The selected Offeror shall completely test and apply patches for all third-party software products before release.

10. Offerors shall provide a successfully passed SSAE- 16 SOC2 audit report, conducted by an independent certified public accounting firm, subject to the approval of the Department, as part of its proposal, and the selected Offeror shall provide a SSAE-16 audit reports annually.

B. System Availability.

1. The selected Offeror shall make available the system and any custom software on a 24 X 7 basis.

2. From time to time, emergency maintenance may be required to bring down the system. In such situations, if possible, the selected Offeror shall give advance notice, before the system goes down for maintenance, to the Commonwealth. The selected Offeror will limit the emergency maintenance to those situations which require immediate action of bringing down the system that cannot wait for the next scheduled maintenance period.

3. Additional information regarding release management process and procedures are located in the technical submittal.

C. Security Requirements.

.

1. The selected Offeror shall conduct a third party independent security/vulnerability assessment at its own expense on an annual basis and submit the results of such assessment to the Commonwealth within 3 business days.

2. The selected Offeror shall comply with Commonwealth directions/resolutions to remediate the results of the security/vulnerability assessment to align with the standards of the Commonwealth.

3. The selected Offeror shall use industry best practices to protect access to the system with a firewall and firewall rules to prevent access by non-authorized users and block all improper and unauthorized access attempts.

4. The selected Offeror shall use industry best practices to provide system intrusion detection and prevention in order to detect intrusions in a timely manner.

5. The selected Offeror shall use industry best practices to provide virus protection on all servers and network components.

6. The selected Offeror shall limit access to the system and servers and provide access only to those staff that must have access to provide services proposed.

7. The selected Offeror will provide all Services, using security technologies and techniques in accordance with industry best practices and the Commonwealth's security policies,

procedures, and requirements, including those relating to the prevention and detection of fraud and any other inappropriate use or access of systems and networks.

D. Data Storage.

1. The selected Offeror shall use industry best practices to update all systems and third party software security patches to reduce security risk. The selected Offeror shall protect their systems with anti-virus, host intrusion protection, incident response monitoring and reporting, network firewalls, application firewalls, and employ system and application patch management to protect its network and customer data from unauthorized disclosure.

2. The selected Offeror shall be solely responsible for all data storage required.

3. The selected Offeror shall take all necessary measures to protect the data including, but not limited to, the backup of the servers on a daily basis in accordance with industry best practices and encryption techniques.

4. The selected Offeror agrees to have appropriate controls in place to protect critical or sensitive data and shall employ stringent policies, procedures, and best practices to protect that data particularly in instances where sensitive data may be stored on a selected Offeror controlled or owned electronic device.

5. The selected Offeror shall utilize a secured backup solution to prevent loss of data, back up all data every day and store backup media. Storage of backup media offsite is required. Stored media must be kept in an all-hazards protective storage safe at the worksite and when taken offsite. All back up data and media shall be encrypted.

E. Disaster Recovery. The selected Offeror shall employ reasonable disaster recovery procedures to assist in preventing interruption in the use of the system. Refer to Disaster Recovery section within the Technical submittal,

F. PCI Compliance.

The selected Offeror is obliged to adhere to the Payment Card Industry Data Security Standard (PCI DSS) if it processes payment card data. Moreover, The selected Offeror certifies that their Information Technology practices conform to and meet current PCI DSS standards as defined by The PCI Security Standards Council at https://www.pcisecuritystandards.org/security_standards/index.php.

The selected Offeror will monitor these PCI DSS standards and its Information Technology practices and the selected Offeror will notify the Commonwealth within one (1) week, if its practices should not conform to such standards. The selected Offeror will provide a letter of certification to attest to meeting this requirement and agrees to the Commonwealth's right-to-audit either by Commonwealth or external 3rd party auditors.

Selected Offeror agrees that it may (1) create, (2) receive from or on behalf of Commonwealth, or (3) have access to, payment card records or record systems containing cardholder data including credit card numbers (collectively, the "Cardholder Data"). Selected Offeror shall comply with the Payment Card Industry Data Security Standard ("PCI-DSS") requirements for Cardholder Data that are prescribed by the payment brands (as appropriate including Visa, MasterCard, American Express, Discover), as they may be amended from time to time (collectively, the "PCIDSS Requirements"). Selected Offeror acknowledges and agrees that Cardholder Data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, or as specifically agreed to by the payment brands, for purposes of this Agreement or as required by applicable law.

Official Questions / Answers
Auction Services (Surplus)
RFP 6100044453

Question	Answer	Response Posted to JAGGAER
Does the Commonwealth currently hold live, on-site auctions? Is there a separate contract for this? If the Commonwealth does hold live auctions, but does not have a contract with a provider, who is/are the vendor/vendors currently conducting these live auctions?	The Commonwealth has a statewide contract (# 4400014454) with David J. Cordier for the public sale of unique and historical items.	Answered 2/13/2018 at 1:55 PM by Jennifer Habowski
Are you able to share the thought process or reasoning for the significant changes between the canceled Event # 6100042673 and the current RFP (RFP 6100044453 - Auction Services (Surplus)) (the replacement RFP for Event # 6100042673), with the new minimum requirements of holding a PA auctioneers license and requiring on-site auction experience, especially consider the vast majority of the RFP speaks primarily to online auction services?	Changing the direction of the RFP will allow the Commonwealth to choose the most efficient and effective way to sell surplus property, whether it be the ability to sell several surplus items online or to have a public (on-site) auction to sell the contents of a building. The goal of the auction surplus contract is to increase efficiency, maximize competition and increase revenues. The requirement to have an auctioneers license (I-5, A of the Technical Submittal), specifically states, “The selected Offeror must provide an auctioneer with a valid PA Auctioneers license to conduct public (on-site) auctions.” Offerors who do not have a valid PA auctioneer license could, as part of its proposal submission, subcontract with an entity or auctioneer that meets this requirement.	Answered 2/5/2018 at 10:32 AM by Jennifer Habowski
If an offeror proposes to subcontract with an entity or auctioneer that holds a valid PA auctioneer license, does that entity or auctioneer (or entities or auctioneers), need to be named in the proposal?	Yes. In the Technical Submittal refer to sections I-2, D. Subcontractors and I-5. A. Requirements. If the subcontractor is a small diverse business or small business, also refer to RFP Questions, Group 1.2 Small Diverse Business and Small Business Participation.	Answered 2/6/2018 at 1:33 PM by Jennifer Habowski

Official Questions / Answers
Auction Services (Surplus)
RFP 6100044453

Question	Answer	Response Posted to JAGGAER
Would the State consider a 100% online auction service as an award to this RFP? Our company can provide many additional services that limit the amount of involvement and staff needed from the State in order to make the online auction process efficient and effective but we do not have a live auctioneer's license in the State of PA and requiring public on-site auctions as part of this response would require that and will limit multiple competitive vendors from being able to respond because of this requirement and will drive the cost of service higher. Thanks.	No	Answered 2/12/2018 at 8:50 AM by Jennifer Habowski
Will this RFP require an in-person presentation as with RFP # 6100042673?	Yes. Refer to item # 14 Oral Presentations in the JAGGAER Description section.	Answered 2/5/2018 at 10:33 AM by Jennifer Habowski
Have there been any changes made to the RFP documents in comparison to the 2017 RFP # 6100042673?	Yes, multiple revisions have been made. One significant change is the requirement to conduct public (on-site) auctions.	Answered 2/5/2018 at 10:34 AM by Jennifer Habowski

PROPOSAL COVER SHEET
COMMONWEALTH OF PENNSYLVANIA
Department of General Services
RFP# 61000444453

The proposal of the Offeror identified below for the above-referenced RFP is submitted electronically comprised of separate files for Technical, Cost and SDB/SB:

Offeror Information:	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	
Offeror SAP/SRM Vendor Number	

Electronic Submittals Uploaded:	
☐	Technical Submittal ☐ Domestic Workforce Utilization Certification
☐	Small Diverse Business and Small Business Participation Submittal ☐ Small Diverse Business and Small Business Participation Submittal Form ☐ Small Diverse Business and Small Business Letter(s) of Intent
☐	Cost Submittal

Signature
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:
Printed Name
Title

FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL

REVISED 01-17-2017

COSTARS PROGRAM ELECTION TO PARTICIPATE

If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract. Our firm also agrees to pay the applicable Administrative Fee ($1500, or $500 for a Department of General Services Self-Certified Small Business, or $166 for a Department of General Services-verified Small Diverse Business) at the beginning of each contract year and upon each contract renewal date.

If you are a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, you must submit a copy of your active Small Business Contracting Program certificate with your bid response.

_____

Corporate or Legal Entity Name

_____

Signature/Date

_____

Printed Name/Title

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

A. General Information. The Issuing Office encourages participation by Small Diverse Businesses (SDB) and Small Businesses (SB) as prime contractors and encourages all prime contractors to make significant commitments to use SDBs and SBs as subcontractors and suppliers.

A SB must meet each of the following requirements:

- Δ The business must be for-profit, United States business;
- Δ The business must be independently owned;
- Δ The business may not be dominant in its field of operation;
- Δ The business may not employ more than 100 full-time or full-time equivalent employees;
- Δ The business, by type, may not exceed the following three-year average gross sales:
  - o Procurement Goods and Services: $20 million
  - o Construction: $20 million
  - o Building Design Services: $7 million
  - o Information Technology Goods and Services: $25 million

For credit in the RFP scoring process, a SB must complete the Department of General Services (DGS)/Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) self-certification process. Additional information on this process can be found here: Small Business Self-Certification.

A SDB is a DGS-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, Disability-owned small business, or other small businesses as approved by DGS, that are owned and controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

For credit in the RFP scoring process, a SDB must complete the DGS verification process. Additional information on this process can be found here:
Small Diverse Business Verification.

An Offeror that qualifies as a SDB or SB and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors. A SDB or SB may be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

The Department's directory of self-certified SBs and DGS/BDISBO-verified SDBs can be accessed here:
Find Small and Small Diverse Businesses.

B. SDB and SB Participation Evaluation. BDISBO has established the minimum evaluation weight for the SDB and SB Participation criterion for this RFP as 20% of the total points.

1) The SDB and SB point allocation is based entirely on the percentage of the contract cost committed to SDB and SB participation. If the proposer is a SDB, 100% of the contract cost is allocated to SDB participation. If the proposer is a SB, 100% of the contract cost is allocated to SB participation.

2) A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no SDB or SB points.

3) Based on a maximum total of 200 available points for the SDB/SB Participation Submittal, the scoring mechanism is as follows:

SDB and SB Raw Score =

200 (SDB% + **(1/3 * SB %**))

4) The SDB and SB Raw Score is capped at 200.

The Offeror with the highest raw score will receive 200 points. Each Offeror's raw score will be pro-rated against the Highest Offeror's raw score by applying the formula set forth here: RFP Scoring Formula.

5) The Offeror's prior performance in meeting its contractual obligations, SDBs and SBs will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the the limited purpose of eligibility to receive SDB and SB points.

Questions regarding the SDB and SB Programs, including questions about the self-certification and verification processes can be directed to:

Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 601, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

C. SDB/SB Participation Submittal. All Offerors are required to submit the attached SDB/SB Participation Submittal Form in its entirety and related Letter(s) of Intent. **To receive points for SDB or SB participation commitments, the SDB or SB must be listed in the Department's directory of self-certified SBs and DGS/BDISBO-verified SDBs as of the proposal due date and time. BDISBO reserves the right to adjust overall SDB or SB commitments to correctly align with the SDB or SB status of a prime contractor or subcontractor as of the solicitation due date and time, and also to reflect the correct sum of individual subcontracting commitments listed within the Letters of Intent.**

If there are multiple Letters of Intent, please combine them into one document and upload them with your response. The Letter(s) of Intent must be signed by both the Offeror and the SDB or SB for each of the identified SDB or SB subcontractors. Please use the attached Letter of Intent template and include all highlighted information.

Each SDB or SB commitment credited by BDISBO along with the overall percentage of SDB and SB commitments will become contractual obligations of the selected Offeror.

Offerors will not receive credit for any commitments for which information as above is not included in the SDB/SB Participation Submittal. Offerors will not receive credit for stating that they will find a SDB or SB after the contract is awarded.

Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SDB and/or SB Status or entitle an Offeror to receive credit for SDB or SBparticipation.

D. Contract Requirements.

All contracts containing SDB and SB Participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:

1. Each SDB and SB commitment which was credited by BDISBO and the total percentage of such SDB and SB commitments made at the time of proposal submittal, BAFO, or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.

2. All SDB and SB subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.

3. The individual percentage commitments made to SDBs and SBs cannot be altered without written approval from BDISBO.

4. SDB and SB commitments must be maintained in the event the contract is assigned to another prime contractor.

5. The selected Offeror and each SDB and SB for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the selected Offeror and the SDB and/or SB to BDISBO within 30 days of the final execution date of the Commonwealth contract. A Model Subcontract Agreement which may be used to satisfy this requirement is provided as an attachment – **Model Form of Small Diverse and Small Business Subcontract Agreement.** The subcontract must contain:

a) The specific work, supplies or services the SDB and/or SB will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.

b) The fixed percentage commitment and associated estimated dollar value that each SDB and/or SB will receive based on the final negotiated cost for the initial term of the prime contract.

c) Payment terms indicating that the SDB and/or SB will be paid for work satisfactorily completed within 14 days of the selected Offeror's receipt of payment from the Commonwealth for such work.

d) Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected Offeror's contract with the Commonwealth and that do not place disproportionate risk on the SDB and/or SB relative to the nature and level of the SDB's and/or SB's participation in the project.

6. If the selected Offeror and a SDB or SB credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the selected Offeror must notify BDISBO.

7. The Selected Offeror shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to SDB and SB subcontractors and suppliers and will serve as a record of fulfillment of the the contractual commitment. If there was no activity during the quarter, the form must be completed by stating "No activity in this quarter." A late fee of $100.00 per day may be assessed against the Selected Offeror if the Utilization Report is not submitted in accordance with the schedule above.

8. The Selected Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the selected Offeror's ability to comply with SDB and/or SB commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.

9. If the Selected Offeror fails to satisfy its SDB and/or SB commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the selected Offeror's SDB and/or SB status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

SMALL DIVERSE BUSINESS (SDB) AND SMALL BUSINESS (SB) PARTICIPATION SUBMITTAL

Project Description:	
RFP #:	
Proposal Due Date:	
Commonwealth Agency Name:	

OFFEROR (Prime Contractor) INFORMATION

Offeror Company's Name:			
Offeror Contact Name:		**Email:**	
Title:		**Phone:**	

Is your firm a DGS-Verified Small Diverse Business? **NO** **Verif Exp:**

Is your firm a DGS-Self-Certified Small Business? **NO** **Cert Exp:**

To confirm your company's SDB/SB status and expiration, please click or use the following link:
http://www.dgs.pa.gov/Businesses/Small Diverse Business Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx#.WVPvzp3D-

SUBCONTRACTING INFORMATION

Percentage Commitment for SDB and SB Subcontracting Participation

Commitment percentages will automatically calculate in the SDB/SB fields below after you have completed the SDB and SB Subcontractor Listing on the "Listing" tab.

After examination of the contract documents, which are made a part hereof as if fully set forth herein, the Offeror commits to the following percentages of the total contract cost for Small Diverse Business and Small Business subcontracting participation.

Small Diverse Business Subcontracting percentage commitment:

0.000%

Small Business Subcontracting percentage commitment:

0.000%

Revised 01-16-2018

SMALL DIVERSE BUSINESS (SDB) AND SMALL BUSINESS (SB)
PARTICIPATION SUBMITTAL

Listing SDB and SB Subcontractors

The Offeror must list in the chart below the SDBs and SBs that will be used to meet the percentage commitments provided above, along with the requested information about each SDB and SB Subcontractor. Include as many pages as necessary. Offerors must also include a Letter of Intent (LOI) for each SDB/SB listed. **To receive points for SDB or SB participation commitments, the SDB or SB must be listed in the Department's directory of self-certified SBs and DGS/BDISBO-verified SDBs as of the proposal due date.** The directory of self-certified SBs and DGS/BDISBO-verified SDBs can be accessed at the following link:

http://www.dgs.pa.gov/Businesses/Small Diverse Business Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx#.WVPvzp3D-

SDB/SB name, percent commitment to SDB/SB, and estimated $ value of commitment will automatically populate in the LOI tabs.

Offeror Company's Name:	**0**					
SDB/SB Subcontractor Name	**SDB or SB**	**Primary Contact Name**	**Description of Services or Supplies to be Provided**	**% of Total Contract Cost Committed**	**Estimated $ Value of Commitment for Initial Contract Term**	**Will SDB/SB be used for Options/ Renewals? (YES/NO)**
Total SDB % Commitment:	**0.000%**					
Total SB % Commitment:	**0.000%**					

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MM/DD/YYYY

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]
[Address]
[City, State, Zip]
[Email]
[Phone #]

Offeror:
RFP:

Dear: [SDB/SB Contact Name]

This letter serves as confirmation of the intent of this offeror to utilize on the above-referenced RFP issued by

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

[Identify the specific time periods during the initial contract term and any extensions, options and renewals when the work, goods or services will be provided or performed]

Identify the specific work, goods or services the SDB/SB will perform below:

[Identify the specific work, goods or services the SDB/SB will perform]

These services represent of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Offeror Contact Name:
Title:
Offeror Company's Name:

Acknowledged,

X

[SDB/SB Contact Name]
[Title]
[SDB/SB Company Name]

MODEL FORM OF SMALL DIVERSE AND SMALL BUSINESS SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of _____ __, 20__, by and between _____, ("Contractor") and _____,
a Small Diverse Business or Small Business ("Subcontractor") (collectively referred to as the "Parties").

RECITALS

Contractor has entered into a contract dated _____ (the "Prime Contract") with the Department of _____ of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated _____ ("Letter of Intent") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Small Business Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Intent and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Small Business Commitment expressed in the Letter of Intent and as required by the Prime Contract.

DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

Bureau – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

Contracting Officer – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

Department – The Department of General Services of the Commonwealth of Pennsylvania.

Issuing Office – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

Procurement – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.

Small Business – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and

earns less than $7 million in gross annual revenues for building design, $20 million in gross annual revenues for sales and services and $25 million in gross annual revenues for those businesses in the information technology sales or service business.

Small Diverse Business – A Department-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, or disability-owned small business.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

(a) Subcontractor is self-certified as a Small Business in accordance with the requirements and procedures established by the Bureau of Diversity, Inclusion and Small Business Opportunities; [Subcontractor is also verified as a Small Diverse Business by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;]

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a) General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b) Specific. The Parties agree to comply with the following provisions of the Prime Contract, which are incorporated herein by reference:

(1) The Americans with Disabilities Act Provisions.
(2) Nondiscrimination/Sexual Harassment Clause.
(3) Contractor Integrity Provisions.
(4) Contractor Responsibility Provisions.

(c) Termination. Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(d) Audit Provisions. The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Small Business Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. Order of Precedence. The Letter of Intent, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

(a) This Subcontract;
(b) The Letter of Intent;
(c) The Prime Contract; and
(d) The Procurement.

6. Further Action. The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. Description of Services. Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM]

_____

_____

_____

_____
_____
_____.

8. Small Diverse Business or Small Business Commitment. The above-referenced Services represent __ % of the final negotiated total cost for the initial term of the Prime Contract. Any proposed change to the Small Diverse Business or Small Business Commitment must be submitted in writing to the Bureau which will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es):
_____
_____.

11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

[IDENTIFY THE SPECIFIC TIME PERIODS DURING THE INITIAL CONTRACT TERM AND EXTENSIONS, OPTIONS AND RENEWALS WHEN THE SUBCONTRACTOR WILL PERFORM COMPONENT SERVICES]

_____
_____
_____
_____
_____.

12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit ___ to this Subcontract. [ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a different payment schedule or structure as set forth below:
_____

_____
_____.

14. Utilization Reports. Both the Contractor and Subcontractor shall complete Quarterly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer and to the Bureau within ten (10) business days at the end of each quarter. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Small Business Commitments. If there was no activity during the quarter, then the form must be completed by stating "No activity in this quarter." A late fee of $100.00 per day may be assessed against the Contractor if its Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Small Business Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Small Business Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a) The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Small Business Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Small Business commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract and/or Subcontract together with consequential damages; revocation of the party's Small Business self-certification status and/or Small Diverse Business verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Businesses and Small Businesses contractual obligations will be considered by the Bureau during future procurement scoring processes. To the extent a party has failed to meet prior contractual commitments, the Bureau may recommend to the Issuing Office that the party be determined non-responsible for the limited purpose of eligibility to receive SDB/SB points or consideration as a qualified Small Diverse Business or Small Business.

(b) Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

18. Notices. Any written notice to any party under this Subcontract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to the following:

If to Contractor:

_____
_____
_____

If to Subcontractor:

_____
_____
_____

19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Small Business Commitment set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Small Business Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

ADDITIONAL TERMS AND CONDITIONS

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALLY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR SMALL BUSINESS RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR SMALL BUSINESS' PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

Background Checks
Confidentiality/Disclosure of Information
Data Security

Insurance
Invoicing Requirements
Environmental Protection
Intellectual Property Rights
Record Retention/Audits
Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)
Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

IN WITNESS WHEREOF, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor	Subcontractor
Insert Company Name	*Insert Company Name*
By: _____	By: _____
Signature	Signature
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title
_____	_____
Date	Date

DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

I, _____**[title]** of _____**[name of Contractor]** a _____ **[place of incorporation]** corporation or other legal entity, ("Contractor") located at _____ **[address],** having a Social Security or Federal Identification Number of _____, do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

☐ All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

☐ _____ **percent** (_____**%**) **[Contractor must specify the percentage]** of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed: _____
_____
[Use additional sheets if necessary]

The Department of General Services **[or other purchasing agency]** shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

_____
Corporate or Legal Entity's Name

_____ _____
Signature/Date Signature/Date

_____ _____
Printed Name/Title Printed Name/Title

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

LOBBYING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, which can be found at:

http://www.whitehouse.gov/sites/default/files/omb/assets/omb/grants/sflllin.pdf

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code.* Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than **$100,000** for such failure.

SIGNATURE: _____

TITLE: _____ DATE: _____

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

IRAN FREE PROCUREMENT CERTIFICATION FORM

(Pennsylvania's Procurement Code Sections 3501-3506, 62 Pa.C.S. §§ 3501-3506)

To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least $1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

To comply with this requirement, please insert your vendor or financial institution name and complete **one** of the options below. Please note: Pennsylvania law establishes penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Section 3503 of the Procurement Code.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is eligible to contract with the Commonwealth of Pennsylvania Sections 3501-3506 of the Procurement Code.

Vendor Name/Financial Institution (Printed)	
By (Authorized Signature)	
Printed Name and Title of Person Signing	*Date Executed*

OPTION #2 – EXEMPTION

Pursuant to Procurement Code Section 3503(e), DGS may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to enter into a contract for goods and services.

If you have obtained a written exemption from the certification requirement, please fill out the information below, and attach the written documentation demonstrating the exemption approval.

Vendor Name/Financial Institution (Printed)	
By (Authorized Signature)	
Printed Name and Title of Person Signing	*Date Executed*

Trade Secret/Confidential Proprietary Information Notice

Instructions:

The Commonwealth may not assert on behalf of a third party an exception to the public release of materials that contain trade secrets or confidential proprietary information unless the materials are accompanied, at the time they are submitted, by this form or a document containing similar information.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to trade secret law.

Name of submitting party:

Contact information for submitting party:

Please provide a brief overview of the materials that you are submitting (e.g. bid proposal, grant application, technical schematics):

Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g. response to bid #12345, application for grant XYZ being offered by the Department of Health, documents required to be submitted under law ABC)

Please provide a list detailing which portions of the material being submitted you believe constitute a trade secret or confidential proprietary information, and please provide an explanation of why you think those materials constitute a trade secret or confidential proprietary information. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed)

Note: The following information will not be considered a trade secret or confidential proprietary information:

- Any information submitted as part of a vendor's cost proposal
- Information submitted as part of a vendor's technical response that does not pertain to specific business practices or product specification
- Information submitted as part of a vendor's technical or small diverse business response that is otherwise publicly available or otherwise easily obtained
- Information detailing the name, quantity, and price paid for any product or service being purchased by the Commonwealth

Page Number	Description	Explanation

Acknowledgment

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that the Commonwealth is not liable for the use or disclosure of trade secret data or confidential proprietary information that has not been clearly marked as such, and which was not accompanied by a specific explanation included with this form.

The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret or confidential, and indemnify and hold harmless the Commonwealth, its agents and employees, from any judgments awarded against the Commonwealth in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as the Commonwealth has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to the Commonwealth stating that it no longer wishes to exempt the submitted material from public disclosure.

The undersigned acknowledges that the Commonwealth is required to keep all records for at least as long as specified in its published records retention schedule.

The undersigned acknowledges that the Commonwealth reserves the right to reject the undersigned's claim of trade secret/confidential proprietary information if the Commonwealth determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret or is confidential. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret or is confidential, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.

If being submitted electronically, the undersigned agrees that the mark below is a valid electronic signature.

Signature Title Date

EXHIBIT B

NEGOTIATED COST SUBMITTAL

INSTRUCTIONS

GENERAL INSTRUCTIONS FOR COMPLETING THIS WORKBOOK (Tab 1)

The Cost Submittal Worksheets contained in this workbook shall constitute the Cost Submittal.

The Buyer's Premium Fee shall be considered the "cost" that the Offeror will charge a buyer for the purchase of an item. The Buyer's Premium fee must be inclusive of any overhead, administrative costs, marketing and advertising fees, travel, subsistence, supplies and other expenses. **No other fees may be charged**.

For information on payment of proceeds, refer to I-4, O of the technical submittal.

COST SUBMITTAL OVERVIEW (Tab 2)

1. Select the Cost Submittal Overview Tab at the bottom of this page.
2. Complete the highlighted cells in the top portion of the form (all contact information).
NOTE: The information you supply here must match the information you provided to Vendor Registration.
3. This tab requires no entry of cost data. All data entered on the Cost Submittal Worksheet will automatically populate into the Cost Submittal Overview tab.
4. The Cost Submittal will be evaluated for the Inital Term of the Contract (3 years).

COST SUBMITTAL BREAKDOWN (Tab 3)

1. Select the Cost Submittal Worksheet Tab at the bottom of this page.
2. For each type of auction (General Merchandise Recurring; Heavy Equipment Public; Right of Way; Special Sales and Public On-site Auctions), enter the Buyer's Premium Fee (%) into the highlighted cell. If a fee does not pertain to a particular auction, enter 0.00. Do not leave any cells blank.
3. For Municipal Heavy Municipal Equipment, enter the Buyer's Premium Fee as a flat dollar amount. In order to give municipalities an opportunity to purchase needed equipment at a lower cost, the Buyer Premium is a flat dollar amount.

**Any figures presented in the RFP are based on historical usage and may fluctuate based on future needs. All costs will remain in effect for the intial term of the Contract.

Note:

Do not include any pricing data in any portion of the Technical Submittal. Pricing data is defined as any information related to, directly or indirectly, the Offeror's proposed charges for services and deliverables. Pricing data consists of, but is not limited to, costs, fees, prices, rates, bonuses, discounts, rebates, or the identification of free services, labor or materials.

The cost submittal must be submitted as presented by the Commonwealth and should not be altered in any way. Do not include any reiteration of the technical proposal in the cost submittal

APPENDIX C
NEGOTIATED COST SUBMITTAL OVERVIEW
RFP # 6100044453

OFFEROR NAME	**CONTACT PERSON**	
IRONPLANET, INC	KEVIN O'DONNELL	
OFFEROR ADDRESS	**EMAIL ADDRESS**	
3825 HOPYARD RD STE 250	KODONNELL@RITCHIEBROS.COM	
PLEASANTON, CA 94588	**PHONE NUMBER**	**FAX NUMBER**
	412-302-0051	
	VENDOR NUMBER	**FEDERAL ID OR SSN**
	525020	

NEGOTIATED COST SUMMARY

TOTAL PROJECT COST FOR ONLINE AUCTION SERVICES		
Auction Type	**Buyer's Premium Fee (Percentage)**	**Estimated Annual Buyer Premium Fee by Auction Type**
General Merchandise (Recurring)	10.00%	$ 50,867.85
Heavy Equipment Auctions (Public)	10.00%	$ 289,993.03
Right of Way	10.00%	$ 10,640.17
Special Sales	10.00%	$ 153,226.08
Public (on-site) Auctions**	15.00%	$ 45,000.00

Municipal Heavy Equipment Auctions (Private)	**Buyer's Premium Fee**	**Estimated Annual Buyer Premium Fee**
Aggregate Invoice Total (PER INVOICE) Below $5,000.00	$ 250.00	$ 11,500.00
Invoice Total (PER PIECE OF EQUIPMENT) Above $5,000.01	$ 250.00	$ 5,000.00

Total Estimated Annual Buyer Premium Fee	$ 566,227.13
Total Cost to Be Evaluated (Initial Term of the Contract - 3 years).	**$ 1,698,681.40**

APPENDIX C
NEGOTIATED COST SUBMITTAL WORKSHEET
BREAKDOWN OF COSTS

Auction Type	Average No. of Auctions per Year*	Average Sale Amount Per Auction Type*	Buyer's Premium Fee (Percentage)	Estimated Annual Buyer Premium Fee by Auction Type
General Merchandise (Recurring)	30	$ 16,955.95	10.00%	$ 50,867.85
Heavy Equipment Auctions (Public)	2	$ 1,449,965.17	10.00%	$ 289,993.03
Right of Way	10	$ 10,640.17	10.00%	$ 10,640.17
Special Sales	18	$ 85,125.60	10.00%	$ 153,226.08

Auction Type	Average No. of Auctions per Year*	Average Sale Amount Per Auction Type*	Buyer's Premium Fee (Percentage) Shall not Exceed:	Estimated Annual Buyer Premium Fee by Auction Type
Public (on-site) Auctions**	2	$150,000	15.00%	$ 45,000.00

Auction Type	Average No. of Auctions per Year*	Average # of Equipment Pieces Sold Per Event	Buyer's Premium Fee	Estimated Annual Buyer Premium Fee
Municipal Heavy Equipment Auctions (Private)	2			
Aggregate Invoice Total (PER INVOICE) Below $5,000.00		23	$ 250.00	$ 11,500.00
Invoice Total (PER PIECE OF EQUIPMENT) Above $5,000.01		10	$ 250.00	$ 5,000.00

Total Estimated Annual Buyer Premium Fee $ 566,227.13

***The average number of auctions per year and associated average sale amount is based on historical data (past 3 years average - 2014 thru 2016) and is not necessarily indicative of future usage.**

****It is estimated that two "blow out" sales will occur per year. However, based on the Commonwealth's needs, additional public (on-site) auctions may occur.**

July 30, 2018

Dear Ms. Habowski,

Please find below our written response to your request for clarification regarding our pricing proposed for RFP 6100044453.

QUESTIONS and ANSWERS

Q1. Please confirm if the cost submitted by IronPlanet, Inc. in its proposal is inclusive of all fees, including any credit card processing fees.

A1. Per our technical proposal and cost submittal sheet, our proposed pricing, referred to as the buyer premium, is inclusive of all fees, including credit card processing fees.

Please contact me if you have any questions regarding this information or require additional information to evaluate our proposal.

Sincerely,

Kevin O'Donnell
Vice President - Government Business Development

EXHIBIT C

FINAL NEGOTIATED SMALL BUSINESS AND SMALL DIVERSE BUSINESS SUBMITTAL

SMALL DIVERSE BUSINESS (SDB) AND SMALL BUSINESS (SB) PARTICIPATION SUBMITTAL

Online Auction Services (Surplus)

6100044453

Department of General Services

OFFEROR (Prime Contractor) INFORMATION

IronPlanet, Inc.

Kevin O'Donnell | *kodonnell@ritchiebros.com*

Vice President, Government Business | *412-302-0051*

Is your firm a DGS-Verified Small Diverse Business? NO ▾ **Verif Exp:**

Is your firm a DGS-Self-Certified Small Business? NO ▾ **Cert Exp:**

To confirm your company's SDB/SB status and expiration, please click or use the following link:
http://www.dgs.pa.gov/Businesses/Small Diverse Business Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx#.WVPvzp3D-

SUBCONTRACTING INFORMATION

Percentage Commitment for SDB and SB Subcontracting Participation

Commitment percentages will automatically calculate in the SDB/SB fields below after you have completed the SDB and SB Subcontractor Listing on the "Listing" tab.

After examination of the contract documents, which are made a part hereof as if fully set forth herein, the Offeror commits to the following percentages of the total contract cost for Small Diverse Business and Small Business subcontracting participation.

Small Diverse Business Subcontracting percentage commitment:

0.000%

Small Business Subcontracting percentage commitment:

15.000%

Revised 01-16-2018

Final Negotiated Submission

SMALL DIVERSE BUSINESS (SDB) AND SMALL BUSINESS (SB)
PARTICIPATION SUBMITTAL

Listing SDB and SB Subcontractors

The Offeror must list in the chart below the SDBs and SBs that will be used to meet the percentage commitments provided above, along with the requested information about each SDB and SB Subcontractor. Include as many pages as necessary. Offerors must also include a Letter of Intent (LOI) for each SDB/SB listed. **To receive points for SDB or SB participation commitments, the SDB or SB must be listed in the Department's directory of self-certified SBs and DGS/BDISBO-verified SDBs as of the proposal due date.** The directory of self-certified SBs and DGS/BDISBO-verified SDBs can be accessed at the following link:

http://www.dgs.pa.gov/Businesses/Small Diverse Business Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx#.WVPvzp3D-

SDB/SB name, percent commitment to SDB/SB, and estimated $ value of commitment will automatically populate in the LOI tabs.

IronPlanet, Inc.

SDB/SB Subcontractor Name	SDB or SB	Primary Contact Name	Description of Services or Supplies to be Provided	% of Total Contract Cost Committed	Estimated $ Value of Commitment for Initial Contract Term	Will SDB/SB be used for Options/ Renewals? (YES/NO)
Sharon Berry	**SB**	*Sharon Berry*	*Field services. photograph equipment, auction write-ups, on-site auction support, and related auction services.*	**10.000%**	**$169,868.00**	**YES**
Marakae Marketing, Inc.	**SB**	*Maria Brady*	*Print advertisements, marketing requests, marketing research, direct mail*	**5.000%**	**$84,934.00**	**YES**
	0.000%					
	15.000%					

Revised 01-16-2018

9/19/2018

Maria T. Brady
President
Marakae Marketing, Inc.
9921 Buckingham Place
North Huntingdon, PA 15642
maria@marakae.com
724-863-3105

Offeror: IronPlanet, Inc.
RFP: 6100044453

Dear: Maria T. Brady

This letter serves as confirmation of the intent of this offeror to utilize **Marakae Marketing, Inc.** on the above-referenced RFP issued by **Department of General Services**

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:
The initial contract term will be for a period of three years commencing on the effective date of the Prime Contract between the Commonwealth of Pennsylvania and IronPlanet, Inc. Marakae Marketing, Inc. will be available immediately if awarded the contract.

Identify the specific work, goods or services the SDB/SB will perform below:
Print advertisements, marketing requests, marketing research, direct mail

These services represent **5.000%** of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated **$84,934** during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve **Department of General Services** on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

Kevin O'Donnell
Vice President, Government Business Development
IronPlanet, Inc.
412-302-0051

Acknowledged,

X Maria T Brady

Maria T. Brady
President
Marakae Marketing, Inc.

Revised 01-16-2018

9/19/2018

Sharon Berry

Offeror: IronPlanet, Inc.
RFP: 6100044453

541 Byers Road
Chester Springs, PA 19425
shberry3@gmail.com
484-944-4017

Dear: Sharon Berry

This letter serves as confirmation of the intent of this offeror to utilize **Sharon Berry** on the above-referenced RFP issued by **Department of General Services**

If Offeror is the successful vendor, the referenced SDB/SB shall perform the following work, goods or services during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:
The initial contract term will be for a period of three years commencing on the effective date of the Prime Contract between the Commonwealth of Pennsylvania and IronPlanet, Inc. Sharon Berry will be available immediately if awarded the contract.

Identify the specific work, goods or services the SDB/SB will perform below:
Field services such as traveling to sites to photograph equipment, attend preview and removal dates as needed, perform auction write-ups, on-site auction support and other related auction services as needed.

These services represent **10.000%** of the total cost in the Offeror's cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that above-referenced SDB/SB will receive an estimated **$169,868** during the initial contract term.

The above-referenced SDB/SB represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to the Offeror for its SDB/SB submission.

We look forward to the opportunity to serve **Department of General Services** on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

X

Kevin O'Donnell
Vice President, Government Business Development
IronPlanet, Inc.

Acknowledged,

X

Sharon Berry

Revised 01-16-2018

NOTICE OF SMALL BUSINESS SELF-CERTIFICATION

pennsylvania
DEPARTMENT OF GENERAL SERVICES

The Department is pleased to announce that

SHARON H. BERRY

has successfully completed the Pennsylvania Department of General Services' process for self-certification as a small business under the Commonwealth's Small Business Contracting Program, with the following designation:

BUSINESS TYPE(s): **Procurement Services**

CERTIFICATION NUMBER: **527601-2017-07-SB**

CERTIFICATION TYPE: Small Business

ISSUE DATE: **07/28/2017** EXPIRATION DATE: **07/31/2019**

Kerry L. Kirkland

Kerry L. Kirkland, Deputy Secretary
Diversity, Inclusion, and Small Business Opportunities

NOTICE OF SMALL BUSINESS SELF-CERTIFICATION

pennsylvania
DEPARTMENT OF GENERAL SERVICES

The Department is pleased to announce that

MARAKAE MARKETING INC

has successfully completed the Pennsylvania Department of General Services' process for self-certification as a small business under the Commonwealth's Small Business Contracting Program, with the following designation:

BUSINESS TYPE(s): **Procurement Services, Procurement Goods**

CERTIFICATION NUMBER: **215733-2012-09-SB**

CERTIFICATION TYPE: Small Business

ISSUE DATE: **09/28/2012** EXPIRATION DATE: **10/31/2019**

RECERTIFIED DATE: **9/25/2017**

Kerry L. Kirkland

Kerry L. Kirkland, Deputy Secretary
Diversity, Inclusion, and Small Business Opportunities

MODEL FORM OF SMALL DIVERSE AND SMALL BUSINESS SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of February 20, 2018, by and between Ritchie Bros. Auctioneers (America) Inc. dba IronPlanet,Inc., ("Contractor") and Marakae Marketing, Inc., a Small Diverse Business or Small Business ("Subcontractor") (collectively referred to as the "Parties").

RECITALS

Contractor has entered into a contract dated February 20. 2018 (the "Prime Contract") with the Department of General Services of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated February 20, 2018 ("Letter of Intent") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Small Business Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Intent and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Small Business Commitment expressed in the Letter of Intent and as required by the Prime Contract.

DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

Bureau – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

Contracting Officer – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

Department – The Department of General Services of the Commonwealth of Pennsylvania.

Issuing Office – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

Procurement – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.

Small Business – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than $7 million in gross annual revenues for building design, $20 million in gross annual

revenues for sales and services and $25 million in gross annual revenues for those businesses in the information technology sales or service business.

Small Diverse Business – A Department-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, or disability-owned small business.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

(a) Subcontractor is self-certified as a Small Business in accordance with the requirements and procedures established by the Bureau of Diversity, Inclusion and Small Business Opportunities; [Subcontractor is also verified as a Small Diverse Business by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;]

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a) General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b) Specific. The Parties agree to comply with the following provisions of the Prime Contract, which are incorporated herein by reference:

(1) The Americans with Disabilities Act Provisions.

(2) Nondiscrimination/Sexual Harassment Clause.
(3) Contractor Integrity Provisions.
(4) Contractor Responsibility Provisions.

(b) Termination.
Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(c) Audit Provisions.
The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Small Business Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. Order of Precedence. The Letter of Intent, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

(a) This Subcontract;
(b) The Letter of Intent;
(c) The Prime Contract; and
(d) The Procurement.

6. Further Action. The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. Description of Services. Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM]
The subcontractor Marakae Marketing, Inc. will provide marketing services for the Commonwealth of PA's online auctions. The subcontractor will research the local newspapers, circulars and other advertisements for the best opportunity and draft the ads accordingly. Marketing services also include the following: print advertisements, newspaper ads, market

research, design ads fliers, postcards and tradeshow materials along with composing press releases and hosting special events.

8. Small Diverse Business or Small Business Commitment. The above-referenced Services represent **5** % of the final negotiated total cost for the initial term of the Prime Contract. Any proposed change to the Small Diverse Business or Small Business Commitment must be submitted in writing to the Bureau which will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es): Marakae Marketing, Inc. is located at 9921 Buckingham Place, North Huntingdon, PA 15642. Service will be performed at their place of business.

11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

[IDENTIFY THE SPECIFIC TIME PERIODS DURING THE INITIAL CONTRACT TERM AND EXTENSIONS, OPTIONS AND RENEWALS WHEN THE SUBCONTRACTOR WILL PERFORM COMPONENT SERVICES]

Marakae Marketing, Inc. will be available immediately upon contract award and will continue to perform services through any extensions/renewals.

12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit A to this Subcontract. [ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a different payment schedule or structure as set forth below: The Contractor will pay the subcontractor within fourteen (14) days as noted above.

14. Utilization Reports. Both the Contractor and Subcontractor shall complete Quarterly Utilization Reports (or similar type documents containing the same information) and submit them

to the Contracting Officer and to the Bureau within ten (10) business days at the end of each quarter. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Small Business Commitments. If there was no activity during the quarter, then the form must be completed by stating "No activity in this quarter." A late fee of $100.00 per day may be assessed against the Contractor if its Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Small Business Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Small Business Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a) The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Small Business Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Small Business commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract

and/or Subcontract together with consequential damages; revocation of the party's Small Business self-certification status and/or Small Diverse Business verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Businesses and Small Businesses contractual obligations will be considered by the Bureau during future procurement scoring processes. To the extent a party has failed to meet prior contractual commitments, the Bureau may recommend to the Issuing Office that the party be determined non-responsible for the limited purpose of eligibility to receive SDB/SB points or consideration as a qualified Small Diverse Business or Small Business.

(b) Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

18. Notices. Any written notice to any party under this Subcontract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to the following:

If to Contractor:

IronPlanet, Inc.
3880 Hulen Street, Suite 200
Fort Worth, TX 76107

If to Subcontractor:

Marakae Marketing, Inc.
9921 Buckingham Place
North Huntingdon, PA 15642

19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Small Business Commitment set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Small Business Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

ADDITIONAL TERMS AND CONDITIONS

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALLY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR SMALL BUSINESS RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR SMALL BUSINESS' PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

Background Checks
Confidentiality/Disclosure of Information
Data Security
Insurance
Invoicing Requirements
Environmental Protection
Intellectual Property Rights
Record Retention/Audits
Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)

Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

IN WITNESS WHEREOF, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor	Subcontractor
Ritchie Bros. Auctioneers (America) Inc. dba IronPlanet, Inc.	*Marakae Marketing, Inc.*
By: _____ Signature	By: _____ Signature
Kevin O'Donnell Printed Name	Maria T Brady Printed Name
VP - Government Sales & Business Development Title	President Title
2/20/2018 Date	2/20/2018 Date

Exhibit A: Marakae Marketing Inc. Cost Breakdown:

- Project Management is $80.00/hr.
- Consulting is $95/hr.
- Design Services are approx. $150 per newspaper ad but varies depending on content.
- Also charge $40 per ad to resize if we are using the same ad but resizing for a different publication.
- Postcard design is $150.
- Design of larger ads for Rock & Dirt and Construction Equipment Guide are $225.
- Newspaper advertising varies per publication and depends upon budget provided.
- Postcard printing costs around $867 for 2,700 postcards but can vary with paper costs.

MODEL FORM OF SMALL DIVERSE AND SMALL BUSINESS SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of February 20, 2018, by and between Ritchie Bros. Auctioneers (America) Inc. dba IronPlanet, Inc., ("Contractor") and Sharon Berry, a Small Diverse Business or Small Business ("Subcontractor") (collectively referred to as the "Parties").

RECITALS

Contractor has entered into a contract dated February 20, 2018 (the "Prime Contract") with the Department of General Services of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated February 20, 2018 ("Letter of Intent") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Small Business Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Intent and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Small Business Commitment expressed in the Letter of Intent and as required by the Prime Contract.

DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

Bureau – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

Contracting Officer – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

Department – The Department of General Services of the Commonwealth of Pennsylvania.

Issuing Office – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

Procurement – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.

Small Business – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than $7 million in gross annual revenues for building design, $20 million in gross annual

revenues for sales and services and $25 million in gross annual revenues for those businesses in the information technology sales or service business.

Small Diverse Business – A Department-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, or disability-owned small business.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

(a) Subcontractor is self-certified as a Small Business in accordance with the requirements and procedures established by the Bureau of Diversity, Inclusion and Small Business Opportunities; [Subcontractor is also verified as a Small Diverse Business by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;]

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a) General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b) Specific. The Parties agree to comply with the following provisions of the Prime Contract, which are incorporated herein by reference:

(1) The Americans with Disabilities Act Provisions.
(2) Nondiscrimination/Sexual Harassment Clause.
(3) Contractor Integrity Provisions.
(4) Contractor Responsibility Provisions.

(c) Termination. Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(d) Audit Provisions. The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Small Business Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. Order of Precedence. The Letter of Intent, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

(a) This Subcontract;
(b) The Letter of Intent;
(c) The Prime Contract; and
(d) The Procurement.

6. Further Action. The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. Description of Services. Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

The subcontractor Sharon Berry will perform on-site auction write-ups, take photographs, and provide other on-site auction support (such as attend public preview and removal days) as needed. Sharon will represent Ritchie Bros. Auctioneers and IronPlanet

8. Small Diverse Business or Small Business Commitment. The above-referenced Services represent 10 % of the final negotiated total cost for the initial term of the Prime Contract. Any

proposed change to the Small Diverse Business or Small Business Commitment must be submitted in writing to the Bureau which will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es): Sharon is located near the Harrisburg, PA warehouse and offices and is able to travel to agencies across Pennsylvania. Sharon will be providing regular services for DGS at 2221 Forster Street, Harrisburg, PA 17125 and other agency locations as scheduled..

11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

Sharon Berry will be available immediately upon contract award and will continue to perform services through any extensions/renewals.

12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit A to this Subcontract. [ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a different payment schedule or structure as set forth below: The Contractor will pay the subcontractor within fourteen (14) days as noted above.

14. Utilization Reports. Both the Contractor and Subcontractor shall complete Quarterly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer and to the Bureau within ten (10) business days at the end of each quarter. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Small Business Commitments. If there was no activity during the quarter, then the form must be completed by stating "No activity in this quarter." A late fee of $100.00 per day may be assessed against the Contractor if its Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Small Business Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Small Business Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a) The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Small Business Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Small Business commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract and/or Subcontract together with consequential damages; revocation of the party's Small Business self-certification status and/or Small Diverse Business verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Businesses and Small Businesses contractual obligations will be considered by the Bureau during future procurement scoring processes. To the extent a party has

failed to meet prior contractual commitments, the Bureau may recommend to the Issuing Office that the party be determined non-responsible for the limited purpose of eligibility to receive SDB/SB points or consideration as a qualified Small Diverse Business or Small Business.

(b) Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

18. Notices. Any written notice to any party under this Subcontract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to the following:

If to Contractor:

IronPlanet, Inc.
3880 Hulen Street, Suite 200
FortWorth, TX 76107

If to Subcontractor:

SharonBerry
541Byers Road
Chester Springs, PA 19425

19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Small Business Commitment set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Small Business Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

ADDITIONAL TERMS AND CONDITIONS

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALLY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR SMALL BUSINESS RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR SMALL BUSINESS' PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

Background Checks
Confidentiality/Disclosure of Information

Data Security
Insurance
Invoicing Requirements
Environmental Protection
Intellectual Property Rights
Record Retention/Audits
Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)
Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

IN WITNESS WHEREOF, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor	Subcontractor
Ritchie Bros. Auctioneers (America) Inc. dba IronPlanet, Inc.	***Sharon Berry***
By: _____	By: _____
Signature	Signature
KEVIN O'DONNELL	Sharon Berry
Printed Name	Printed Name
VP - GOVERNMENT SALES & BUSINESS DEVELOPMENT	Field Service Rep.
Title	Title
02/20/2018	02/20/2018
Date	Date

INVOICE FOR PROJECT NO.:

SHARON BERRY
541 Byers Road
Chester Springs, PA 19425
484-944-4017
shberry3@gmail.com

Date :

TO:

Date(s)	Description		Amount
	Roundtrip Travel to Site (_ hrs) and Services including phone calls and emails: On Site Field Work/Photos Auction Write Up and Renumber Photos, Upload Preview on Site Removal on Site	 __ Days __ Days __ Days __ Days	TT Day @ $__
	Reimbursable Expenses Per Attached Receipts:		
	Car Rental / Gas		$0.00
	Hotel		$0.00
	Gas		$0.00
	Tolls		$0.00
	Meals		$0.00
	Supplies		$0.00
		Total	**$0.00**

Event Summary - Auction Services (Surplus)

Type	Request for Proposal	**Number**	6100044453
Stage Title	-	**Organization**	CommonwealthPA
Currency	US Dollar	**Exported on**	2/22/2018
Exported by	Jennifer Habowski	**Payment Terms**	-
Sealed Bid	Yes	**Intend to Bid**	Yes

Event Dates

Time Zone	Eastern Standard Time
Released	-
Open	1/22/2018 12:00 PM
Close	2/21/2018 4:00 PM
Sealed Bid	2/21/2018 4:00 PM
Question Submission Close	2/13/2018 1:00 PM

Event Users

Contacts

Jennifer Habowski jhabowski@pa.gov

Phone +1 717-703-2937

Prerequisites

★ Required to Enter Bid

1 ★ **Instructions To Supplier :**

Responsibility to Review.

Prerequisite Content:

Responsibility to Review RFP

The Offeror acknowledges and accepts full responsibility to ensure that it has reviewed the most current content of the RFP including any amendments to the RFP.

Certification

I certify that I have read and agree to the terms above. ✔

Supplier Must Also Upload a File:

No

Terms and Conditions

By submitting a proposal, the Offeror does so on the basis of the attached contract terms and conditions contained in Buyer Attachments. ★

Yes/No

Yes

Offeror's Representation

By submitting a proposal, each Offeror understands, represents, and acknowledges the attached representations and authorizations. ★

Yes/No

Yes

PROPOSAL COVER SHEET
COMMONWEALTH OF PENNSYLVANIA
Department of General Services
RFP# 61000444453

The proposal of the Offeror identified below for the above-referenced RFP is submitted electronically comprised of separate files for Technical, Cost and SDB/SB:

Offeror Information:	
Offeror Name	IronPlanet, Inc.
Offeror Mailing Address	3825 Hopyard Road Suite 250 Pleasanton, CA 94588
Offeror Website	www.govplanet.com
Offeror Contact Person	Kevin O'Donnell
Contact Person's Phone Number	(412) 302-0051
Contact Person's E-Mail Address	kodonnell@ritchiebros.com
Offeror Federal ID Number	[redacted]
Offeror SAP/SRM Vendor Number	N/A

Electronic Submittals Uploaded:	
	Technical Submittal Domestic Workforce Utilization Certification
	Small Diverse Business and Small Business Participation Submittal Small Diverse Business and Small Business Participation Submittal Form Small Diverse Business and Small Business Letter(s) of Intent
	Cost Submittal

Signature	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name	Dominique Turnage
Title	Contracts Administrator

FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL

I-1. Statement of the Project. State in succinct terms your understanding of the project presented or the service required by this RFP.

Offeror Response

Ritchie Bros. Auctioneers (America) Inc. (NYSE: RBA) understands the scope of this project and the service required by this RFP. We understand the needs of the State to sell items across multiple divisions and locations. We believe we have a strong understanding of the State's requirements through our past performance as the current vendor. Our response discusses how we believe our proposed solutions align with the needs as defined in the RFP, and services and sales options that we believe the State can benefit from in addition to what is currently being utilized. IronPlanet, Inc. is a wholly owned affiliate of Ritchie Bros. Auctioneers and powers our online marketplaces to include GovPlanet, our dedicated marketplace for Government Sellers. GovPlanet will be the marketplace to host the online auction services for this contract. We have been providing online auction solutions to private and public sellers since 1999.

I-2. Qualifications.

A. **Company Overview**.

1. An Offeror shall have three years of experience in the delivery of an online auction service/solution and with conducting public (on-site) auctions.

2. Offeror's solution must currently be in production.

   a) Offeror shall provide a list of customers currently using the solution in a production environment for the three years

   b) Offeror shall provide a report showing the online solutions availability (uptime) for its customers for the past year.

3. Offeror shall provide the number of public (on-site) auctions it has conducted in the past three years along with the total dollar amount of each sale.

Offeror Response

I.2.A.1

Ritchie Bros. Auctioneers (America) Inc. (including IronPlanet, GovPlanet and former AssetNation, Inc.) appreciates the opportunity to propose a solution to the Commonwealth of Pennsylvania to supply a comprehensive full-service approach to online auctioning of all surplus lots for the Department of General Services.

Established in 1958, Ritchie Bros. is the world's largest industrial auctioneer employing more than 1,400 full-time employees at its 110 locations in 25 countries. We have 44 permanent auction sites and over 35 strategic storage locations across the United States. RBA is publicly traded on NYSE and TSX. Administrative offices are located in Lincoln, NE, Operations/Sales in Fort Worth, TX and our Corporate office in Vancouver, Canada. RBA acquired AssetNation, Inc. in 2012 and IronPlanet, Inc. and its marketplaces to include GovPlanet in June 2017. AssetNation, Inc. and IronPlanet were both established

in 1999 and have been hosting online auction services since that time. GovPlanet will take on the responsibility as the online auction service provider for the Commonwealth of PA.

In addition to our established unreserved on-site auctions, Ritchie Bros. has various online auction marketplaces (such as www.rbauction.com, www.govplanet.com, www.ironplanet.com), private venues, customized seller storefront pages, a do-it-yourself platform http://www.govplanet.com/direct, and other marketplaces available under our full-service model. A complete list of our websites can be found on https://www.ritchiebros.com/. Our private venues are exclusive to the Commonwealth with invite-only users for claiming and also regularly-scheduled industry events. Auctions are conducted on our online marketplaces to sell a wide variety of assets every day. The various options have proven to be effective for customers with a need for more choices as we are a one-stop shop.

At Ritchie Bros., we believe that through our global customer base of over 43 million unique visitors, targeted marketing and our flexible selling options, we can provide the best net return and value for surplus assets owned by the Commonwealth. In 2016 alone, the combined Gross Transaction Value (GTV) of our marketplaces brought in $5.3 billion with 2.4 million registered users. As the current vendor, we have provided the Commonwealth with online auction services since 2009 and would like to drive and improve the best results with our technology advancements, combined websites and buyer base.

I.2.A.2.a. Details are provided below for our current customers.

Current Federal & Department of Defense customers:

- U.S. Defense Logistics Agency
- U.S. Marine Corps ● U.S. Navy

Current State & Local Municipal Customer: ●
Commonwealth of PA

- Pennsylvania Turnpike Commission
- State of Tennessee, Department of General Services
- Ohio Turnpike and Infrastructure Commission
- Lower Colorado River Authority
- City of Columbus, OH
- City of Gahanna, OH
- City of Fresno, CA
- North Dakota DOT

Current Education customer:

- State College Area School District
- Indiana University of PA

Various other colleges, townships, municipalities under PA contract **I.2.A.2.b.**

We have uploaded an excel report (2017 Auction Data) showing weekly sales throughout 2017 to represent our system uptime. Our website availability is constantly over 99.99%. We contractually obligated to maintain this consistency for a multitude of our Sellers.

I.2.A.3

Ritchie Bros. and IronPlanet conducted 122 live online auctions in 2017. This includes GovPlanet, IronPlanet and our European online sales. We average 2 online auction events a week. In 2017 Ritchie Bros. separately held 417 on-site auctions worldwide.

A. **Prior Experience.** Include experience in coordinating and managing online auctions, which are similar to the services requested in this RFP. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

B. **Prior Experience.** Include experience in creating, coordinating and managing both online auctions and public (on-site) auctions for heavy equipment, general merchandise and specialty auctions similar to PennDOT's right of way auctions. Projects described shall be similar in size and scope to the services requested in this RFP. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

Offeror Response

Example 1
Project: Commonwealth of PA - Department of Transportation (PennDOT) Contact: 2221 Forster Street, Harrisburg, PA 17125 Ken Clemence, kclemence@pa.gov, 717-787-5940

Over the past five years, we have provided PennDOT with online auction services to dispose of over $13MM of assets from many of the state agencies. We currently handle sales from right-of-way acquisitions, PennDOT heavy equipment, Pennsylvania Turnpike and various other Commonwealth agencies. PennDOT and the Commonwealth lists an average of 2500+ lots per year, including general surplus, heavy equipment and vehicles that run through our marketplaces. We also operate an internal redeployment site for the state-owned assets to first be offered to the cities, counties and other Pennsylvania government agencies before they are offered for public sale to our global buyer base. Will Brawley, Manager of Government, Lauren Bible, Account Manager with support from Chris Houghton, Auction Manager currently assist the Commonwealth with auctioning of their assets. The team works closely with marketing, finance, customer service, field services and other departments to ensure everything runs smoothly. GovPlanet also has a dedicated field services provider Sharon Berry that performs auction writeups, takes photographs and offers on-site support for various sales throughout the year. Marakae Marketing is another small business that we collaborate with to provide newspaper ads and other advertisement media to spread the word locally.

Example 2
Project: The State of Tennessee, Department of General Services Contact: 6500 Centennial Blvd. Nashville, TN 37243 Billy Farmer, Billy.Farmer@tn.gov, 615-532-9077

The State of Tennessee lists weekly auctions of transportation, equipment and surplus and has been doing so since 2011. Tennessee also holds specialty auctions for firearms dealers only that are available to an invite-only group of approved buyers. Their average lot count per year for all categories is 2700 items. Ritchie Bros. uses an API feed with the State through AssetWorks to build and manage their auctions. The asset disposition system is used by the State's point of contact and the State is able to view all statuses of auction items, start to finish. The sales are marketed in our weekly email blasts and featured on the homepage.

In April 2017, we worked with marketing to devise a new plan to bring in more buyers and improve overall results. Auctions were split into categories as a test: transportation, construction and surplus. The category breakouts drove activity with 340% increase in user sessions, 25% increase in new bidders. The construction category saw a 126% increase in bids and 50% increase in bidders, while transportation grew by 15% and 25% respectively. We bring an average of $2.8MM a year in return for the State of Tennessee. The State of Tennessee account is primarily managed by Will Brawley, Government Programs Manager, Lauren Bible, Account Manager and other supporting teams within to organization. The items are inputted into AssetWorks system and fed via an API feed into RBA/IP's system to create auctions accordingly. Lauren works directly with Mr. Farmer to keep an ongoing supply of assets on the website that open and closes weekly, every Tuesday.

Example 3
Project: U.S. Defense Logistics Agency Contact:
74 N. Washington Ave., Battle Creek, MI 49037 Keoni Taylor,
Keoni.Taylor@dla.mil, 269-961-5727

GovPlanet has provided online auction services over the last three years for the Defense Logistics Agency (DLA) from across 220 unique locations throughout the U.S. and its territories. For secure military sites not open to civilians, we arrange transportation and store the items until they are sold through our online auction. Each DLA item is assigned a demilitarization (DEMIL) code upon turn in, restricting the type of buyer that can purchase that item. Registrants of our site are cross referenced against the most recent SAM (System for Award Management) exclusion lists before being granted bidding privileges. We refresh the SAM list daily as a part of our commitment to property assurance.

All DLA items are inspected and backed with our IronClad Assurance® and the DEMIL code displays next to the inspection report. For this contract we fully integrated our systems to those of the DLA and Trade Security Clearance to make for a flawless post sale process for our buyers of DLA items.

We auction an average of 15,000 rolling stock items per year on behalf of the DLA, averaging approximately $60MM in sales annually.

Conner Humphrey, Vice President of Government Services oversees this contract, supported by LaVern Mast, Director of Field Operations, Chris Houghton, Auction Manager, Philip Hasty, Post Sale Manager and Matt Kennedy, Business Intelligence Analyst. Each member has a direct team of reports that are critical to day to day contract execution.

Example 4
Project: Ohio Turnpike & Infrastructure Commission Contact:
682 Prospect Street, Berea, OH 44017-2799

Frank LaRiccia III, Frank.LaRiccia@ohioturnpike.org, 440-971-2122

Ritchie Bros. currently lists general surplus, equipment, barriers, scrap and fleet assets for the Ohio Turnpike and Infrastructure Commission. The Turnpike usually holds smaller and more frequent online auctions a few times per month. The data is sent in by the seller as a PDF document called a disposal form. The form includes the item description, location, list price, location contact, reason for disposal and required signatures to dispose/sell the asset. Each form makes up one lot and the lots are placed into an online public auction. The public auctions run typically for two weeks and the buyers have 10 days to pay and remove. Items that are not paid for or picked up will be relisted or disposed of. The Ohio Turnpike Commission supplies their own photos and descriptions for each asset. The items are sold from the Turnpike's locations and removals are handled by OTC's employees.

Our auctions maximize return for the Ohio Turnpike through online auctions while giving buyers the most efficient connection to inventories. Over the last five years for the Ohio Turnpike Commission, we sold over 600 lots with a Gross Transaction Value of $1.7 million per year.

Lauren Bible, Program Manager handles the Ohio Turnpike contract directly with the customer and reports to Will Brawley, Manager of Government Programs who oversees the contract.

Example 5
Project: West Virginia DOT Contact:
Route 33, Buckhannon, WV 26201 Bob Andrews, bob.g.andrew@wv.gov,

In the past for state and local contracts, we've held successful on-site auctions for West Virginia Department of Transportation that are very similar to PennDOT's right of way, surplus and heavy equipment auctions. Their last on-site auction consisted of approximately 600 items, including dump trucks, pickup trucks, cargo vans, equipment, surplus and more held twice a year. A team of employees traveled to the location as well as our licensed auctioneer to provide auction services to the State. We would assist the seller with coordinating the sale, perform write-ups, lot items, handle buyer questions, registration, process payments. Our subcontractor EquipmentFacts would handle the online bids coming in. WVDOT supplied the auctioneer booth/bus and sound system used during the sale.

C. Personnel. Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel (Project Manager and on-site staff), include the employee's name and, through a resume or similar document, the Project personnel's education and experience in creating, coordinating, marketing and managing auctions similar to the services identified in this RFP. The Project Manager will work in partnership with BSSO to manage the Commonwealth's state surplus property program and will serve as the primary point of contact and liaison with the Commonwealth. Indicate the responsibilities each individual will have in this Project and how long each has been with your company.

The Commonwealth must approve all key personnel appointments and replacements prior to those individuals being assigned to the Commonwealth account throughout the term of this contract

Offeror Response

Key personnel are listed as follows:

- Kevin O'Donnell, Vice President, Government Business Development; Pittsburgh, PA
    - Will Brawley, Manager, Government Programs Fort Worth, TX
        - Lauren Bible, Account Manager; Pittsburgh, PA
- Conner Humphrey, Vice President, Government Services; Fort Worth, TX
    - Sarah Fargo - Sr. Manager, Customer Service - Operations; Fort Worth, TX
        - Customer Service Department; Fort Worth, TX
    - Chris Houghton - Auction Manager, Auction Services; Fort Worth, TX
        - Auction Management Team; Fort Worth, TX ●

Anna Wondany - VP, Marketing; Pleasanton, CA

- Digital Marketing Team; Pleasanton, CA and Vancouver, BC CAN

- Eldred Williams, Accounting Manager - Accounting & Finance; Fort Worth, TX
- IT/Engineering Department; Pleasanton, CA and Fort Worth, TX
- Marakae Marketing, Inc.; Marketing/Advertising Subcontractor; Pittsburgh, PA
- Sharon Berry; Field Services Subcontractor; Harrisburg, PA

Name: Kevin O'Donnell
Title: Vice President, Government Business Development
Email: kdonnell@ritchiebros.com
Direct: (412) 302-0051

Kevin will have direct responsibility for the oversight of the contract. His educational background includes an undergraduate degree from The Citadel and a graduate degree from Penn State University. Kevin also has more than 15 years' relevant experience, including corporate sales, and extensive work with local governments and municipalities. Kevin has been instrumental in the management and execution of contracts, with a similar scope of work, in support of the United States Navy, United States Marine Corps, and multiple State and Local government sellers. Kevin is accountable for maintaining and growing new government business across the Federal, State, and Local sectors. He is responsible for leading teams managing new and existing business within each vertical. Kevin will partake in weekly compliance review meetings with the Government Program Manager and assist on an as needed basis.

Name: Conner Humphrey
Title: Vice President, Government Services
Email: chumphrey@ritchiebros.com
Direct: (770) 595-3434

Conner Humphrey is Vice President of Government Services for GovPlanet. Conner is based in our Corporate office in Fort Worth, Texas. He has more than 14 years' relevant experience. His education background includes a Bachelor of Science degree from the Citadel and a Master of Business Administration degree from Southern Methodist University.

Conner is responsible for leading all administrative and operational support regarding the execution of the contract. He leads the financial, administrative, and logistical components to our business and is accountable for the conduct of those functions as they relate to the execution of internet auctions for the DGS. Conner has significant experience working with Federal agencies, to include being the primary point of contact for both large-scale contracts supporting rolling stock and non-rolling stock remarketing for the DOD. Conner serves as the primary contact for the GSA schedule that was awarded to GovPlanet this year. Conner's experience with high visibility, complex, large scale contracts is a force multiplier as he leads his teams in support of the Commonwealth. Conner will focus on overseeing marketplace operations and will also partake in weekly compliance review meetings with the Government Program Manager. Conner is available to assist on an as needed basis.

Name: Will Brawley
Title: Manager, Government Programs
Email: wbrawley@ritchiebros.com
Direct: (817) 869-8938

Will Brawley is the Manager of Government Programs for GovPlanet. Will is based out of our corporate headquarters in Fort Worth, Texas. His team is the liaison between the State and GovPlanet. Will has worked for various departments within the company over the past 8 years, where he has developed an indepth knowledge of the GovPlanet operations and systems. Will holds a Bachelor of Science degree from Sewanee: The University of the South. Will expertly managed the United States Marine Corps contract through the execution of a complex scope of work and over $37 million in sales. Will reports directly to Kevin O'Donnell. Will is primarily responsible for the Government Programs of GovPlanet. He is dedicated to ensuring compliance and deliverables are met as required by the scope of this contract.

Name: Lauren Bible
Title: Government Account Manager
Email: lbible@ritchiebros.com
Direct: (412) 559-5414

Lauren is one of our current account managers for state and local government with eight years' experience and currently manages the State's contract with Ritchie Bros. Lauren has held various positions within Ritchie Bros. in customer service, auction management, content specialist supervisor and project/account management. She has a Bachelor of Science degree from the Pennsylvania State University in Business Administration Management/Marketing. She is responsible for the following but not limited to:

- Coordinating auctions with the State's employees
- Determining auction schedules that fit the State's timeframe
- Scheduling inspectors for listings and photos
- Supplying auction post sale reporting
- Providing auction updates and open communication to the State

Her experience with various departments involved in the project and knowledge of the State's contract will allow for a smooth transition. Lauren will be the most involved in the day-to-day operations of the auctions and act as the main point of contact for the State and its employees at the auction level. Lauren reports directly to Will Brawley. Lauren will be fully dedicated to assist the State on an as needed basis. Her primary focus will continue to be ensuring the needs of the State are met regarding all aspects of the auction on GovPlanet.

Name: Chris Houghton
Title: Auction Manager, Government Services
Email: choughton@ritchiebros.com
Direct: (817) 869-8916

Chris Houghton is the Auction Manager for GovPlanet and has been with the company for 10 years. He has managed GovPlanet auctions from its establishment. Chris and his team are responsible for reviewing listings for accuracy, pricing items with our proprietary pricing system that includes competitive market comps and utilizing strategic times to sell items for maximum value. Mr. Houghton is a veteran of the US Army and is currently in the process of receiving his Bachelor of Business of Administration from Tarleton State University. Chris reports directly to Conner Humphrey. Chris will assist the State on an as needed basis for the review and publication of listings. Chris and his team of Auction Coordinators will review each listing prior to publication on the State's marketplace.

Name: Eldred Williams
Title: Accounting Manager, Government Services
Email: ewilliams@ritchiebros.com
Direct: (817) 869-8925

Eldred Williams is the Manager of Accounting for the GovPlanet marketplace. Eldred joined GovPlanet in 2017 and has more than 19 years' relevant finance experience. His education background includes a Bachelor of Science degree from the Grambling State University and a Master of Business Administration degree from University of Phoenix. Mr. Williams' responsibilities for this contract as the Finance Manager will include, but are not limited to:

- Conformance with all the company accounting/(GAAP) compliance requirements
- Assist in review of contracts to determine correct contract classification
- Respond to audit inquiries related to GovPlanet
- Review Inventory-related capitalized cost for appropriateness
- Assist the State with any reporting needs

Eldred is available to the State on an as needed basis for any financial reporting or reconciliation inquiries.

D. **Subcontractors:** Provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors, who will be assigned to the Project. The selected Offeror is prohibited from subcontracting or outsourcing any part of this Project without the express written approval from the Commonwealth. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:

1. Name of subcontractor;

2. Primary Contact Name and Email

3. Address of subcontractor;

4. Description of services to be performed;

5. Number of employees by job category assigned to this project; and;

6. Resumes (if appropriate and available).

Offeror Response

1. Sharon Berry, Field Services
2. Sharon Berry, 484-944-4017, shberry3@gmail.com
3. 541 Byers Road, Chester Springs, PA 19425
4. Sharon has provided over nine years of service for Ritchie Bros. and the Commonwealth of Pennsylvania. Sharon will and currently performs auction services such as traveling on-site to lot items, photograph items, write-up auction descriptions, and provide support on auction preview day and removals. She is in compliance with the Commonwealth's programs and has performed her background check. She is located near the Harrisburg, PA location and is available as needed. Sharon is registered with BDISBO as a small business for procurement services, certificate number 527601-2017-07-SB.
5. One employee; Sharon will be the main point of contact for services provided and we can schedule Ritchie Bros/GovPlanet employees as needed for the scope of the project(s).
6. Resume is uploaded in PA's supplier portal.

1. Marakae Marketing, Inc.
2. Terri Gabonay, 724-863-3105, terri@marakae.com or Maria Brady, maria@marakae.biz
3. 9921 Buckingham Place, North Huntingdon, PA 15642
4. Marakae will provide advertisements in the newspapers as requested by the Commonwealth. Marakae will research the local newspapers, circulars and other advertisements for the best opportunity and draft the ad accordingly. They also can provide design ads fliers, postcards and tradeshow materials along with composing press releases and hosting special events. Marakae Marketing, Inc. is registered with BDISBO, certificate number 215733-2012-09-SB.
5. Two employees as listed above.
6. Resumes not applicable. Please see company website for more information: http://www.marakae.biz/index.php

I-3. Training. If appropriate, indicate recommended training of agency personnel. Include the agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

Offeror Response

Ritchie Bros. is very familiar with the Commonwealth's surplus program, having managed it since 2003. Training and implementation would be a smooth and efficient process, having familiarity with the needs of each sector within the Commonwealth's program.

Upon contract award we will work with each agency to ensure personnel are comfortable navigating our website. Hands on training will take place during contract implementation for any agency personnel involved with the auction program. Implementation training is designed to get users familiar with using our website which will include: submitting listing requests, transmitting photos and auction data, creating and reviewing listings, accessing release documents & releasing items, and accessing auction reports. Hands on implementation training for each agency can be accomplished in under two hours and there is no limitation on attendees. In addition to hands on training we will leave behind a recap presentation to serve as a how to guide for agency personnel which will also highlight key personnel contact information.

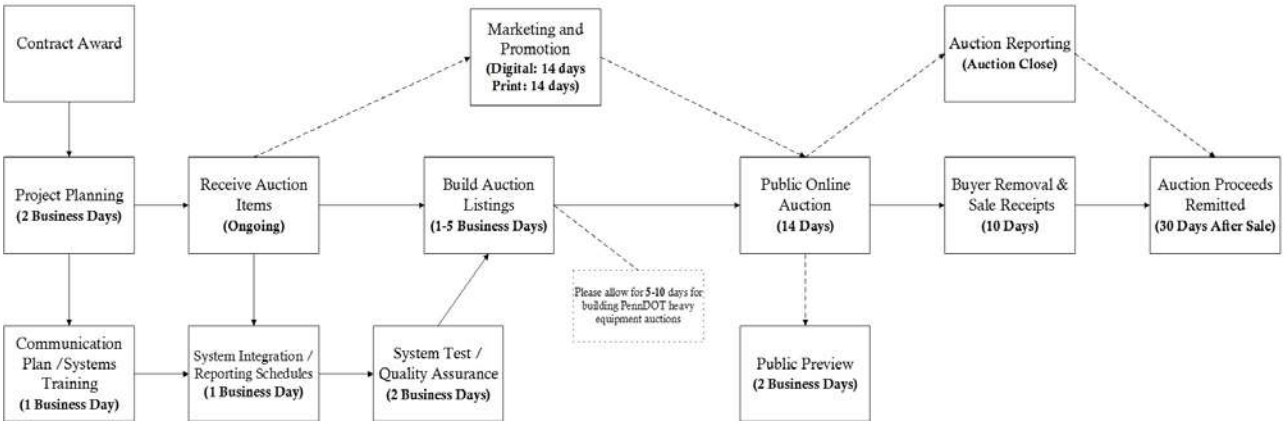
The government team listed above can provide web-based, telephonic and/or on-site training on an as needed basis. We are dedicated to ensuring both new and existing users are familiar and comfortable executing the processes outlined in this response.

I-4. Tasks. Describe in narrative form your technical plan for accomplishing the work using the task descriptions as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

A. Implementation Plan. Offeror(s) shall submit their proposed implementation methodology and/or draft plans for this project. The implementation plan shall include all activities necessary for the implementation of service. The selected Offeror shall meet with the Commonwealth to review the draft implementation plan and gather any additional details required to finalize the implementation plan. A finalized implementation plan shall be submitted to the Commonwealth within ten (10) calendar days from the effective date of the contract. The implementation plan shall account for a Go Live date of no later than 30 calendar days from the effective date of the contract.

Offeror Response

AUCTION SERVICE PROGRAM EVALUATION REVIEW TECHNIQUE



The Commonwealth's various agencies will work with the Account Manager to consign listings into their designated marketplaces based off the different types of auctions. Ritchie Bros. is continuing to offer our support in generating all listings on behalf of the Commonwealth. The Commonwealth would need to continue to provide the list of items and/or initial information for the listings to be generated or services to be scheduled. GovPlanet has a network of inspectors throughout the North East and in Pennsylvania who specialize inspecting vehicles and heavy equipment and can assist the Commonwealth as needed.

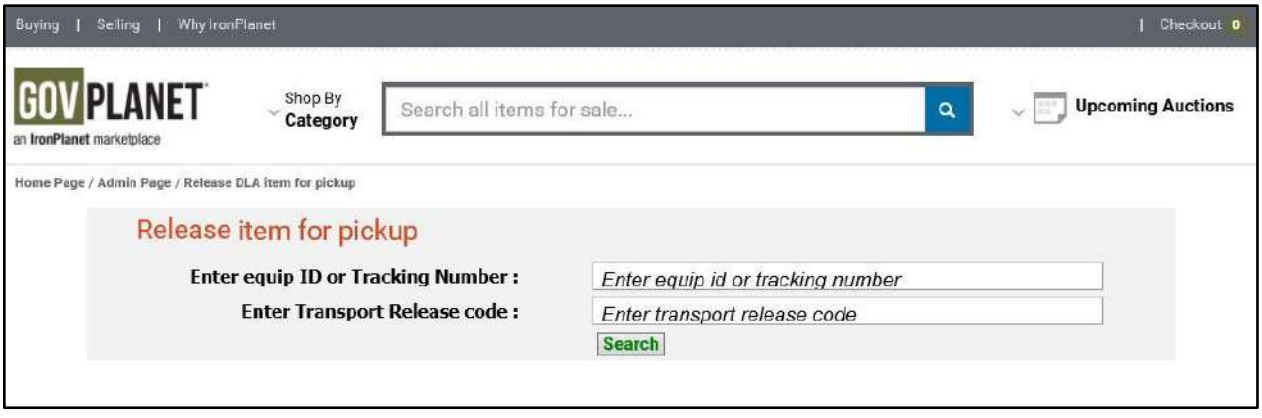
Once the agency has identified surplus property for auction, we will assign a tracking number to each lot. Each lot is listed in our software with photos of the surplus, description of the property and any other valueadded information that is available that can be uploaded to the listing such as disposition reports or inventory lists.

We can also provide an Excel template that is designed to collect basic item information which can be bulk uploaded into our software to generate the listings. Once the listings are uploaded, agencies or Ritchie Bros. can upload photos and videos and any other value-added information that is available about the items.

After the item sells and full payment has been received from the buyer, an item release form will be generated and sent to both the agency POC and the buyer. The item release form displays a photo of the item that was purchased, information about the item, the seller asset or tag number and pickup location information. All of the important buyer information also displays on the release form. This form is a very detailed, updated version of the past Presentation of Buyer and we believe will help assist the location POCs better.

The buyer arrives at the agency's location with a physical copy of the item release form. The agency POC will match the unique release code that displays at the top. Once the match is confirmed, the agency is then clear to release the item purchased by the buyer. Item release forms are only available once the users have a zero balance on the item. We suggest that the location POC print out a copy of the release forms to have on hand at the day/time of buyer pick up.

For after the sale, we have built an inventory management system into our auction software that can be utilized by agencies. Agencies will have access to "release" the item in our system, marking it as picked up by the buyer which triggers an internal status update. These statuses then display on all our Sales Contract and Pickup Support reports which is another level of property assurance we provide our sellers. The screenshot below references displays the release interface.



For surplus miscellaneous listings, agencies can keep track of their post-sale inventory by marking items as "picked up" in the Commonwealth's marketplace. All items that have sold will display in a chronological order by sale date for easy reference. In addition to an automated email with release documents, the Commonwealth can also access release paperwork from this interface inside the marketplace. The screenshot below is an example of this marketplace interface. Agencies can also continue to contact the Account Manager or Customer Service department with these updates and GovPlanet can handle on the seller's behalf.

Awaiting Pickup

Item	Item Status	Listing Title	Tracking Code	Location	Price	Sale Date	Release Code	Picked Up		
826885	In transit	2-Drawer File Storage Chest	01244	Ft. Worth, TX	$10	1/30/17	BDWZPP	Mar 2, 2017	Post Sale Info	Admin
873799	In transit	HON 4-Drawer Lateral File Cabinet w/Roll-Out Top Storage & Retracting Shelf (#2)	74415	Ft. Worth, TX	$10	3/15/17	DRVMOH	Apr 18, 2017	Post Sale Info	Admin
881396	Pickup pending	New automotive and equipment parts. Still in boxes. Over 80 line items.	85560	Ft. Worth, TX	$25	6/8/17	LPISEW	No [Yes?]	Post Sale Info	Admin
797093	In transit	2014 Dodge Charger Center section tail lights	65412	Ft. Worth, TX	$80	11/1/16	MCNIJL	Nov 29, 2016	Post Sale Info	Admin

After the sale all auction proceeds will be remitted within the specified timeframe required by the Commonwealth.

B. Staffing. The selected Offeror is responsible for providing a Project Manager who is responsible for managing and coordinating auction events on behalf of the Commonwealth and for providing additional on-site staff (as needed) for auction preparation/removal. Staff must be able to travel to any location within the Commonwealth of Pennsylvania within two business days of request by the BSSO. For Additional details of staffing usage and auction events refer to **Appendix A – Historical On-Site Staff Usage** and **Appendix B – Auction Overview and Historical Sales Information** located in the **Buyer Attachments** section**.** More specifically, on-site staff duties include, but not limited to:

1. Auction preparation as determined by BSSO (i.e. putting lots together, inventorying and tagging items to be sold, writing up descriptions, ensuring auction details are accurate (i.e. description, quantities, etc.), ensuring all items are recorded with a digital image and that the proper descriptions are attached to each image and assisting with auction previews.

2. Creating and managing auction events on behalf of the Commonwealth

3. Monitoring the removal of assets purchased from an auction event where the total proceeds are expected to be in excess $25,000 and the assets are in a single location. Monitoring of asset removal involves verifying payment by customers via copy of paid invoice, oversight of property not yet picked up, general assistance with customer pick-ups (i.e. questions, etc.) and coordination of customer pickups (if necessary). For auction events that are expected to generate sales below $25,000, a Commonwealth employee will be responsible to monitor the removal of assets from the auction location. All removal dates and times will be coordinated with the selected Offeror, but shall be at the discretion of the Commonwealth.

Due to potential liability, the selected Offeror is not responsible for physically assisting or helping customers in the removal of their property (i.e. moving or lifting), but shall require a buyer to show proof of insurance prior to removing a particular piece of property in accordance with industry standard/Commonwealth requirements. The BSSO reserves the right to waive on-site assistance if other Commonwealth staff is available at the pickup location or if the value of the sale does not warrant staffing.

Offeror Response

GovPlanet has a dedicated Inspection Services department with a network of field inspectors that are available to assist on-site as needed with heavy equipment, DGS warehouse, right of way and other listings as the project scope permits. Our inspectors are trained and knowledgeable on all major equipment types and components as well as general site management such as inventorying, removals and payment verification. They will provide support to Sharon Berry as needed.

Sharon Berry is our current Field Services Provider for the Commonwealth of Pennsylvania and has been an asset to Ritchie Bros. throughout our years of providing auction services to PA. Sharon is located near the Harrisburg, PA offices/site and travels across PA for various auctions (Right of Ways, PennDOT, PA Turnpike Commission, some townships and municipalities). Sharon has over nine years' experience with on-site auction support and preparation. As mentioned above, Ritchie Bros. and GovPlanet also have other staff located in the Pittsburgh, PA area and may travel as needed. Lauren has been attending and assisting with the PennDOT auctions starting in spring 2016.

Once the write-ups, photos and videos are taken on-site, the data is transmitted to GovPlanet Auction Management located in Ft. Worth for quality assurance review and ultimately publishing to the website.

C. Marketing. The selected Offeror shall develop and implement a marketing plan for each of the types of auctions described in **I-5 C** of the technical submittal, which will draw greater attention to the sale of surplus property.

All marketing plans shall be submitted to and approved by BSSO on an annual basis. Any changes to a marketing plan must be approved, in writing, by BSSO.

The selected Offeror will work with the Commonwealth on any press release language. Marketing costs, including but not limited to advertising costs, may not be deducted from gross or net sales proceeds.

Offeror(s) shall:

1. Describe the methods or processes (including type(s) of media outlet(s)) that will be used to generate awareness of surplus property for sale, attract potential buyers, and increase revenues.

2. Describe the ability to provide "proof" of successful marketing activities to the Commonwealth on a regular basis.

3. Provide samples of current and past marketing efforts that have proven successful.

4. Provide website usage statistics including, but not necessarily limited to:

    a. The number of unique, registered buyers and sellers who have used the website within the last year.
    b. The number of unique visitors to the website within the last year.
    c. The average number of transactions occurring annually over the last three years.
    d. The average value of transactions annually over the last three years.

Offeror Response

C.1.

We actively promote our online auctions through digital and product marketing initiatives. All our domains are constantly monitored, with SEO (search engine optimization) friendly content and URLs updated weekly. This ensures maximum organic search exposure from potential buyers browsing the internet. SEM (search engine marketing) keywords are tailored weekly based off upcoming consignments. Additionally, inventory can be found through Google Shopping ads.

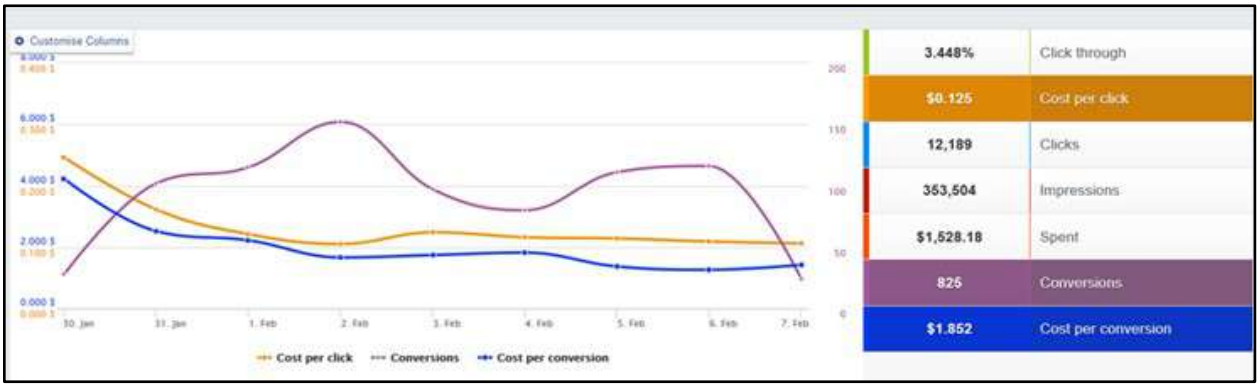
We also promote sellers and upcoming auctions through digital banners running on various domains. Email blasts are sent to the combined Ritchie Bros. and IronPlanet registered users every week; announcing special sales, unique equipment, and great deals in the upcoming auction. Facebook and additional social media ads have proven very effective for attracting bidders to our marketplaces and we also use our blog and press releases to announce significant events.

In addition to our digital marketing efforts, we also actively promote our auctions and marketplaces in the following print publications:

- Rock & Dirt (USA and Canada)
- Construction Equipment Guide
- Truck & Trailer Access
- Commercial Truck Trader
- My Little Salesman
- Machinery & Equipment Access – West
- Equipment Trader
- Local newspapers

C.2.

All digital marketing campaigns are tracked through Google Analytics and other web-based data capturing tools. Information such as sessions, unique users, page views, session duration, and other information is tracked and recorded for future reference for marketing campaigns. Below is a screenshot of the analytics behind a recent Facebook marketing campaign. All our digital campaigns benefit from this level of detailed data tracking.

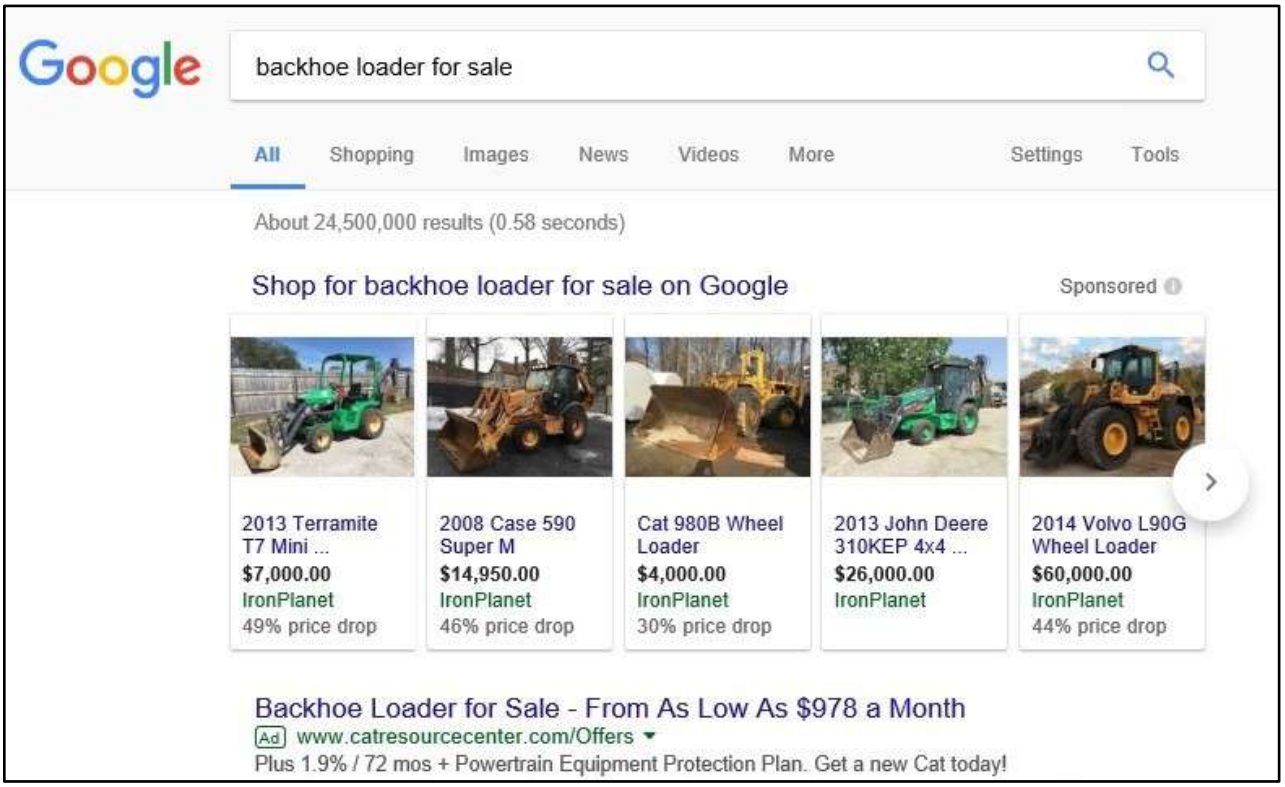


We are able to exceed the marketing requirements and also draw from the following types of advertising mediums to promote auctions:

- Direct Mail Brochures, Postcards & Letters
- Social Networks
- National Publications
- E-mail
- Specialty, Trade Publications
- Website
- Newspapers
- Search Engine Marketing
- Industry Networks
- Banner Ads
- Media Publications
- Broadcast Media

In addition to the traditional means of advertising such as direct mailings and advertisements in trade publications and newspapers, we are continually searching for and developing new ways to reach potential buyers. One of the most productive vehicles for attracting buyers is the strategic use of internet-based search engines.

We have Search Engine Optimization (SEO) and Google AdWords professionals on our digital marketing team. These individuals study search patterns and develop keywords and ad placement strategies that result in the greatest number of search engine matches possible for a specific asset offered for sale. This dramatically increases the exposure of the government surplus assets to individuals that are using search engines, such as Google, to find information related to the type of equipment offered for sale. Ultimately, these results increase bidding competition for your assets. Please see example screenshot from a Google search below:



The State of Tennessee, City of Columbus and other Government customers are adequately advertised as well and are included in our daily/weekly email blasts. We cross-promote all of our government items across each website for maximum buyer exposure and search ability. We currently provide multiple forms of advertising for the Commonwealth of Pennsylvania PennDOT auctions as shown on the following page. The Account Manager will be able to provide proof of advertisements upon request of the State.

C.3.

The following example is in reference to the Commonwealth of Pennsylvania contract. The marketing plan included paid digital tactics, local print advertising, postcard mailings, target emails utilizing Ritchie Bros. and other venue databases and extensive buyer outreach calls. Ritchie Bros. mails out postcards for the PennDOT sale 45 days prior to the opening date to 2600+ bidders across the Commonwealth, including townships and municipalities. The sale is also heavily advertised across all of our websites with banners, links and lots are in preview mode until bidding is opened. For the Spring public auction in June 2017, Marketing drove over 10,000 sessions to the auction and over 24,000-page views, 9,683 bids and 2,655 unique bidders.

Examples of some of our metrics, advertisements, emails and banner ads are on the following pages:

Postcard Mailing for PennDOT Private Auction:

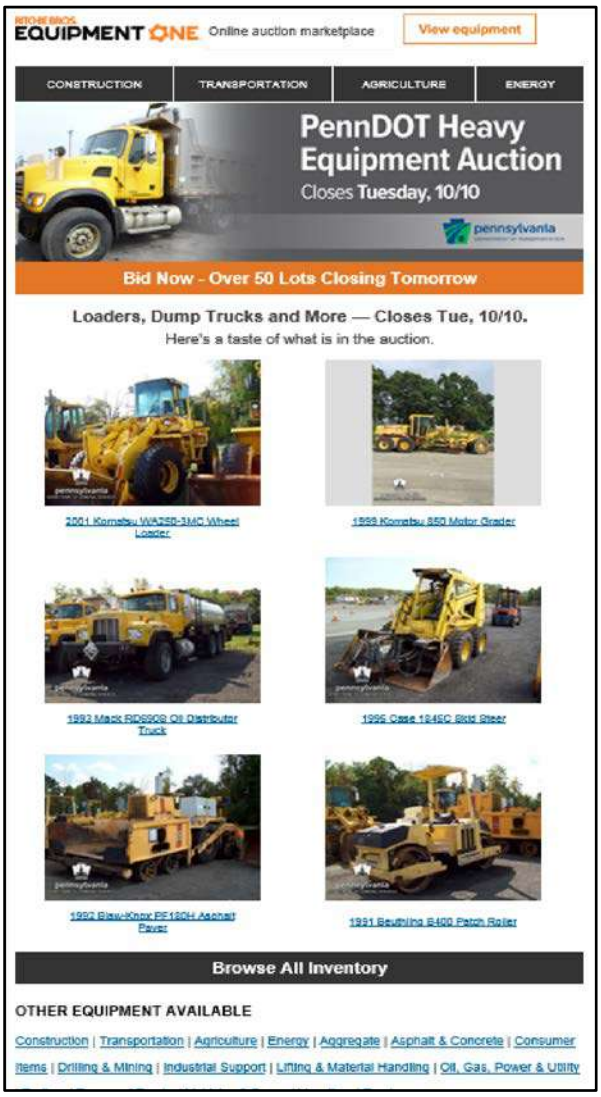
Email Blast for PennDOT Private Site/Auction:

Postcard Mailing for PennDOT Public Auction:

Publication for Public Auctions:

Special Newspaper Ad:

Auction Email Blast:



Website/Social Media Banner:

**Please note that the above media is for example only. All media going forward will display GovPlanet with updated phone numbers, websites and auction links.

C.4.

By combining IronPlanet with Ritchie Bros., we now have over 2.4 million registered users on our marketplaces including IronPlanet's marketplaces. We believe the strength of our marketing programs combined with both user bases will increase participation in the Commonwealth's auctions. Please see website use statistics below:

RESPONSE REDACTED

D. Advertising. The selected Offeror will be required to advertise all sales prior to the start date/time of all auctions and must meet, at a minimum, the advertisement requirements listed in § 45.16. Advertisement of the PA Code.

The selected Offeror is responsible for all advertising costs as well as providing cut sheets and/or proofs of advertising to BSSO for review and approval at least 2 weeks prior to booking the advertising. A report illustrating the breakdown in cost to advertise/market each auction shall be provided to BSSO no later than 15 days after the end of each quarter and shall include information such as advertising venue (i.e. mail, email, publication), date of service and cost. The Commonwealth reserves the right to request advertisement in specialty publications appropriate for the nature of the merchandise being sold.

Offeror(s) shall describe an advertising plan for each of the types of auctions (refer to I-5 C.) in this RFP. At a minimum, the plan shall include the type of advertisement (paper, electronic, email, etc.), the timeframe (i.e. length of ad or # of days prior to event) and the intended audience. Offeror(s) shall also describe correlation between the type of media outlet chosen and targeted audience. Additional information regarding current advertising practices are located in the current Contract. **Offeror Response**

We have provided an advertising plan for each of the 5 types of auctions below:

For PennDOT/Private and Public Heavy Equipment Auctions:

Pre-advertising

- Postcard mailing to municipal list - 45 days prior to municipal sale
- Email blast to municipal list - prior to sale and bid opening day ● Onsite advertising - preview state
  ● Print ads:
    - Construction Equipment Guide (x3 runs)
    - Rock & Dirt
    - Tribune Review
    - Plum Advance Leader
    - The Herald

Auction Period

- Dedicated marketing landing page
- Two emails to previous bidders and RBA database of like-buyers
- Weekly email inclusion to entire database
- Email to IronPlanet database
- Onsite homepage and category advertising
- Cross promotion hero banners on IronPlanet, GovPlanet, and RBA websites
- Paid keyword search terms
- 2 Facebook campaigns
- Paid advertised listings on Mascus website
- Syndication on Machinio website
- Buyer outreach outbound calling program
- SEO optimization

For Surplus/General Merchandise and Right of Way auctions tactics include:

- Monthly print ad for Patriot News
- Onsite homepage featuring
- Cross-promotional listings on RBA website
- Weekly email to entire database
- Paid keyword search terms
- Syndication on Machinio website
- SEO optimization
- Buyer outreach outbound calling – depend on GTV / priorities

Right of Way auctions also include the following:

- Receive a dedicated print ad in a local publication
- Receive a dedicated email to previous bidders/buyers of like items
- Promote in other advertisements as requested by PA with enough lead time and budget

E. System Functionality. The selected Offeror shall provide an online auction tool as described in **I-5, C.** Online Auction Tool. Offeror(s) shall describe the functionality of its online auction tool, at a minimum describe:

1. The recruiting and registration process for new bidders as well as password reset functionality

2. The ability to create, upload photos, tag, and search for items that are up for bid.

3. The ability to create different types of auction formats (i.e. proxy bidding, restricted auctions, etc.) and options for extending a bid in order to generate the highest available sale prices for items.

4. Tracking results of multiple auction bidding events that end simultaneously or separately.

5. **Additional Functionality.** Offeror(s) shall describe any additional functions or features included with its solution.

6. **Upcoming Enhancements.** Offeror(s) shall describe additional capabilities of its system that are not included as part of the proposed solution or are currently in development which could be made available in future releases or upon request.

Offeror Response

E.1.

There are no registration fees to sign up to and participate in any Ritchie Bros. or IronPlanet auctions. Each individual user of our website must fully register and agree to terms and conditions before being granted bidding privileges. The buyer's agreement is noted and date stamped in their user profile. Each account is time stamped with the date they are registered along with the date they receive bidding privileges. When a user requests their password on our website they enter their email address and click the "forgot password" link displayed on the sign in page. Ritchie Bros. and IronPlanet do not have access to any user passwords, we can simply "reset" them. Once the users click the 'forgot password' link, a new password will be emailed to the email address associated with that user's account. Customer Service is available to assist bidders with facilitating their password reset requests as well as provide temporary passwords over the phone or live chat.

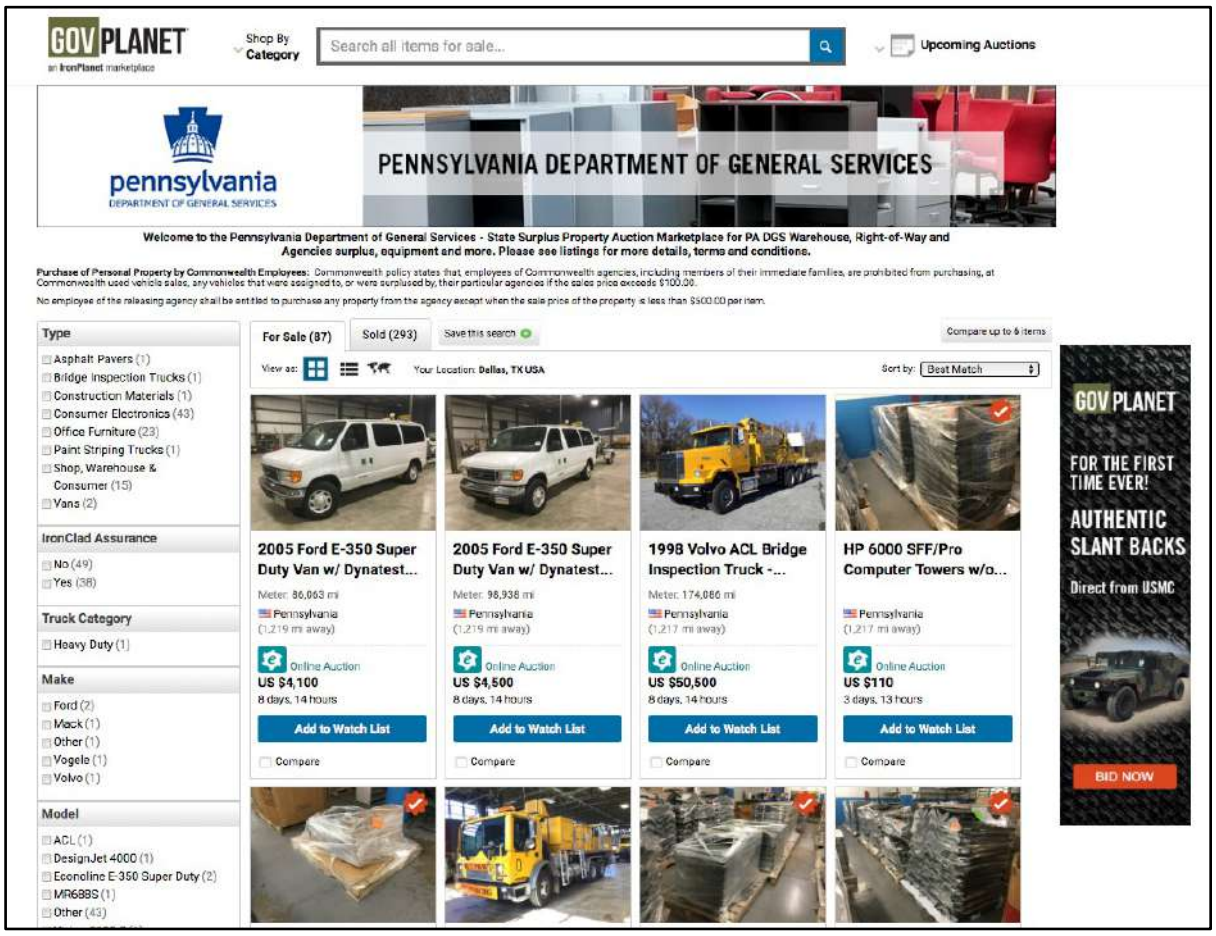
E.2.

All items listed in our marketplaces are represented with an item description, photographs, videos (when applicable), year, make, model and serial or vin number when available. Upon creating the auction listing a unique web page is published along with a 7-digit item number that is then associated with the listing. All items are categorically classified within our website which helps buyers with the search process. Ritchie Bros. has developed a deep taxonomy for items listed on our site, making it easy for buyers to navigate, search and find what they are looking for or browse what is for sale.

Our site allows users to sign up to receive email notifications when equipment is listed on the site for categories they have selected to their watch list. Bidders also see suggestions based on their search history and location when logged in to their account. Bidders can save specific search criteria on their account and when items that meet that criteria arrive into inventory bidders will get an auto notification.

Our sites provide basic search functions by category and keywords plus advanced search functionality based off terms such as make, model, year, item location (distance from the bidder's zip code), category, seller, industry, region, item number and many other detailed options. Search results can be sorted by auction close time, current bid price, best match and “closest to me”. Items can be added to a "Watch List" for easy monitoring, and a "Compare" feature allows comparing up to 6 lots in a table. The sample graphic below highlights some of the filtering capabilities of our marketplaces. Users can refine search results by item type, category, year, make, model and price from this interface.

E.3.



GovPlanet’s auction platform has the ability to support many types of auction formats, such as a standard upward timed auction, live featured auction where items come “on the block” in timeslots, make offer and buy-it-now formats, all supported with proxy and priority bidding. All standard auction listings keep extending until two minutes has elapsed without receiving any more bids. At that time the item sells to the highest bidder.

Time frames and auction periods can fluctuate depending on the auction type. GovPlanet Auction Management team will work with the Commonwealth to ensure all auction formats and durations are set correctly. Additionally, Auction Management can make recommendations based on their experience and the type of items consigned to help further maximize proceeds if desired by the Commonwealth.

E.4.

The auctions will be tracked by the Account Manager and can be reported on at any time during the auction period at the Commonwealth's request. Typically, the auction results are reported at the close of the sale and are distributed to the Commonwealth's preferred point of contacts for the particular auction. Our reporting capabilities allow us to run reports for a specific seller, auction, auction date, listing date, contract etc. Additionally, approved admin users by the Commonwealth's can pull auction reports from their marketplace on demand.

E.5.

Our Customer Service teams can assist scheduling pickups for buyers of the Commonwealth's items after the sale. Customer Service prescreens buyers prior to pickup with site specific pickup information. Customer Service can assist coordinating the removal between the buyers and different locations, or, the buyers can still contact the locations directly as the current process allows.

E.6.

IronPlanet has the ability to use the Ritchie Bros. ESS (Enterprise Sales Solution) system to prepare lots for online sale. The ESS system will receive messages via API from the Commonwealth's system, including a photo upload feature to facilitate import of asset images and an easy to use interface for entry of asset data such as reserve price (as needed), manufacturer, model, VIN/serial number, year and other basic data points. Completed assets can be converted to active lots on the Commonwealth's marketplace. Our IT department can work with the Commonwealth's team to determine if the systems are capable of handling the data transfer. We currently use this format for the State of Tennessee Department of General Services via an API feed with AssetWorks.

F. Reporting. The Commonwealth requires various types of reports to monitor the effectiveness and efficiency of the overall state surplus auction program. The types of reports used to monitor the program are:

a. Surplus property sold and the associated value.
   i. By Event and by Municipality
- Number of items/lots sold
- List of selling prices by item/lot number
- Total Sales
- Buyer Premium Breakdown & Receipt Data

b. Surplus property currently available for sale or up for auction.
c. Upcoming sales or auctions.
d. Sales to program members and sales to all other buyers.
e. User management reports.
f. Historical reports breaking down most popular types of surplus property bought, types of surplus property generating the most revenue, number of bids received for auctions, etc.
g. Buyer history.
h. Buyer feedback and seller ratings.
i. Number of bidders for auctions and number of bidders registered.
j. Number of unique visitors to site

Offerors shall describe its ability to provide detailed item and sales reports, which includes the method to obtain the report(s), format type(s) (i.e. Microsoft Format, excel, etc.) and if the report(s) are available in real-time.

Offeror Response

Ritchie Bros. system is flexible in terms of creating custom reporting fields or modifying existing logic for tracking key information important to the Commonwealth as noted above. We confirm this data in sections a. through j. is available for reporting purposes to the Commonwealth through standard Microsoft Excel and PDF reports. We are committed to providing the Commonwealth with all important auction data for tracking and reporting purposes. Reports will be provided by the Account Manager and are available with real time sales data.

G. Release Management. The selected Offeror shall have a Release Management process in place. Offerors shall describe:

1. How new functions and features are released to customers and a customer's ability to control which new features are implemented.

2. How it will communicate new releases and enhancements in advance.

Offeror Response

G.1.

Scheduled maintenance occurs with zero downtime due to systems redundancy within each data center. On rare occasions (i.e. for major infrastructure work within our cluster or when Ritchie Bros. performs our semi-annual failover tests), we might experience up to three minutes of downtime (the maximum time to failover from the active to the standby data center).

The Account Manager will notify the Commonwealth of any downtimes. In the past five years, our websites operate at an annual uptime ranging from 99.996% to 99.998%, averaging 99.9975%.

G.2.

If a new feature is released on our site which can impact customers we promote it on the homepage of all of our marketplaces. For instance, when we unveiled our "Make an Offer" auction format, we released a FAQ page detailing the enhancement and how it impacts Buyers. Sellers are notified and trained (when applicable) on use of any new technology features or enhancements to our website, which are communicated via interaction with their Sales Associate or Account Manager.

H. Quality Control. Offeror(s) must describe its procedures for monitoring the quality of services for both online auctions and during public (on-site) auction events. The procedures are to include a method for monitoring, identifying and correcting deficiencies in the quality of service provided and its impact on the overall project and on each affected task.

For online auctions or public (on-site) auctions with webcasting, describe how you will ensure a secure and reliable online presence during an auction event and what contingencies are in place should a major technical problem disrupt an auction.

Describe how you will ensure that a server failure will not occur in the course of an online auction or during webcasting. Include contingencies and redundancies in your plan.

Offeror Response

To ensure a secure and reliable online presence, we operate two identically configured inter-connected data centers for geographic and vendor redundancy. Each data center is capable of handling all our website traffic and, at any given time, one does so while the other serves as a "hot" standby.

These data centers are in colocation facilities in the Las Vegas, Nevada and Seattle, Washington areas. Each co-location data center is a secure facility with redundant infrastructure such as backup electrical power and multiple points of high-speed Internet connectivity. All of our systems and technical infrastructure are monitored 24/7 by our Engineering department based in Pleasanton, California.

To protect user data during transmission to and from our web servers, we use HTTPS (secure connection) for those web operations (such as login and user profile pages) that transfer sensitive user data, like user password, name, phone number, etc. Our system also allows for automated buyer registration, provided the security level information is properly verified and all required fields are satisfied. Our registration and account management process flags buyers as inactive if not in good standing and also tracks bidding, buying, payment and notes histories. Buyer email addresses and phone numbers are verified by our system to ensure connectivity and allow us to communicate directly.

We configure our SSL to use ciphers with strong encryption, avoiding all known weak ciphers. In addition, we time-out a user's session after 30 minutes of inactivity to prevent potential attackers from re-using an abandoned browser (i.e. left open on an accessible computer). Ritchie Bros. maintains a complete audit trail for all data changes, including the user, function accessed, date/time, and data values before and after. All requests to our web servers and application servers are recorded in log files.

As previously mentioned, we operate two redundant data facilities in different locations as a contingency plan in the event of failure. Engineers in Pleasanton, California are ready to take corrective action to ensure no auctions are impacted.

I. Employee Participation in Bidding. DGS has a policy in place restricting purchase of state surplus property by Commonwealth employees. The current policy is stated as follows:

When state surplus property is made available for sale to the public through auction, the internet or Department of General Services' warehouse, the following prohibitions and limitations apply:

- Employees of the Department of General Services' Bureau of Supplies and Surplus may not purchase the property.
- Property Control Officer(s) and their supervisor(s) of the Commonwealth agency which declares the property "surplus" may not purchase the property.
- State employees may not purchase any item with a price greater than $500.
- State employees are also subject to any specific guidelines of their respective agencies in regard to purchases of items with a price of $500 or less.

- Employees should check agency policy on purchasing of state property to identify any additional restrictions

Offeror(s) shall describe its policy on the participation of its employees or subcontractors in online auctions conducted on behalf of the offeror or its clients.

Offeror Response

Ritchie Bros. will note the auctions and listings accordingly with the prohibitions and limitations listed above as we do so today. Ritchie Bros. employees and subcontractors are not permitted to participate in any auctions listed on our websites.

J. Training. The selected Offeror shall provide training on the online auction tool to designated staff (Approx. 4 users) at contract set-up and to any new users throughout the term of the Contract. Initial training shall consist of navigation and site functionality and generation of online reports.

Offeror(s) shall describe its training plan and include what additional online documentation/training is available, such as user manuals, how-to documents and videos, FAQs, and self-help.

Offeror Response

Upon contract award we will work with each agency to ensure personnel are comfortable navigating our website. Hands on training will take place during contract implementation for any agency personnel involved with the auction program. Implementation training is designed to get users familiar with using our website which will include: submitting listing requests, transmitting photos and auction data, creating and reviewing listings, accessing release documents & releasing items, and accessing auction reports. Handson implementation training for each agency can be accomplished in under two hours and there is no limitation on attendees. In addition to hands-on training we will leave behind a recap presentation to serve as a how to guide for agency personnel which will also highlight key personnel contact information.

The Account Manager and support staff can provide web-based, telephonic and/or on-site training on an as needed basis. We are dedicated to ensuring both new and existing users are familiar and comfortable executing the processes outlined in this response.

Additionally, a comprehensive user guide for our self-service auction model is available to the Commonwealth and all users of their marketplace. This help guide, located in the web-based software, covers all pertinent information for use of GovPlanet Direct and is updated with coinciding code releases and updates to the auction software.

K. Customer Support. The selected Offeror shall provide technical and end-user support to assist all users in the use and operation of the system. Offeror(s) shall describe:

1. **Types of support.** The types of support provided (e.g. telephone, email, chat, web form, etc.) and the associated hours the support is available. Describe support for Users (both Commonwealth and potential bidders).

2. **Resolution Process.** Its resolution process for tracking and monitoring unresolved issues. The process shall include, at a minimum the issue description/summary, priority level indicator, escalation process and current status. For issues not resolved in a timely manner, the Commonwealth may request a corrective action plan.

3. **Notifications.** Its notification policies and procedures. Offeror(s) must include policies and procedures for notifications to service subscribers and users in the event of scheduled maintenance, unscheduled maintenance, emergency maintenance, downtime, system errors, degraded performance, product releases, or other user impacting events.

Offeror Response

K.1

GovPlanet has a dedicated Customer Service team for government specific auctions and is available from 7:00am CST to 7:00pm CST, Monday-Friday. Customer Service can be reached by phone at 844-225-8799, email CustomerService@GovPlanet.com or live chat during these hours. Customer Service is available to assist users with questions navigating the website, registration and acquiring bidding privileges. Additionally, Customer Service assists after the auction by facilitating post sale processes such as payment processing, tax exemptions and title requests. The Account Manager will handle all support requests from the Commonwealth.

K.2

Our Customer Service department utilizes third party software called Zendesk for the tracking and monitoring of issues raised by our customers. This software tracks all incoming inquiries via chat, email or phone and creates a ticketing system for the agents to route, assign and escalate the inquiries for resolution. Zendesk along with our custom-built CRM system, produces an audit trail for each of their tickets that can span one or multiple agents, capturing all updates from inquiry to resolution.

K.3

IronPlanet's websites are built and maintained by our engineering team based in Pleasanton, California. All code releases and website maintenance do not affect the availability of our website. In the event of a website emergency, we have engineering teams in California ready to resolve any issues. The Account Manager will be in communication with the Commonwealth in the event of any unscheduled or emergency website maintenance that would affect customers viewing our site.

L. Buyer's Premium. All commissions earned by the selected Offeror shall be based on the actual sale price and paid from the Buyer's premium. The Buyer's premium shall be applied to all Commonwealth auction as outlined in the cost submittal. The policy of a Buyer's premium must be clearly available and visible to all consumers who utilize the online sale/auction process for surplus property. The Commonwealth shall not be invoiced for any services.

Offeror(s) shall describe how it will ensure the Buyer Premium (as outlined in the cost submittal) will be correctly applied to each type of sale and what reporting mechanism is available to the Commonwealth to ensure the accuracy of the buyer premium fee to actual sale price.

Offeror Response

All items purchased on GovPlanet have a buyer's transaction fee based off the sale price of the item. The buyer's premium is clearly displayed on the right-hand side of each item page under the heading of "Payment Details". Buyers are encouraged to review all of the Terms and Conditions prior to placing a bid on any of our marketplaces.

Buyer premium fees are standard on most internet auction purchases. Ritchie Bros. and IronPlanet are committed to maintaining the lowest buyer transaction fee's as possible.

M. Collection of Money. The selected Offeror is responsible for the collection of all monies, including any associated late fees for failure on the bidders' part to remove purchased items in a timely manner. The selected Offeror shall collect only the sale amount or amount of the high bid for each item sold, the buyer's premium, taxes (if applicable), and late fees (if applicable), and **shall not** charge any additional surcharge(s) or fees of any kind (e.g. sign-up/registration, participation, etc.), other than as addressed herein. BSSO reserves the right to specify/restrict certain types of payments for auction events and reserves the right to waive any late fees.

No later than seven days after close of the auction and prior to pick-up of the merchandise, the selected Offeror shall provide to BSSO copies of the sales receipts.

All sale proceeds must be deposited into a segregated, interest bearing Federal Deposit Insurance Corporation (FDIC) approved account and funds must remain in the account until paid to the Commonwealth. These funds may not be co-mingled with the selected Offeror's business or personal funds and any interest earned must be forwarded with the sales proceeds.

Offeror(s) shall describe the types of payments it accepts (ACH, check, credit card, etc.) and what measures are taken to prevent fraudulent transactions on part of the bidders. Also, describe what process will be used to ensure sales receipts contain accurate information.

Offeror Response

Ritchie Bros. and IronPlanet marketplaces accept credit card and wire transfer, and automated clearing house (ACH) payments. Payment methods for GovPlanet auctions include the following:

- Buyers have three (3) business days to pay for items won through auction.
- Buyers from the United States and Canada can make payments via electronic wire transfer or credit card (when full payment is $5,000 or less).

- For amounts greater than $5,000 and for buyers outside of the United States and Canada, payments must be made via wire transfer.
- We also accept ACH payments and each payment is subject to three (3) business day hold until the funds have cleared.
- IronPlanet currently requires a bid deposit from international bidders in the amount of $2,000 USD. Domestic bidders are not required to submit a deposit.

GovPlanet Customer Care is actively involved in the vetting process for new buyer account registrations. We have thoroughly developed a system of checks and balances to protect the integrity of our online auctions.

Upon the bidder registering we require a full user profile be built out before they are granted bidding privileges. The user must have a valid phone number, address and credit card. We ping the credit card for .99 cents to ensure it is valid upon registration. The registrants must accept the GovPlanet Terms and Conditions from the same IP address used to register their account. If bidding under a company - registrants must have a valid email address under their company name along with the same vetting process as mentioned above. All accounts are run against our user database to ensure no duplicates or that the user is linked to any other accounts on our site to include those with fraudulent or suspended past accounts. All GovPlanet registrants are checked against SAM (system for award management) lists to ensure the bidder is not a government watch list. Customer Care agents are actively looking out for suspicious bidding activity and potential fraudulent accounts.

N. Default by High Bidders. Offeror(s) shall describe its policies and procedures in the case of default by the highest successful bidder after close of sale. Include in the description:

1. Techniques used to discourage highest successful bidders from defaulting on commitment to buy an item after close of sale.

2. In the case of default by the highest bidder,

    a. What is the process and procedure for awarding the items to another bidder?

    b. Describe any curative measures that are taken against default bidders, including but not limited to: collection of monies due from the highest successful bidder, attempts to recoup the difference in lost sale revenue from the defaulting highest bidder to the next highest bidder, etc.

Offeror Response

N.1.

After the sale our Customer Care team is actively calling on first time bidders and repeat buyers to congratulate them on their purchase, answer any questions or assist them in making payment and transportation arrangements. Buyers can be blocked from participating in future auctions if their account is not in good standing with both the Commonwealth of PA and Ritchie Bros., including banning for nonpayment, non-removal and other defaults as noted. All incidents are noted on the buyer's account which we maintain through our customer relationship management (CRM) program.

N.2.

When a high bidder defaults on payment after the 5-day time period has elapsed, the second highest bidder is contacted to gauge interest by our Inside Sales personnel. The winning bidder is assessed a default penalty which must be collected on before their account is reinstated and they are eligible to bid on items. The second highest bidder is given the opportunity to win the item at their high bid. In the event the second highest bidder is not interested then we either go to the third highest bidder if authorized by the seller or put the item back into auction. Our goal is always to keep the sale intact and to minimize the difference in lost revenue through re-transacting to the runner up. Depending on the asset type and sale price, relists and defaults can be handled on a case by case basis. This process for the Commonwealth's items can be finalized upon contract award.

O. Payment of Proceeds. Within 30 days of each auction, the selected Offeror must wire transfer to BSSO the full proceeds of each sale conducted on behalf of the Commonwealth and any interest earned minus the Buyer's Premium fee. Upon execution of the wire transfer, the selected Offeror must send BSSO a copy of the final auction results and supporting documentation identifying the breakdown of the sale, associated Buyer's Premium fee and proof of payment of all sales taxes in accordance with Department of Revenue's requirements.

For any auctions conducted on behalf to the Attorney General or PA Turnpike, payment of proceeds and associated supporting documents must be submitted directly to the end using agency.

Offeror(s) shall acknowledge its understanding of this requirement.

Offeror Response

Ritchie Bros. acknowledges and understands the requirement for payment of auction proceeds. The auction proceeds will be remitted by wire transfer less the Buyer's Premium fee as stated above. The sales tax will also be remitted to the Commonwealth with the auction proceeds. Detailed settlement statements are included with each proceeds payment made to the Commonwealth. Additionally, these statements can be sent to the Commonwealth at any time upon request by the Account Manager. Auction proceeds for other end using agencies will be remitted to that agency according to their payee preferences.

P. Appraisal Services. Offeror(s) shall describe any basic appraisal (i.e. setting the reserve price) services that is offered at no additional cost Commonwealth.

Offeror Response

Ritchie Bros. can provide suggested pricing at the request of the Commonwealth at no additional cost. GovPlanet's pricing team can provide market comparisons and suggest market values based on of prior sales history within our company as well as historic results competition. We would suggest not adding reserves to surplus such as furniture, office equipment, computers and other like-items. If there are specialty pieces the Commonwealth wishes to auction, we can provide suggestions before the auction is posted for bidding.

Q. Innovative Concepts. Offeror(s) shall describe any additional innovative concepts that may be beneficial to the Commonwealth.

Offeror Response

iPad Application: Our technology allows for inspectors to utilize an iPad application with a multi-point checklist to visually inspect hundreds of types of property and provide an unbiased condition report through a series of photographs and videos. iInspector is our proprietary iPad application of our Inspection Services department that is used to evaluate key components of all equipment types sold by Ritchie Bros. iInspector drastically increases efficiency while performing tasks in the field. Inspector(s) visually diagnose the condition of the item, take photographs and videos of all major components that buyers review prior to bidding. Each item type also has a specialized checklist based off the items components. Upon completion, inspector reports are transmitted instantly to Ft. Worth for quality assurance review by Auction Management and their team of Auction Coordinators.

Inside Sales: GovPlanet utilizes a multilingual inside sales team to drive sales performance and support the efforts of our customers. The inside sales team is based out of our headquarters in Texas and California. This team is responsible for driving bidder activity to your assets, engaging registered users that express an interest in your posted assets, and at times can be utilized to find a market or buyer base for unique, high dollar, or industry specific assets that are being sold. Our inside sales team is comprised of sales representatives that represents 8 different languages.

GovPlanet Direct: Designated Commonwealth personnel will have access into the Commonwealth's online marketplaces hosted on GovPlanet Direct. Approved users by the Commonwealth will have access to the marketplace with the ability to create and publish auction listings if desired and to increase efficiency while reducing redundant work by both the Commonwealth and GovPlanet.

This software provides the Commonwealth with the capability to establish tiered user accounts with varying levels of permissions. Creating listings with GovPlanet Direct is a very simple process and can be done via a mobile device or with a computer, uploading photos and videos with a camera. Our listings utilize automated templates to standardize the way listings are categorized and created, as well as aiding personnel with completion.

Users of GovPlanet Direct start by clicking "create listings" and then follow the prompts. Users are asked what they are listing, then the software will utilize the information provided to create the category, subcategory, and select the appropriate listing template. The listing template has a number of drop down boxes that contain all manufacturers, makes, and models so the user can simply select the corresponding information for their item. The user has the ability to enter mileage or hour meter information, a detailed description, condition assessment, as well as any other pertinent information such as buyer restrictions, pickup dates, times, and contact information. Users can also upload PDFs to each listing in the event that information such as a vehicle maintenance record is available.

All listings will display the Commonwealth's terms of sale. Additionally, the Commonwealth can add or modify terms for individual items during the listing process at their discretion or with the assistance of the Account Manager. Users select the location of the item from another drop-down box. Multiple locations can be saved into the software. This allows for multiple agencies or other departments to feed into the Commonwealth's marketplaces while keeping sales records separate. Photographs and videos can be uploaded to the listing. If utilizing a mobile device, this can be completed on demand through the camera function, or even uploaded from the photo album at the touch of your finger.

Once item specific information has been inputted, users then have the ability to set auction parameters. Items can be set for auction immediately or scheduled to start on a future date. Users can input the opening bid price while having the option to add a reserve or buy now price. We also offer the ability to list items through our "make offer" option where they will only be notified when an offer meets their "notify price" inputted at the time of the listing. Users can select a variety of auction durations ranging from daily or weekly to monthly. Once the listing is complete, the listing is saved into the pre-sale que for review and approval. Only users with review and approval authority can send the item into auction. Listing reports can be pulled at any time from the admin portion of the marketplace, showing who created the listing and who approved each listing, through a series of timestamps captured in the listing data.

Users can edit listings at any time to add or modify information by simply logging in, selecting the item, and clicking the edit function. Additionally, items can be extended or relisted without having to recreate the listing. The software will allow the user to auction multiple line items per lot, or one asset per listing. Through the "make offer" format, or the "ask a question option", the user will have the ability to communicate with interested bidders, accept offers and answer questions that may arise. Users will receive an automated notice to their email account that a question or offer has been posted. Users have the ability to respond with an answer to only the bidder, or if it is a general question where the response would be beneficial to all, the user can select to have the question and answer posted to the listing. This helps to avoid similar questions being asked multiple times. Questions can be fielded by the Seller or GovPlanet personnel.

Live Online Auction format

The State can leverage this capability to sell vehicles and equipment in our weekly live online auctions. This selling format is supported by global marketing, inside sales, and our multilingual customer service department. Items are marketed to our 2.4 million registered users and cross marketed across all of our online marketplaces. It utilizes a 5-week sale cycle, starting with week 1 when Shannon Berry or one of our field services representatives would photograph and list the item. The item is in preview mode during week 2 and 3. During this time items receive priority bids, and 85% of items have bids placed prior to their live online auction in week 4. Post-sale activities and pick up support are generally conducted during week 5. Items could be sold through one of the featured events that occurs every Wednesday. Government sellers from across the United States sell assets during these events. This format can also be tailored to conduct a dedicated sale in support of the State. An example would be a live online auction that occurs in the spring and fall for public heavy equipment auctions. We would utilize the same process as mentioned above but would have the sale specifically for Commonwealth items and marketed to our buyer base as occurring on a specific date/time.

R. Turnover. Upon expiration or termination of the Project, the selected Offeror shall provide for a smooth and timely turnover of its services to the Commonwealth and its successor contractor, as applicable.

Offeror Response

Ritchie Bros. is committed to ensuring a smooth and efficient transition of services to the Commonwealth and its successor contractor.

I-5. Requirements. Offeror(s) shall acknowledge each of the requirements and, if necessary, describe how the requirement will be met.

A. Licensure. The selected Offeror must provide an auctioneer with a valid PA Auctioneers license to conduct public (on-site) auctions. As part of the proposal submission, include a copy of the valid auctioneer license. Refer to the State Board of Auctioneer Examiners for licensing requirements. Refer to I-5, C (6) for information on public (on-site) auctions.

Offeror Response

We have upload a copy of our Auctioneer License for the State of Pennsylvania to the supplier attachments.

B. Policies, Procedures and Standards.

1. The selected Offeror must maintain compliance with all applicable local, state and federal regulations and laws.

2. The selected Offeror shall:

   a. Provide all services in accordance with the policies, procedures and standards of the Commonwealth.

   b. Abide by Management Directive 205.40 Amended, Commonwealth Branding (as applicable).

   c. Abide by all the Commonwealth's policies (Information Technology Policies (ITPs)). If an Offeror feels any of the ITPs are not applicable to this procurement, please identify which ones.

   d. Abide by the Commonwealth's Non-Commonwealth Hosting Requirements **(Appendix C)** located in the **Buyer Attachment** section**.**

Offeror Response

Ritchie Bros. is committed to continuing contract compliance with all applicable local, state and federal regulations and laws.

1. Click-Through Terms. The terms and conditions attached to this RFP in Buyer Attachments section (Contract Terms and Conditions) shall be the exclusive terms of agreement between the selected Offeror and the Commonwealth. Other terms and conditions included in a click-through agreement or referenced in the selected Offeror's quotations, invoices, business forms, or other documentation shall not become part of the contract and shall be disregarded by the parties. Any such terms shall be unenforceable and not binding on the Commonwealth.

3. Click-Through Terms. The terms and conditions attached to this RFP in Buyer Attachments section (Contract Terms and Conditions) shall be the exclusive terms

of agreement between the selected Offeror and the Commonwealth. Other terms and conditions included in a click-through agreement or referenced in the selected Offeror's quotations, invoices, business forms, or other documentation shall not become part of the contract and shall be disregarded by the parties. Any such terms shall be unenforceable and not binding on the Commonwealth.

Offeror Response

The terms and conditions have been noted by Ritchie Bros.

C. Types of Auctions. The selected Offeror shall conduct, at a minimum, the following types of auctions listed below. All online auctions must be open for bidding for a minimum of fourteen (14) consecutive days or at the discretion of the BSSO. The Commonwealth reserves the right to determine how an auction is conducted (online or public (on-site) auction).

1. **Private Heavy Equipment Auction for Municipalities.** This auction consists of conducting online private heavy equipment auctions for Pennsylvania Counties, Cities, Boroughs, Incorporated Towns, Townships and Municipalities prior to the public online heavy equipment auction. Surplus heavy equipment from the Pennsylvania Department of Transportation (PennDOT) and other Commonwealth agencies must be made available to municipalities first through an online private auction. Any un-sold and/or remaining surplus heavy equipment is then offered to the general public via an online public auction. The selected Offeror will generally receive at least eight (8) weeks advance notification prior to the date of any sale. It will be the responsibility of the selected Offeror to ensure interested municipalities and their authorized bidding representatives are qualified to participate in the private online auction. Any questions regarding final determination of eligibility will be made by the BSSO. For historical auction information refer to **Appendix B** located in the **Buyer Attachment** section**.**

2. **Public Heavy Equipment Auctions.** This auction consists of conducting, at a minimum, two (2) online heavy equipment auctions annually from April to November at the discretion of the BSSO. Additional auctions may be held as needed by the Commonwealth. The Commonwealth will provide space for the selected Offeror to set up a temporary work area for conducting post auction activities. Administrative costs may not be deducted from gross or net sales proceeds.

3. **General Merchandise Auction.** This auction consists of conducting multiple online general merchandise auctions throughout the year at the discretion of the BSSO on behalf of various state agencies.

4. **Right of Way Sales.** This auction consists of conducting multiple online right of way sales obtained as a result of right of way acquisitions.

5. **Special Sales.** This auction consists of conducting any additional types of online auctions throughout the term of the Contract as needed by BSSO.

6. **Public (on-site) Auction.** This auction consists of conducting periodic on-site auctions anywhere throughout the Commonwealth. Auctioneer must be visible to all registered bidders and must use a public wireless system.

Offeror Response

Ritchie Bros. and IronPlanet are uniquely positioned to support the identified 6 sales needs through live online auctions, timed auctions, or public (on-site) auctions. We provide the ability to utilize a private marketplace to meet the needs identified in category 1, with the ability to cascade items from the private marketplace into a public timed auction, or live online event. We deliver total value to the State through our ability to offer tailorable solutions and two different online auction platforms. State agencies may elect to sell items through our timed auction format, which is currently being utilized. Or, they may take advantage of our live online auctions. These auctions are held every Wednesday and have an average attendance of 90,000 users. This solution may be especially useful in the sale of vehicles and equipment. Additionally, we have the ability to hold dedicated live online auctions which may align well with the needs identified in category 2. Timed auctions can run for the allotted amount of time needed by PA as our auction schedules are flexible. Live online auctions utilize a 5-week sale cycle and align with the defined criteria as they encompass a 2 week preview mode prior to the live online auction in week 4. Pick up support and post-sale activities are conducted following the sale of items. We have an extensive database of past auction results and over 2.4 million registered users that will be notified of all upcoming sales by the Commonwealth.

D. Webcasting Capabilities. The selected Offeror shall have the ability to webcast auctions simultaneously during public auctions.

Offeror Response

Ritchie Bros. and IronPlanet have the ability to conduct webcasting during the execution of public (onsite) auctions.

E. Online Auction Tool. The selected Offeror shall provide an online auction tool (hosted by the selected Offeror) for the purpose of selling state surplus property. The online auction tool must encompass all aspects of online sales, including but not limited to bidder registration, placement of bids, receipt of electronic communication, payment option, etc. At a minimum, the auction tool must meet the following requirements:

1. Buyer-facing components

   a. Allow for bidders to enter their maximum price they are willing to pay in an auction for a piece of surplus property, and automatically place incremental bids on the bidder's behalf as necessary up to the maximum price.

   b. Allow bidders to sign up to receive automatic notifications when certain types of surplus property are uploaded to the website and made available for sale/auction.

c. Provide browse and search features, including basic and advanced search functionality.

d. Provide automatic notification to buyers who submitted a winning bid for auctions.

2. Seller-facing components

a. Allow for pictures, conditions, descriptions (including free-form text, categories, and UNSPS commodity codes), minimum reserves, and prices of surplus property for sale to be uploaded and/or updated at any time. Permissible formats or types of upload files should include comma separated values (CSV) files.

b. Automatically track surplus property from the time it is entered into the system until the surplus property is disposed of.

c. Set time frames for sales or auctions.

d. Limit what types of users can see or purchase certain pieces of surplus property (i.e., Private Heavy Equipment for Municipal Auctions)

e. Ability to offer any asset to the next highest bidder due to events such as bidder default.

f. Display the terms and conditions of the sale and obtain buyers' agreement to the terms and conditions of sale by digital signature prior to allowing them to purchase or participate in auctions for surplus property.

g. The ability to withdraw, cancel or remove an item from a lot during an event. Identify how the buyers get notified of changes to an event.

h. The ability to block individual buyers from participating in auctions or buying surplus property.

i. Ability for user to reset login/password credentials

Offeror Response

1.a

Our PrioirtyBids allow users to submit their maximum bid and our system will bid the lowest amount required for them to win up to their max.

1.b

GovPlanet systems will notify users via email of new inventory based off their saved searches. Users can save item specific searches in their account.

1.c

GovPlanet's site is very user-friendly offering user's multiple ways to search for inventory or specific sellers.

1.d

Winning bidders on GovPlanet receive an email congratulating them on their purchase and supply checkout information. Additionally, GovPlanet Customer Service personnel follow up with winning bidders to provide support and answer any questions bidders may have.

2.a

GovPlanet's system allows for uploading an Excel or CSV file to input data such as: conditions, descriptions, categories, reserves, minimum bids and other free-form text fields. This can serve as a template for consignment if desired. All listings can display photos and videos which can be added or removed at any time before the item sells. All updates to listings are reflected in real time. We can continue to follow the current process where the Commonwealth utilizes an Excel document containing the basic item information and photos as the agency wishes to handle or we will send a services provider to take the photos and perform write-ups as needed. This process follows our current full-service sales format where Ritchie Bros. will handle the information and creation of listings on our website. Our websites are already established and listings will populate as inventory is received and data is uploaded onto GovPlanet for auction.

GovPlanet also has a self-service model, GovPlanet Direct, for miscellaneous surplus allows for users to input auction data either in bulk using a CSV spreadsheet template or on an individual lot basis. All agencies and support staff can be trained to use the self-service model and have access to list items in the Commonwealth's marketplace if desired. Creating listings is a simple process, selecting parameters from a series of drop downs. Available inputs include item descriptions (in free form text or populated based off year, make and model), photos, videos and PDF files. All listings are indexed and cataloged to display across all our websites. This efficient listing process could be best utilized throughout the Commonwealth for miscellaneous surplus such as hand tools, furniture, electronics. GovPlanet Direct is accessible via desktop, tablet or mobile phone with an internet connection. GovPlanet Direct is web based so no software or app installation is necessary.

2.b

Our comprehensive reporting suite tracks the sale stages of inventory to be listed. Our Post Sale Report and Pickup Support Report (examples uploaded in the supplier attachments) tracks all important sales data starting from when the listing was created until the item has been picked up by the new buyer. Each sale stage has a status tied to the item. For instance, when a buyer has made payment the status change goes from "Payment Pending to Pick-up Pending" etc. The Account Manager will familiarize the Commonwealth with statuses throughout implementation and the life of the contract.

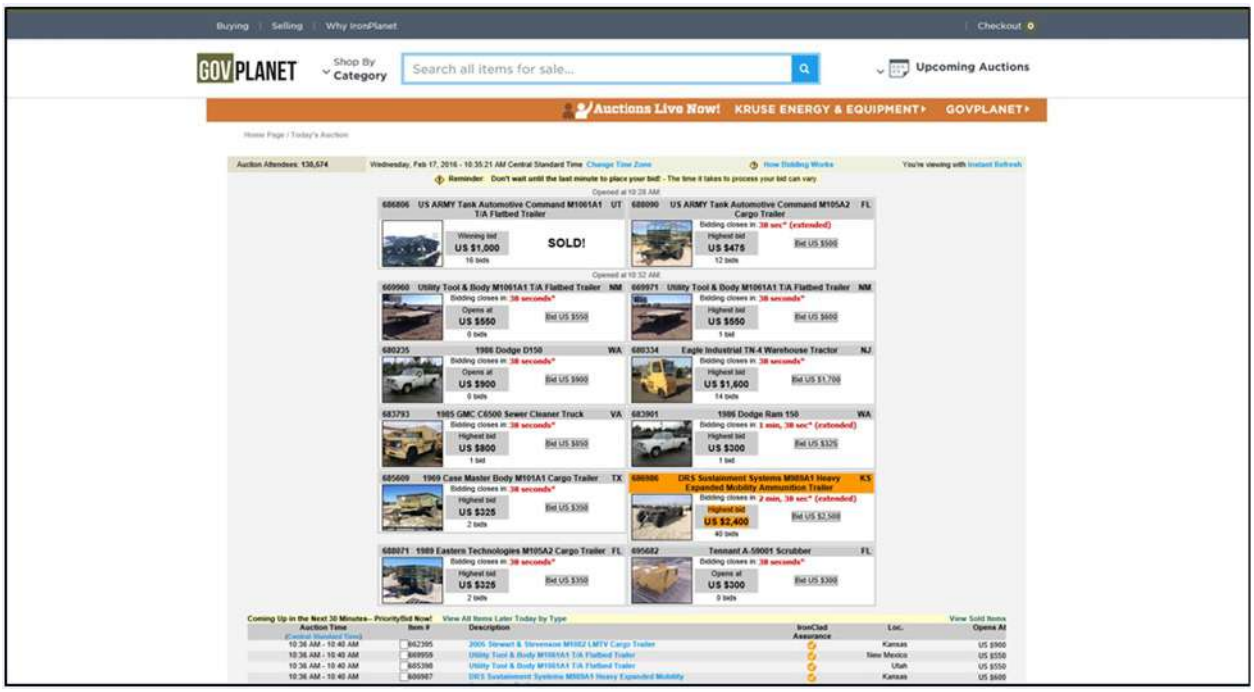
Our sellers also have access to an Auction Authorization Report. This report tracks the date the listing was created and who created it, and when the listing was approved for auction and who approved it. This reported can be generated on demand through our web based GovPlanet Direct software. All reports are published through Microsoft Excel.

2.c

GovPlanet Auction Management can assist the Commonwealth with timeframes for auction sales. Our system allows the flexibility to create a live online auction where items show up live 'on the block' and take bids for five minutes or a timed static auction where items are live for fourteen days.

If utilizing a live online event, during the five-minute period items receive live, real-time bids until there is no bidding activity for two minutes. Bidding activity in the last two minutes will extend the auction until no live bids are received for a period of two minutes, at which time the item will sell to the highest bidder. The auction schedule and time slots for items coming on the block would be set by the GovPlanet Auction Management team.

The screenshot below shows items "on the block". Items are highlighted and flash when they are receiving live bids.



Items in live online auctions are available for two weeks up to the slated auction time. Specific schedules can be discussed with the Account Manager so the auction will be built to meet the requirements.

2.d

GovPlanet Direct offers private, invite only auction events for our sellers. We can load the Commonwealth's items into their marketplace and invite participants via an emailed link. Once claimed, items can be transacted if desired or removed from auction. Only users invited with the hyperlink have access to view and claim items in the marketplace. At the conclusion of the private event, unclaimed items can seamlessly transition into public auction without re-creating any auction listings.

2.e

In the event of a bidder default, the backup bidder may be contacted by Customer Service or Inside Sales to see if they are still interested in purchasing the item. If interested, the Account Manager will contact the agency POC for approval to invoice. In some instances, buyers may counter-offer their backup bids if they were bid up and the Account Manager will submit the offer for approval.

2.f

Our auction software allows for total customization of the seller's terms and conditions, removal terms and disclaimer text that can be displayed on each listing. Each individual user of our website must be registered

and agree to terms and conditions upon being granted bidding privileges. The buyer's agreement is noted and date stamped in their user record. Each account is stamped the date they are registered and receive bidding privileges.

2.g

Sellers can edit or cancel an auction or auction listings at any time without penalty. When listings are cancelled, the high bidder is notified via email (and phone call if applicable) by Customer Care that the listing has been withdrawn from auction. The seller would simply notify the Account Manager of the change/cancellation and the Auction Management and Customer Service Teams will take action accordingly.

2.h

Ritchie Bros. has the ability to set an auction to private, and only buyers that have been specifically approved or invited can place bids. Buyers that wish to participate in the PennDOT auctions for example, will go through a vetting process and their account must be reviewed before access is granted. Buyers must provide proof that they are from a Commonwealth agency, township or municipality before approving bidding access.

Buyers can be blocked from participating in auctions if their account is not in good standing with both the Commonwealth and Ritchie Bros., including banning for non-payment, non-removal and other defaults as noted.

2.i

When a user requests their password on our website, they enter their email address and click a "forgot password" link displayed on the sign in page. Ritchie Bros. does not have access to any user passwords for security reasons; we can simply "reset" them. Once the user clicks the forgot password link, a new password will be emailed to the email address associated with that user's account. Customer Service is available to assist bidders with facilitating their password reset requests.

F. Meetings. The selected Offeror shall meet with DGS on an annual basis to go over its marketing plan strategy for the new year (refer to I-4, C.) and to assess the progress of the overall program. The selected Offeror shall provide an annual report to BSSO and the Contract Administrator at least 1 week prior to the meeting.

Offeror Response

Noted by Ritchie Bros. All auction reports will be provided to the Commonwealth DGS at least one week prior to scheduled progress review meetings.

G. Disaster Recovery (DR).

1. The selected Offeror must employ disaster recovery procedures to assist in preventing interruption in the use of the solution. Offeror(s) must describe its disaster recovery plans for maintaining operations during disasters. Offeror must provide detailed information regarding its DR systems, architecture/frameworks, capabilities, governance, and procedures.

2. Offeror(s) must describe the frequency of testing of its DR plans. Offeror(s) must describe how its disaster recovery plans support compliance with the required system availability.

Offeror Response

All technology proposed under our response is utilized by IronPlanet and Ritchie Bros. to currently support operations. We plan to utilize the same production hardware/software infrastructure that we maintain for our websites and marketplaces. We have over 45 devices deployed in two data centers:

[REMAINDER OF SECTION REDACTED]

Software upgrades will be provided as part of this contract. Our Technical Support team and our Quality Assurance team prioritize all reported problems in the software and will liaise directly with the Account Manager. Software updates are deployed on a biweekly schedule. Our Technical Support team (working with the Account Manager) prioritizes all requests for enhancements or customizations.

H. Emergency Preparedness.

To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

1. Describe how you anticipate such a crisis will impact your operations.

2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:

a. Employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)

b. Identified essential business functions and key employees (within your organization) necessary to carry them out

c. Contingency plans for:

i. How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness.

ii. How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.

d. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.

e. How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

Offeror Response

1) IronPlanet's operations are based out of Ft. Worth, Texas and we anticipate minimum impact in the event of a crisis at this location. We are supported by an office in Pleasanton, California and Lincoln, Nebraska and have over 2,100 employees worldwide. In addition to Pleasanton and Lincoln, we have satellite offices with smaller staffs scattered throughout the US. Additionally, each Ritchie Bros. Auction facility has available office locations. In the event of a catastrophe, we have the ability to transition operations to additional team members of Ritchie Bros. that do perform similar day to day tasks for other customer bases. Ritchie Bros. also has an auction facility with ample office space for an offsite meeting location within 20 miles of the GovPlanet Ft. Worth office in the event something happened to the building. Our web-based systems allow us to continue operations at any of our other offices in the instance of crisis at the Ft. Worth location.

2) In the unlikely event that we are the victim of disaster, we will work to re-establish business as a priority so we continue to serve the needs of our customers while assisting in impacted areas. GovPlanet Senior Leadership will assign individuals to represent different departments that are essential to the continuity of operations. Departments that are represented are vital to GovPlanet operations and operate under full autonomy to make decisions for GovPlanet. Shared services such as Digital Marketing, Customer Service can be backfilled by additional team members with no customer specific training required. Most departments within Ritchie Bros. are based out of multiple locations.

Training

Training will take place during normal business hours, implementing clearly defined tasks to designated emergency replacement personnel. All replacement personnel will have performed or do perform similar tasks currently within the company.

Key Positions

- Vice President, Government Services
  - Director of Field Operations
  - Auction Manager, Auction Services
    - Auction Management Team
  - Accounting Manager - Accounting & Finance
  - Account Manager
  - Contracts Administrator

Staffing & Functions

Staff will be selected for backfill based off individuals who perform similar functions for different parts of the business. For instance - a Account Manager on GovPlanet could be back filled by a

National Accounts Manager for IronPlanet as duties are similar, however the customer sector is different.

Communication

Communication to field personnel will be in the form of phone call or email messaging. Field personnel can also email into a shared email address in the event of no cell phone connectivity. All communication with Ft. Worth based employees will be in person, by cell phone (call or text) or through email. Our mobile device management software utilized by our field services team also allows us to message all members through a push notification on their iOS device.

Testing

GovPlanet does self-assessment walkthroughs of our business continuity plan which are conducted annually. This includes a step by step review of the plan layout, discussions of content and its proposed effectiveness. All stakeholders are involved.

I-6. Additional Contract Terms.

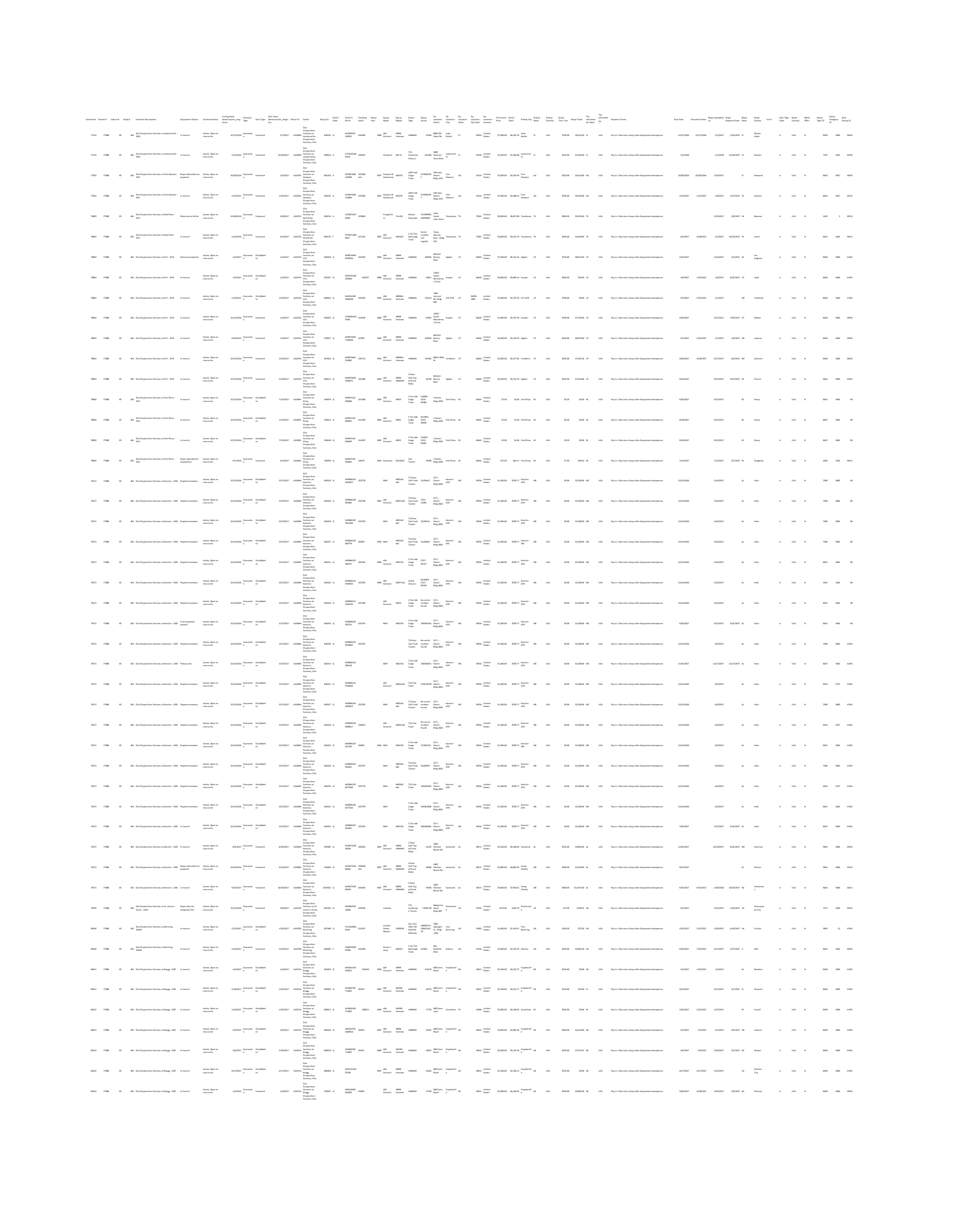
All references to a "Purchase Order" in the contract terms and conditions contained in **Buyer Attachment** section shall be substituted with either the term Contract, or the phrase "formal written notice to proceed" as appropriate.

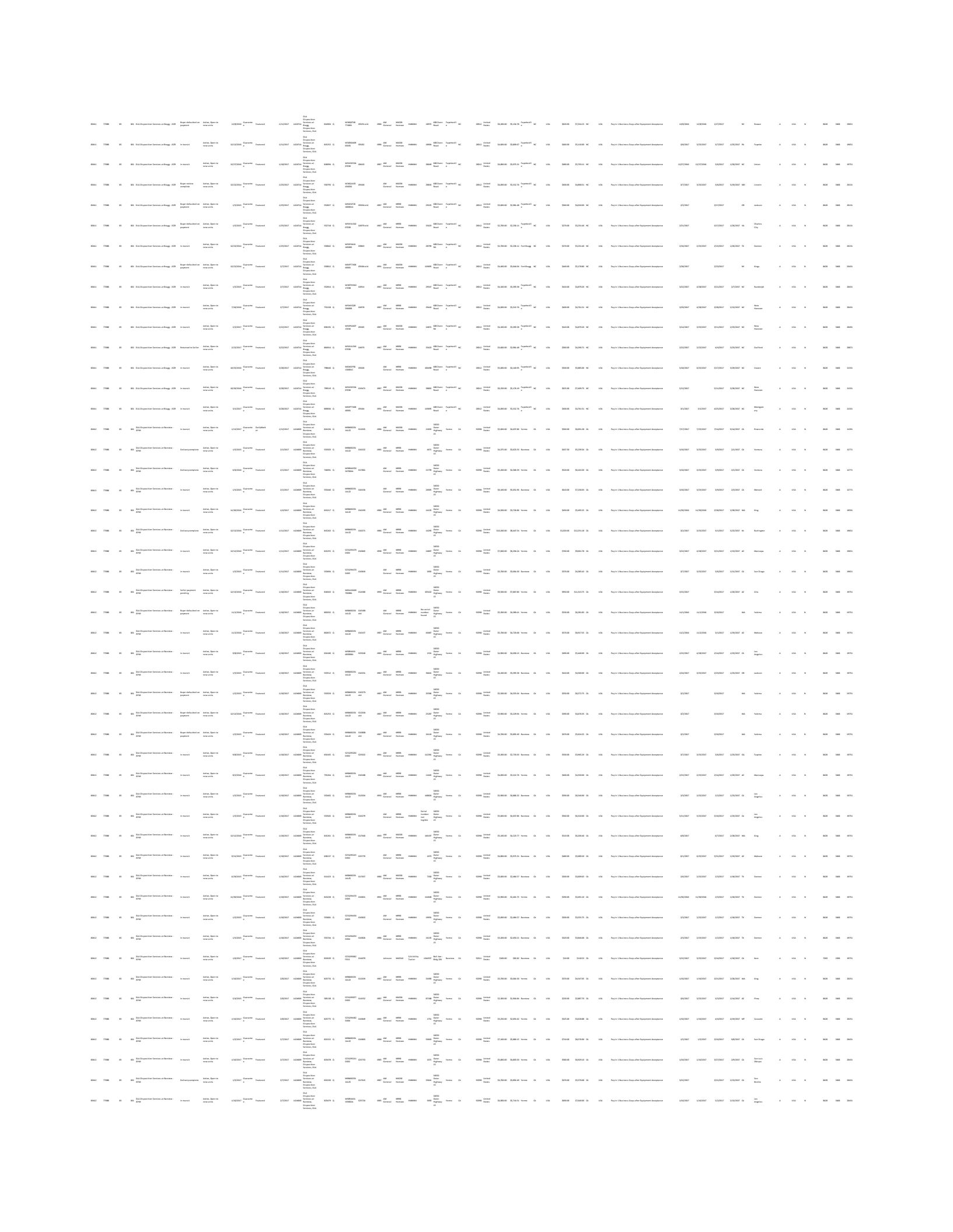
I-7. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions contained in the **Buyer Attachments** section that it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for this RFP. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

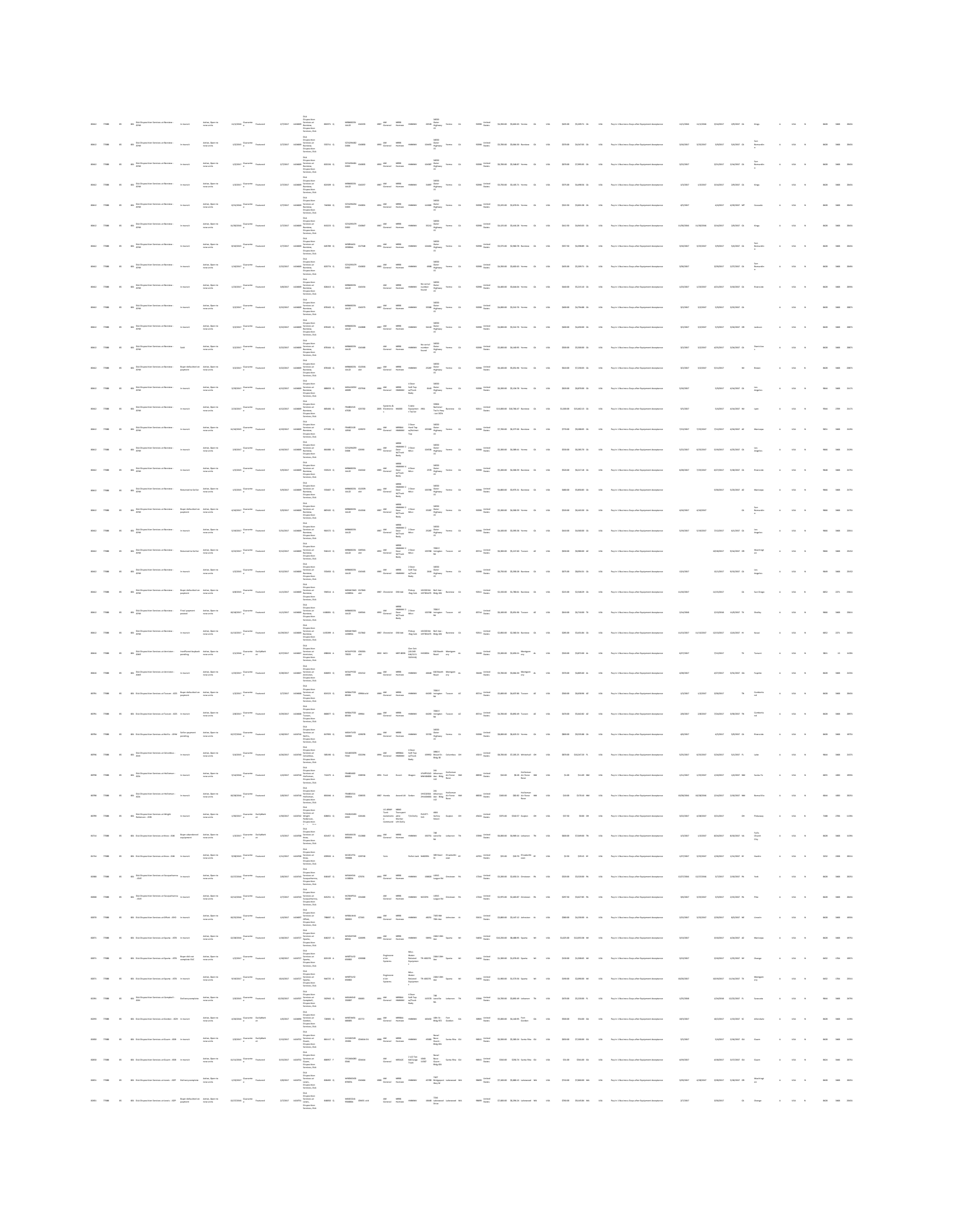
Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in the terms and conditions contained in the **Buyer Attachment** section. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in the terms and conditions contained in the **Buyer Attachment** section or to other provisions of the RFP.

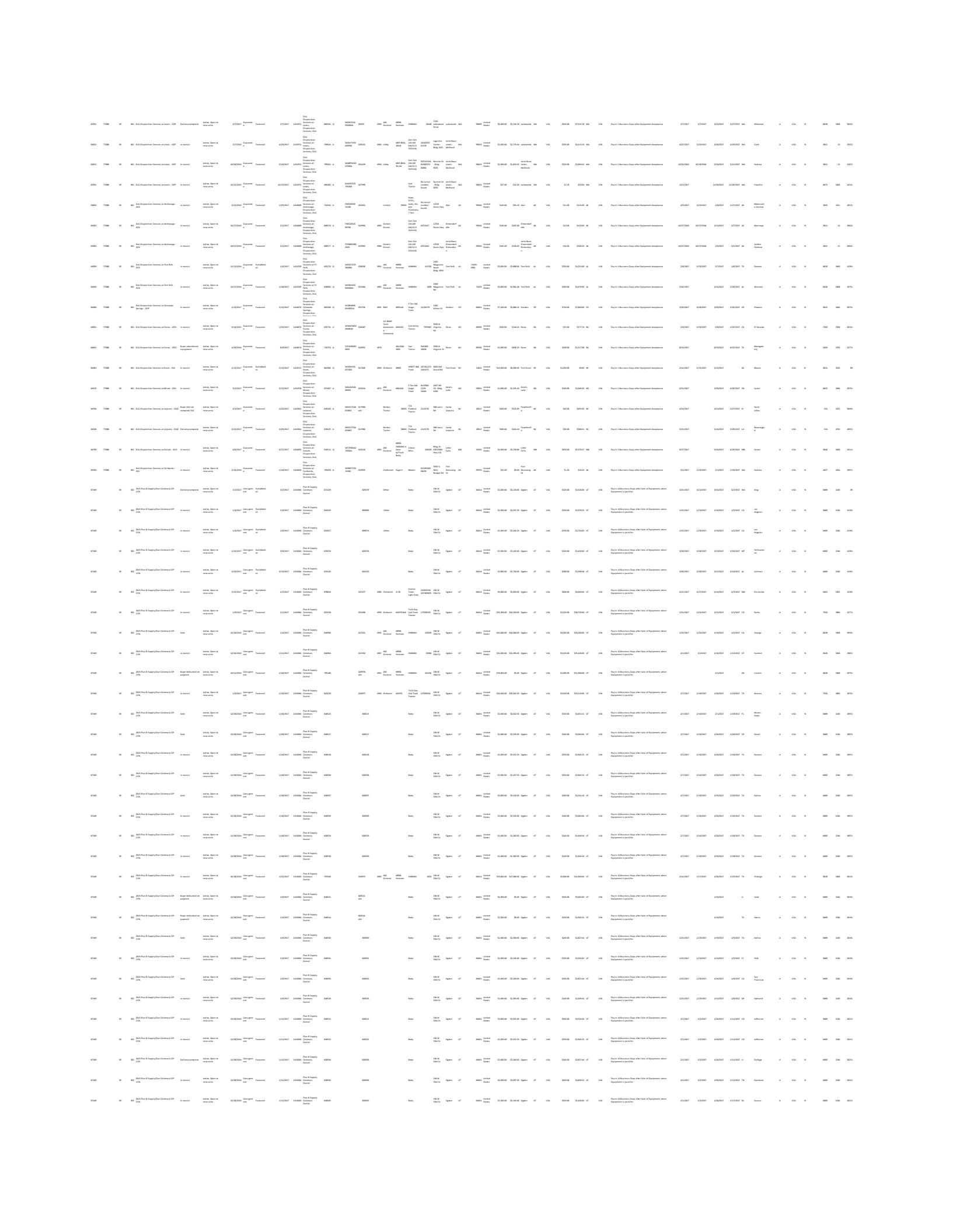
Offeror Response

The terms and conditions have been noted by Ritchie Bros.

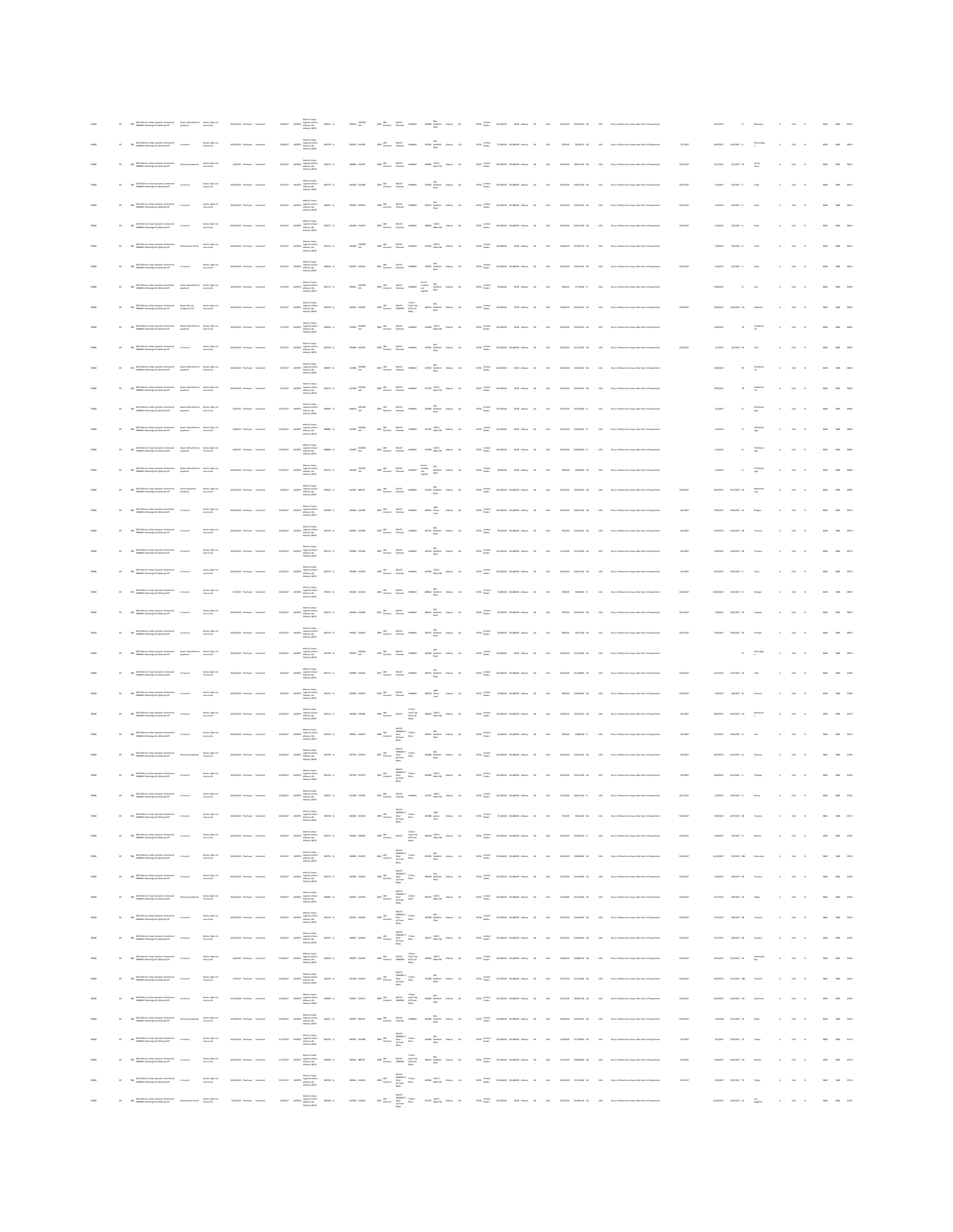


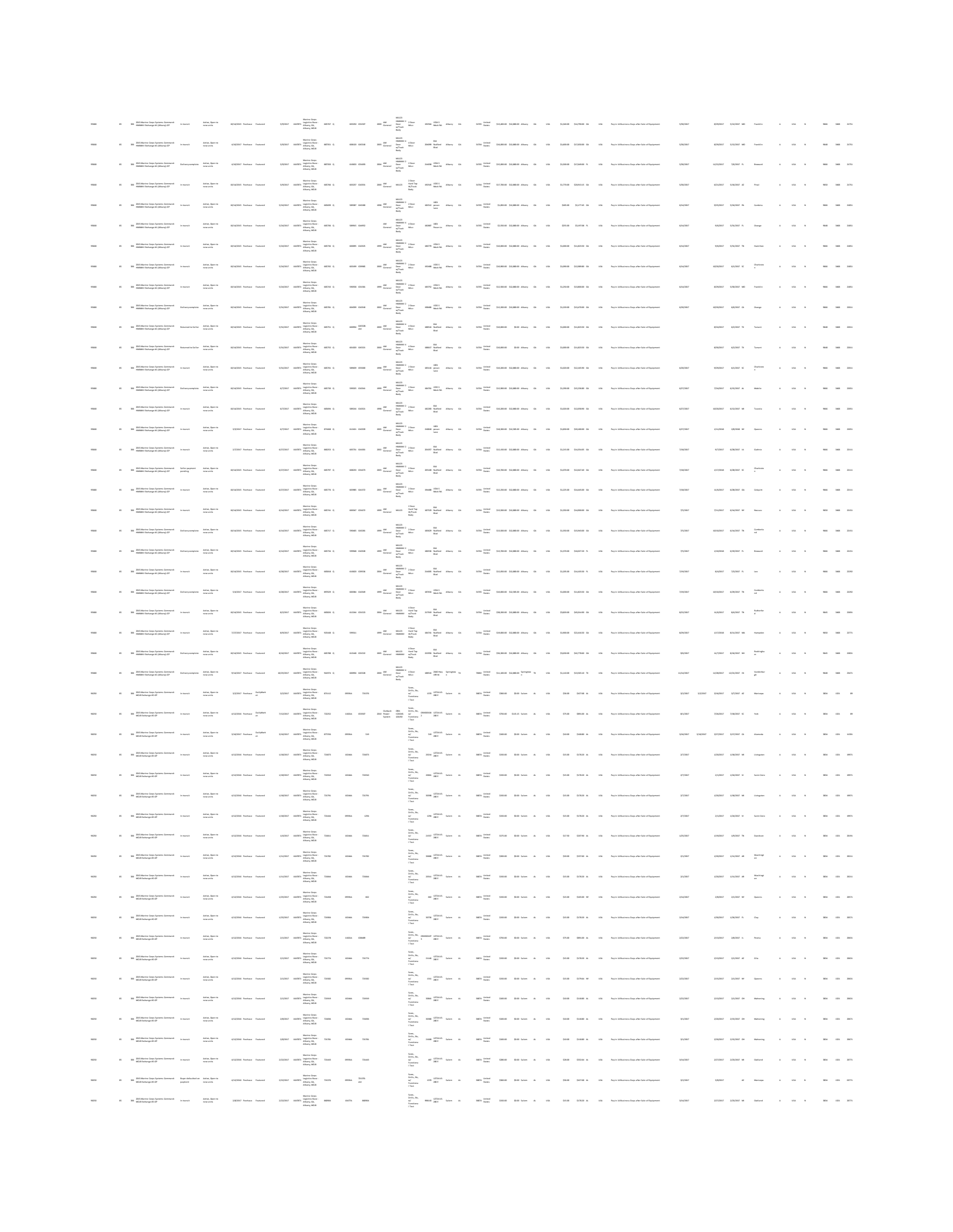


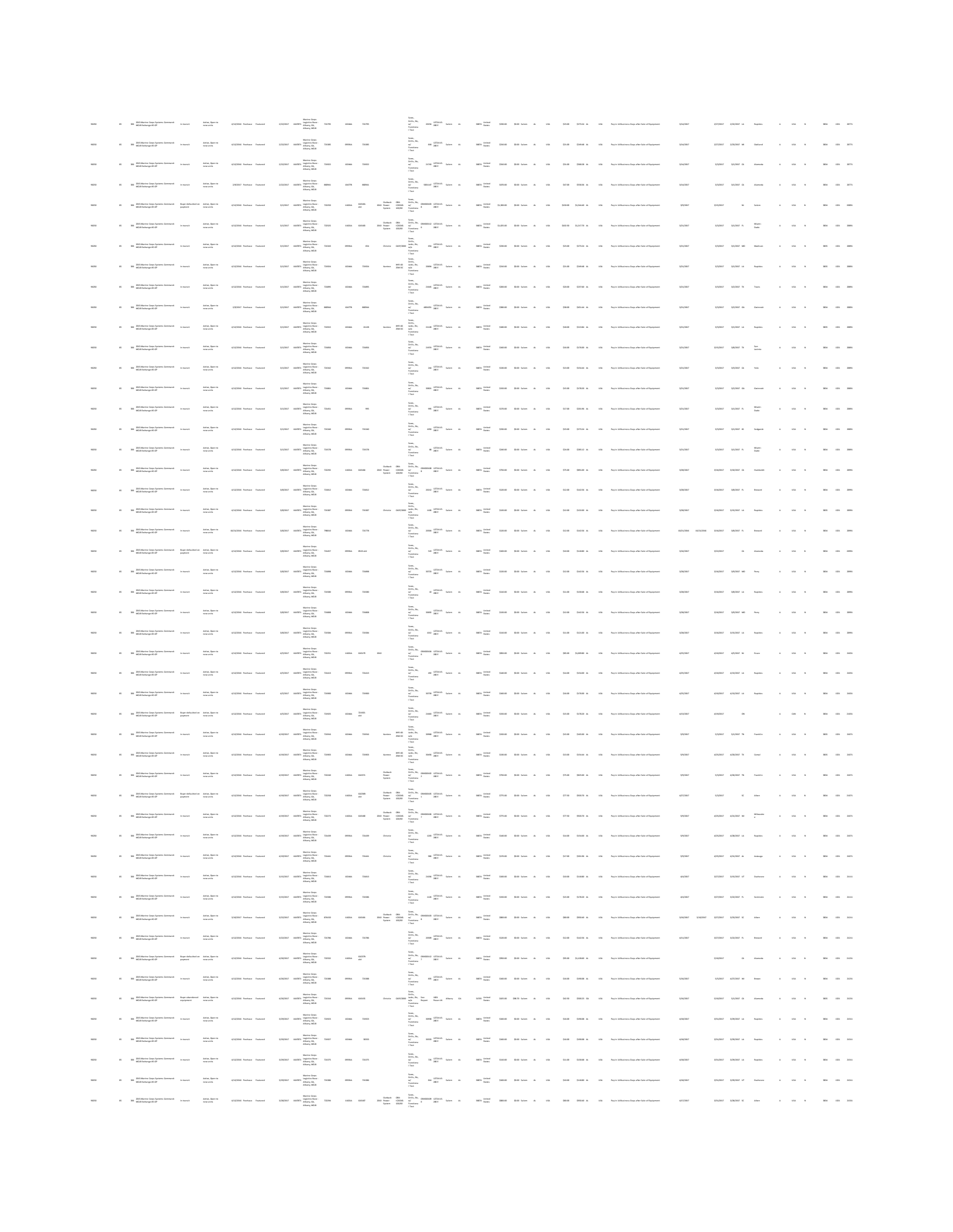


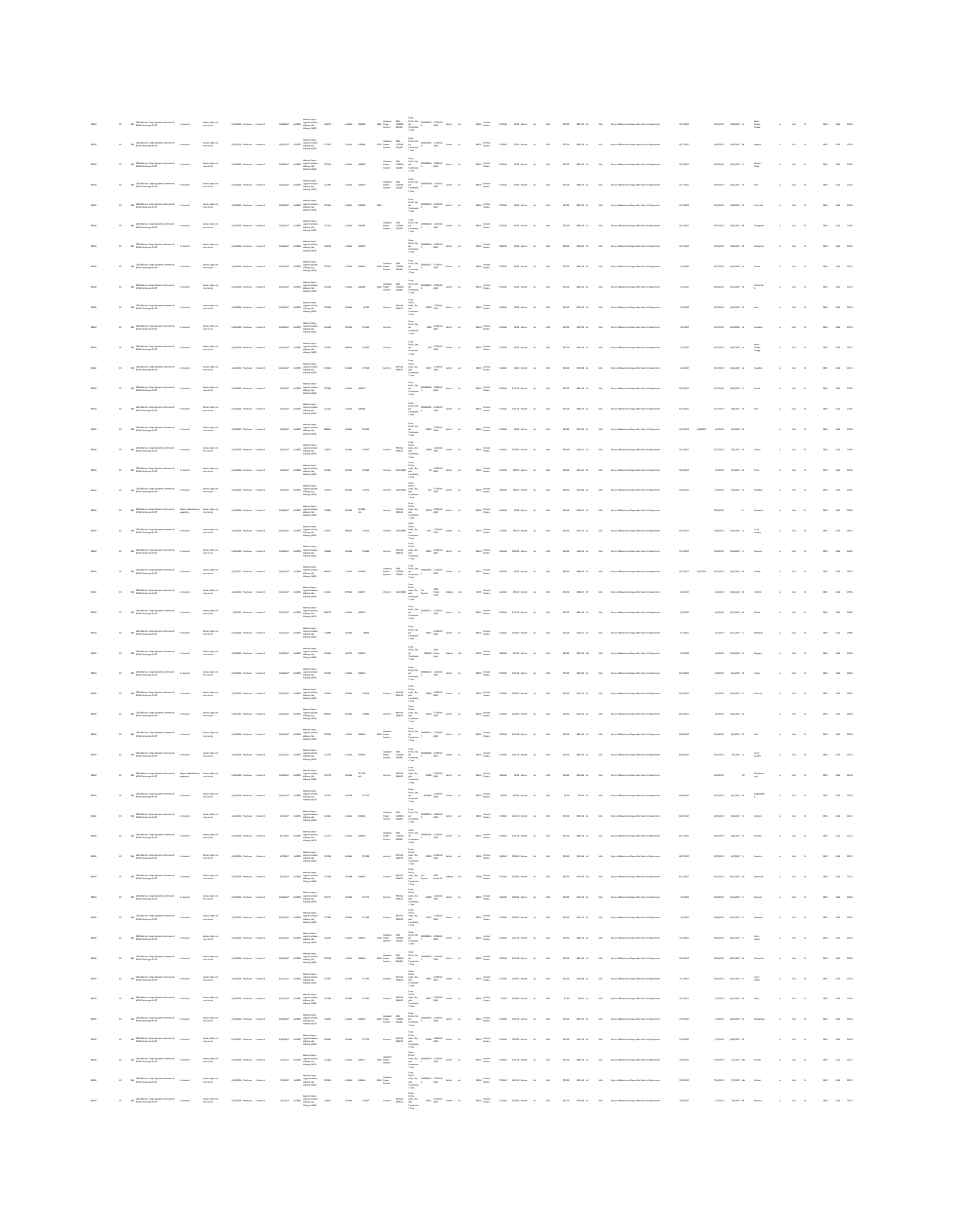


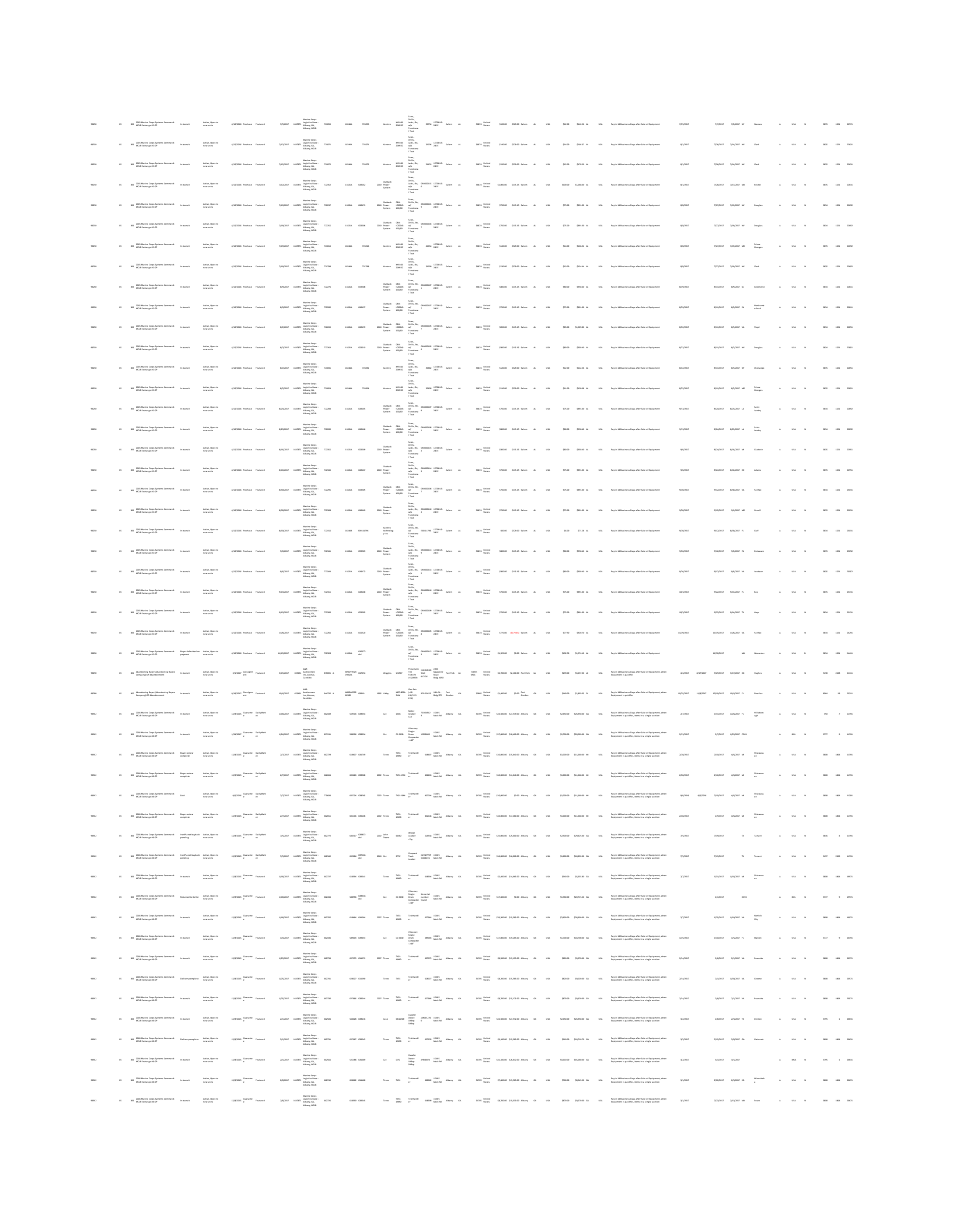
| | | |

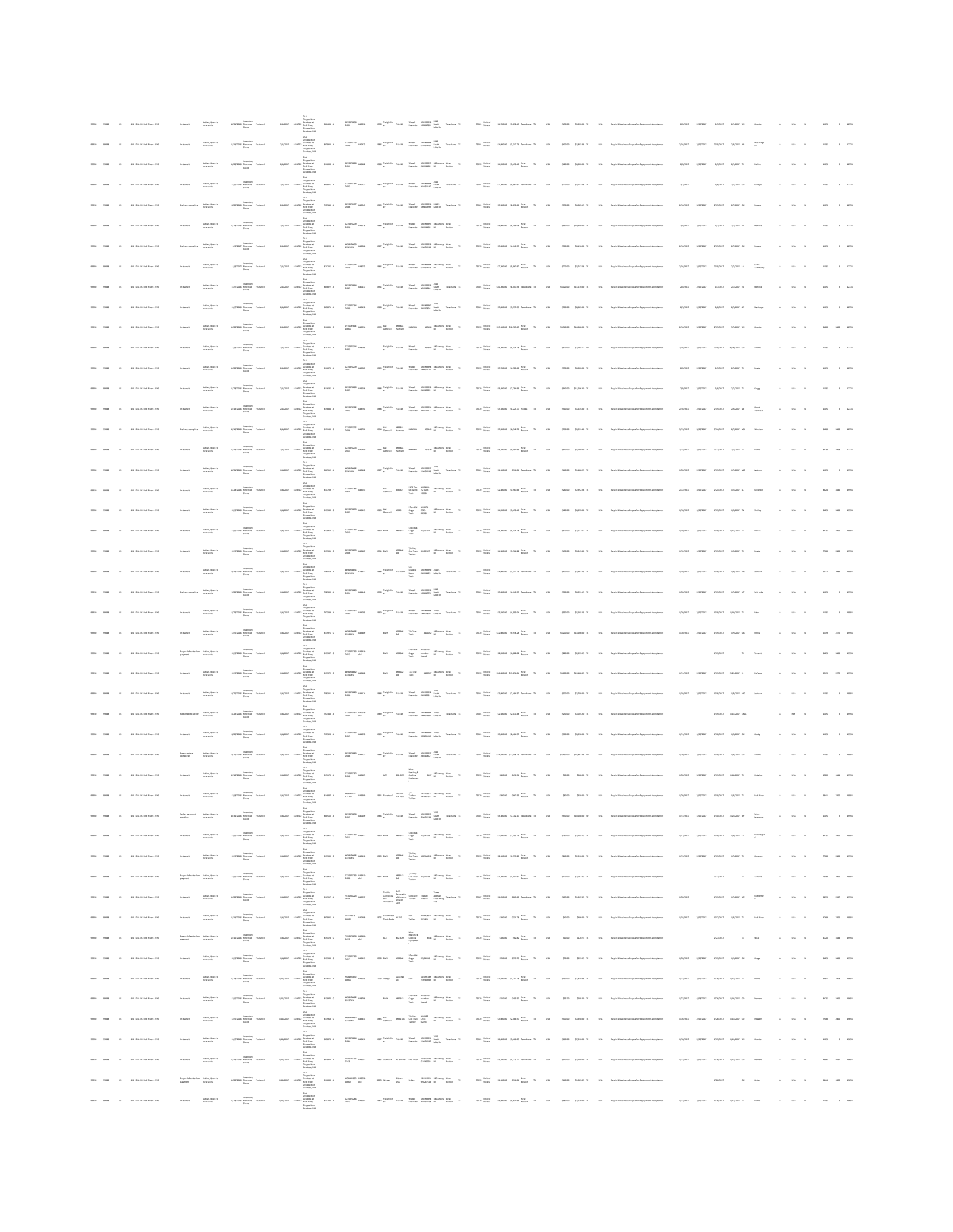




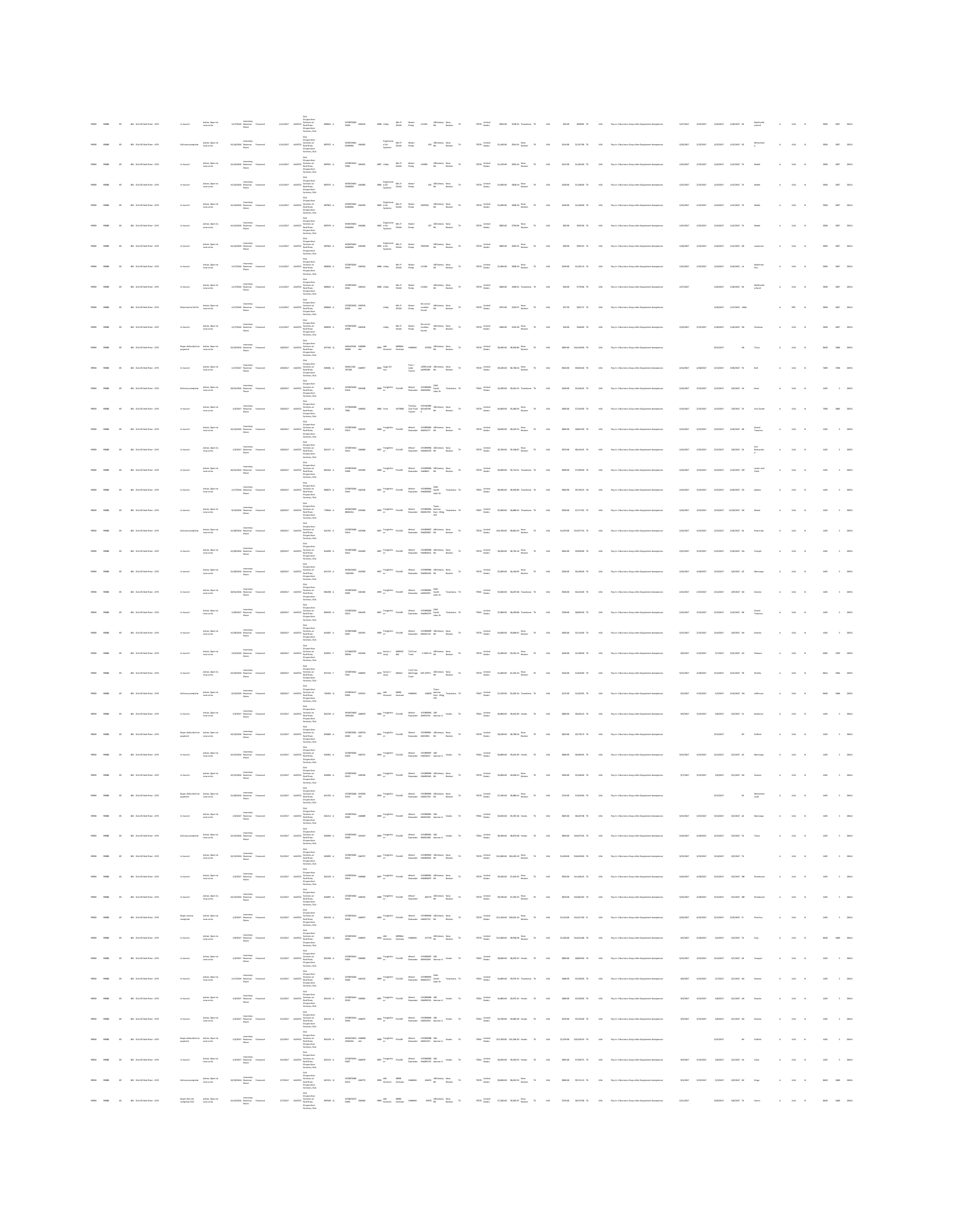


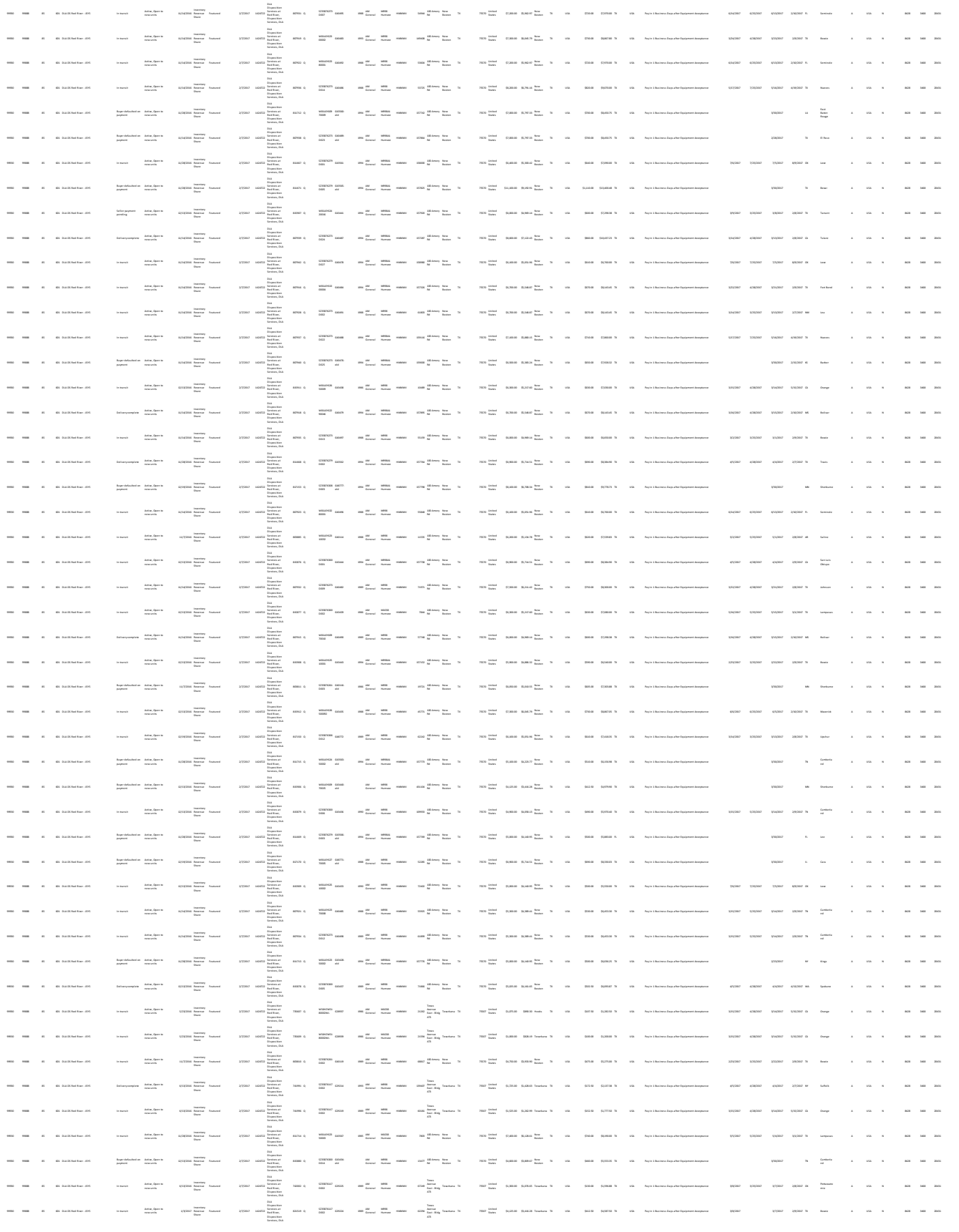


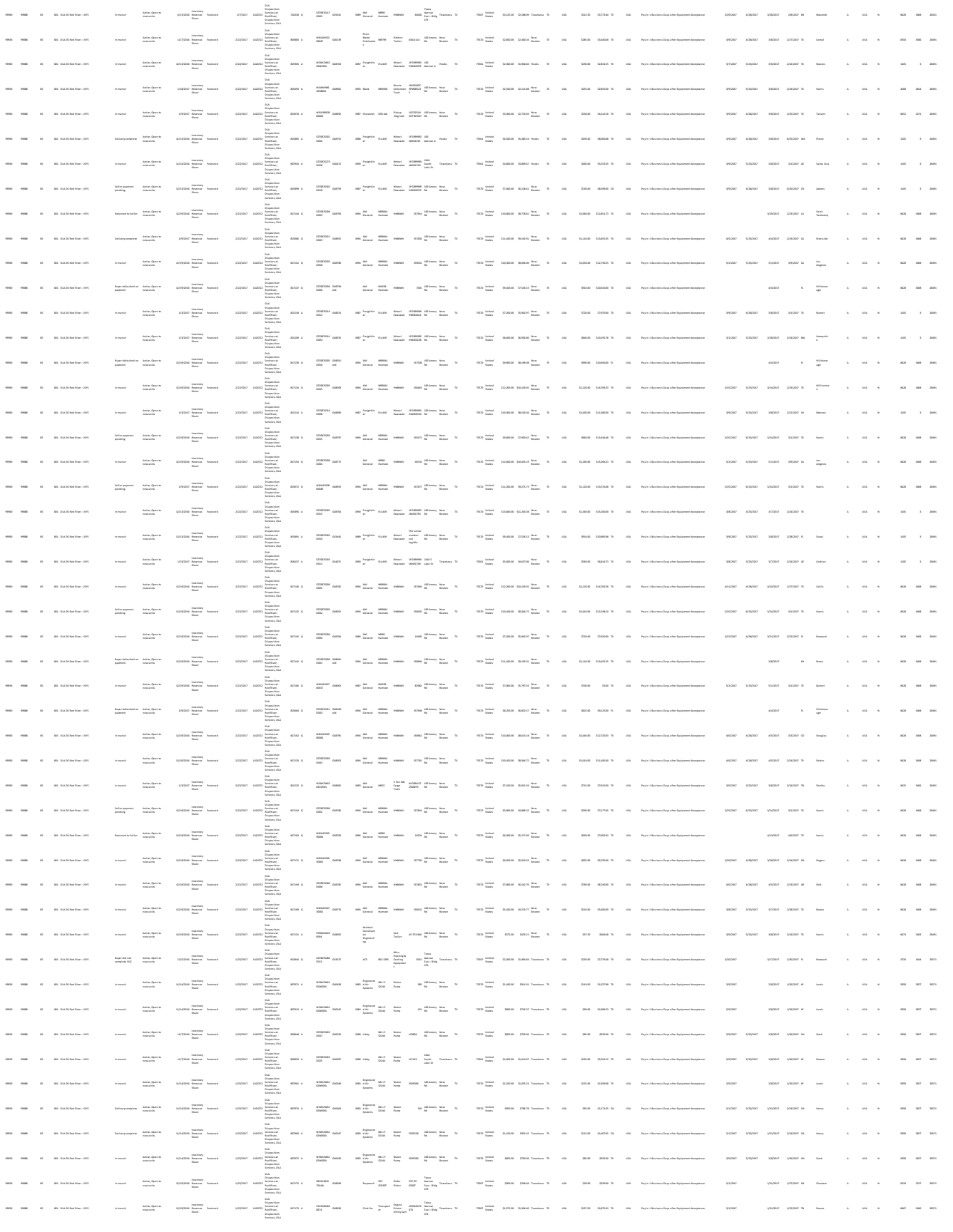


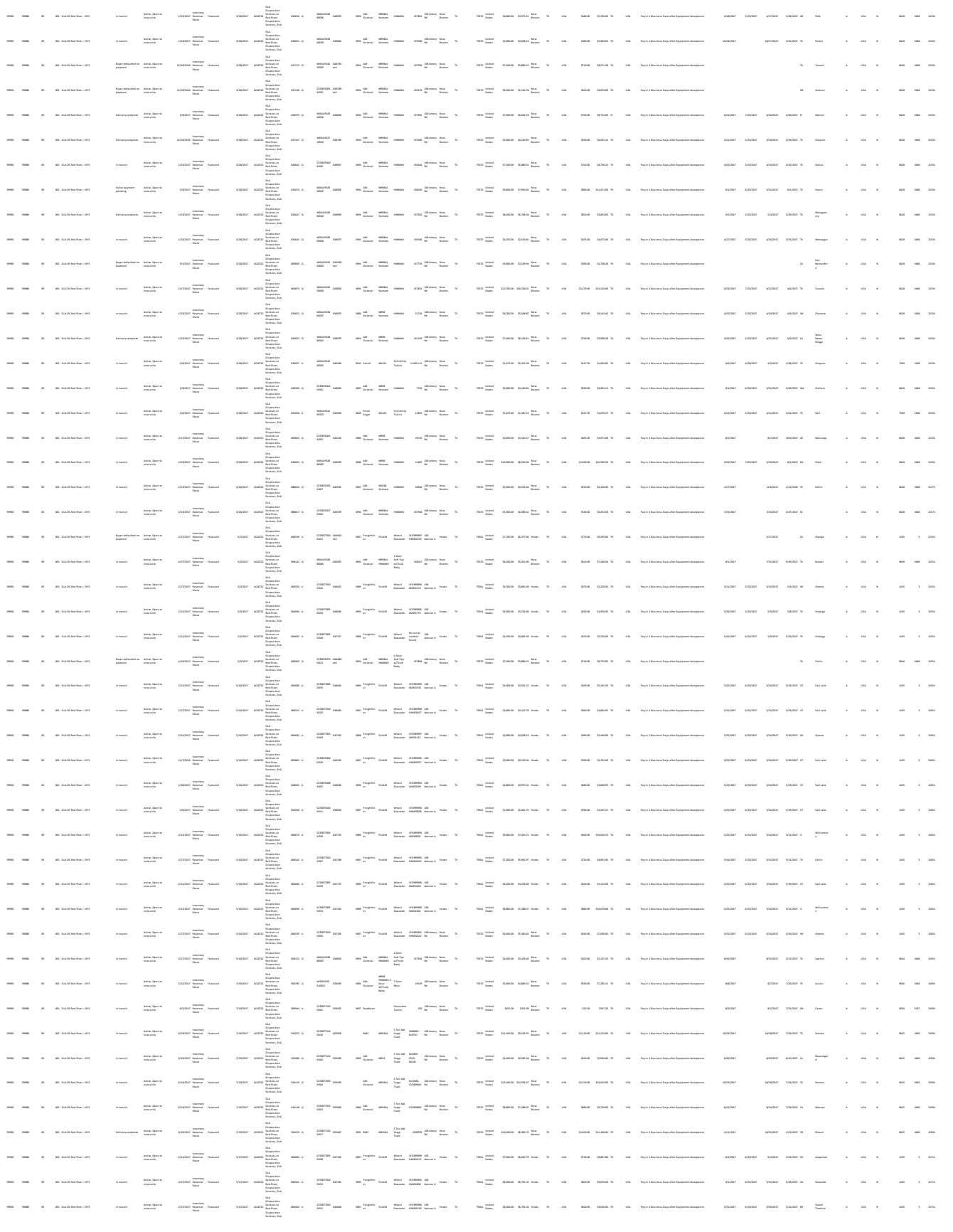


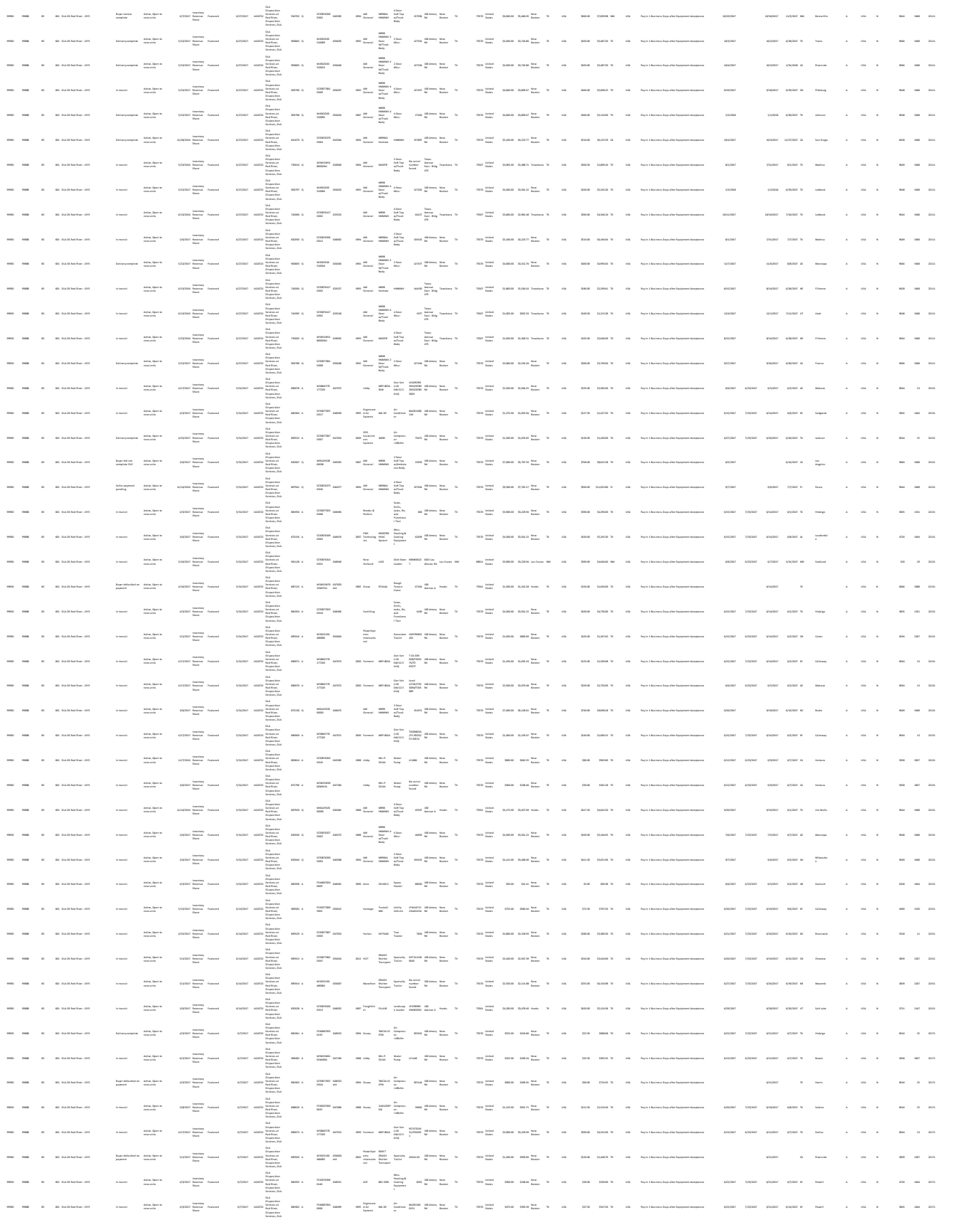
| | | |

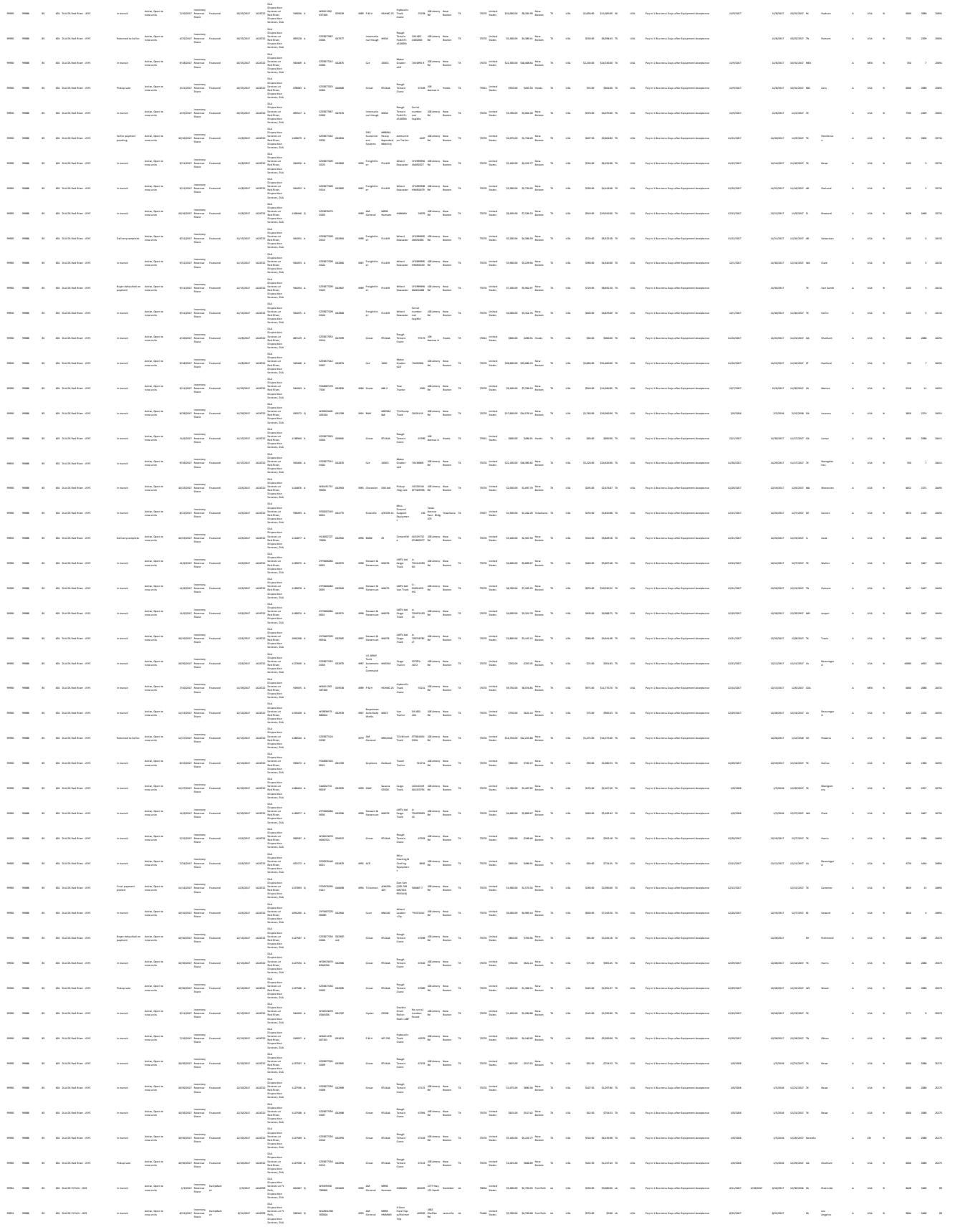


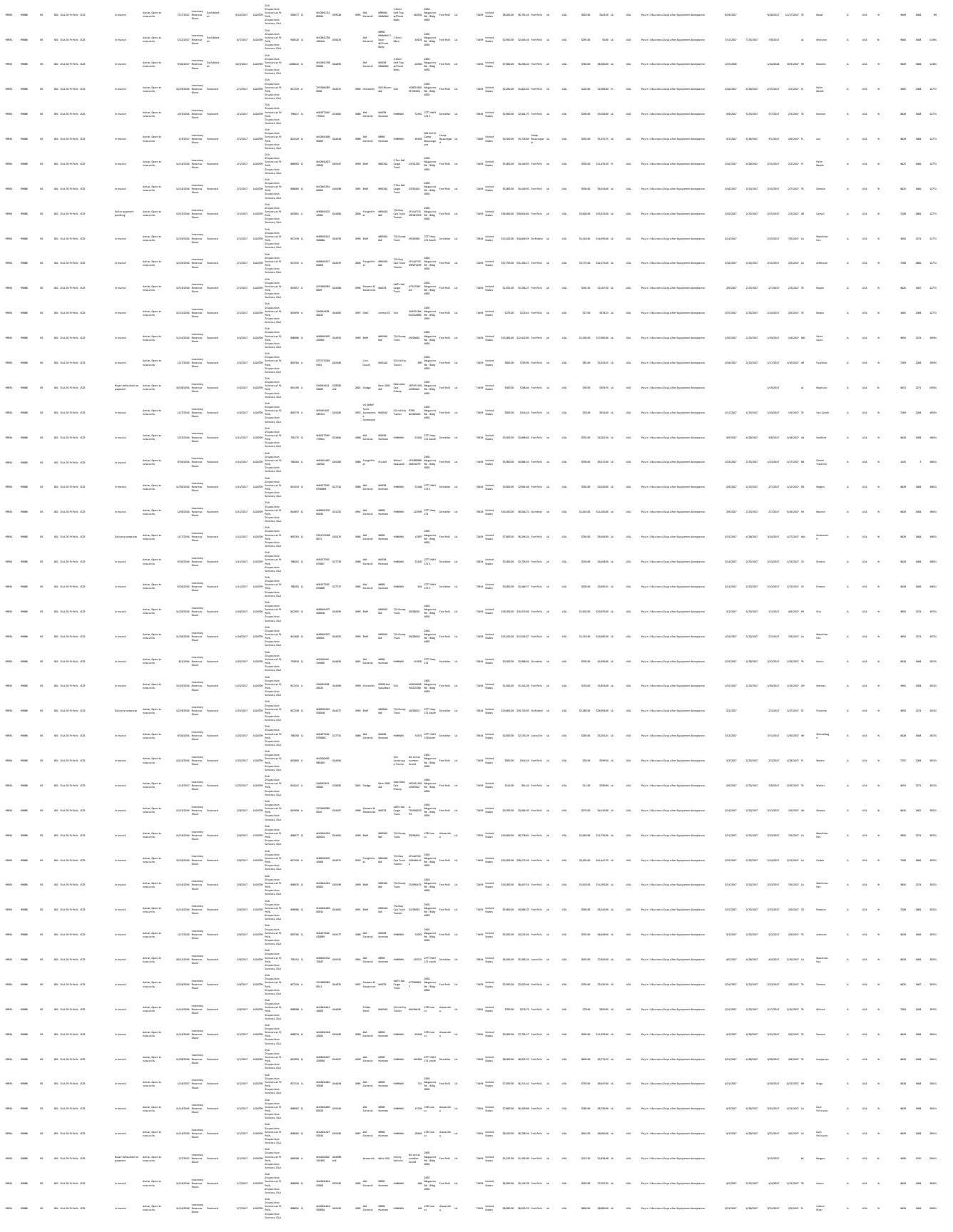


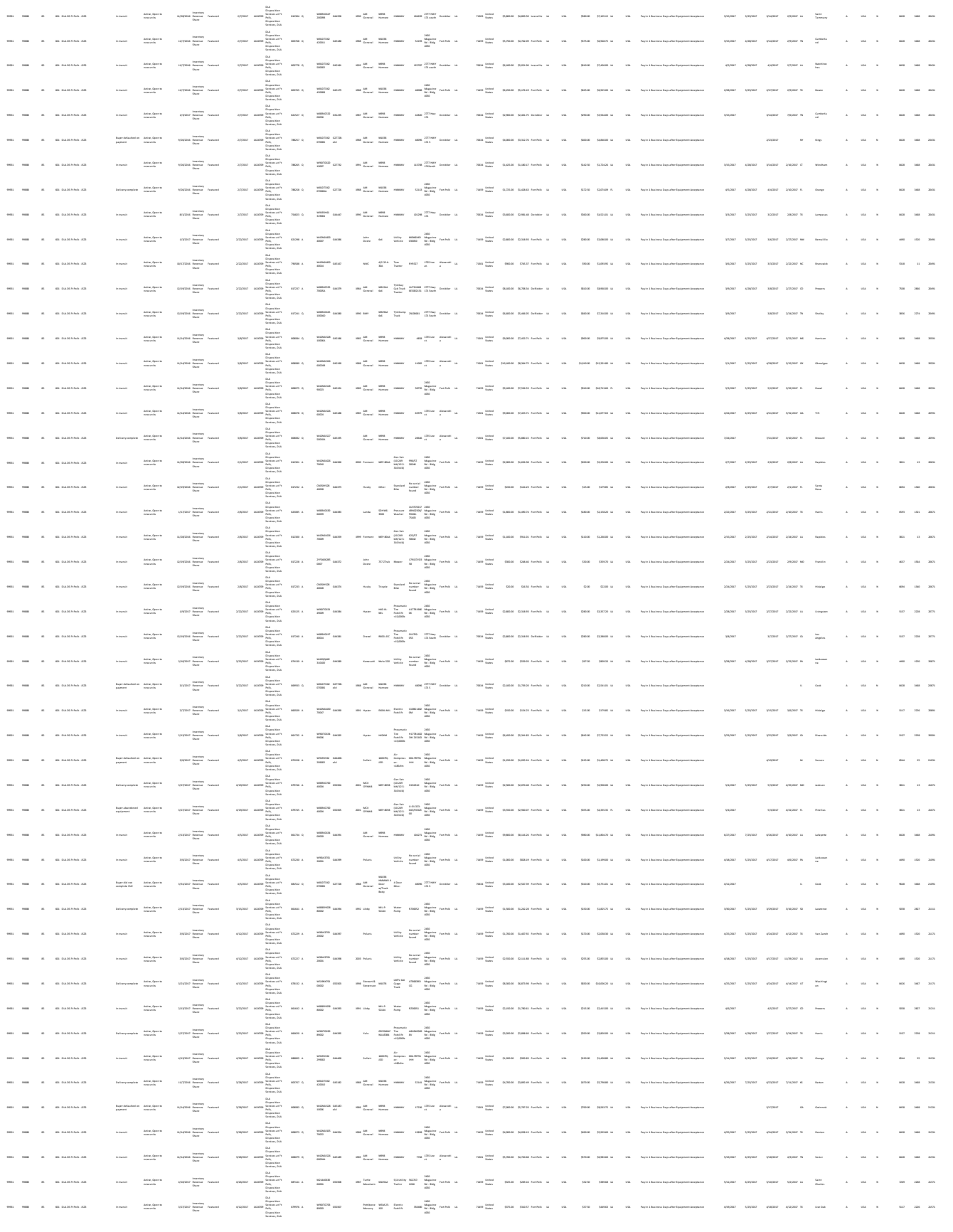


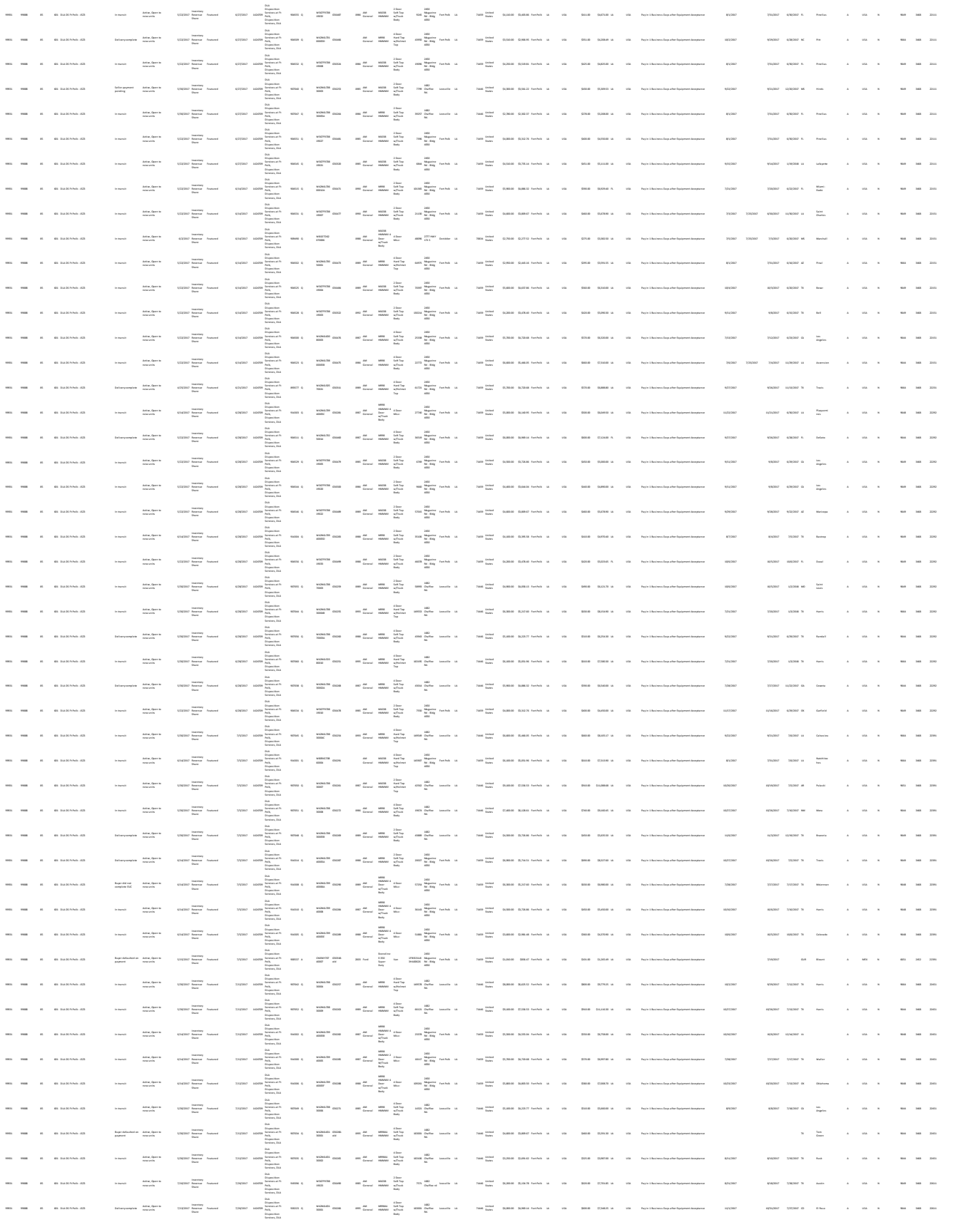


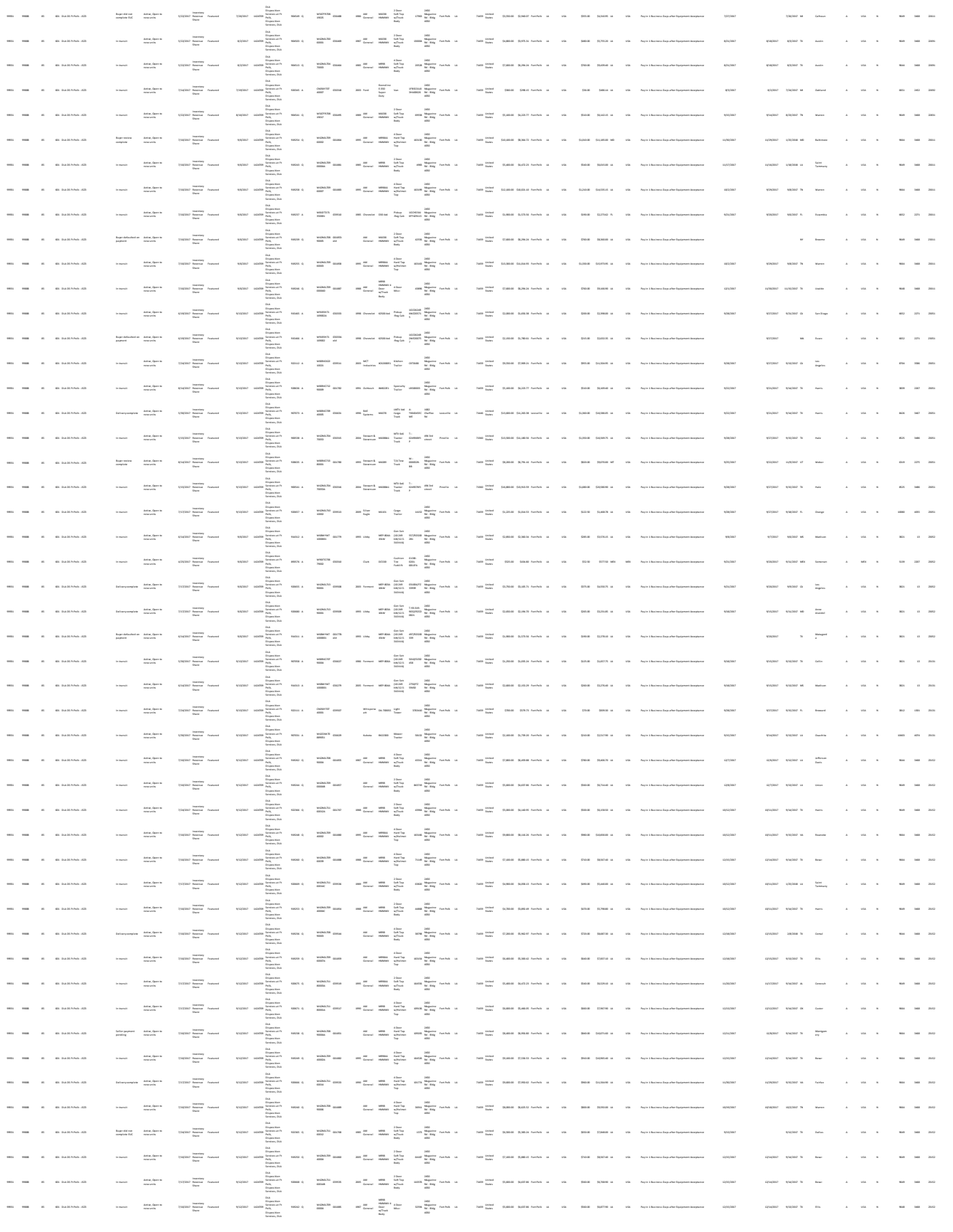


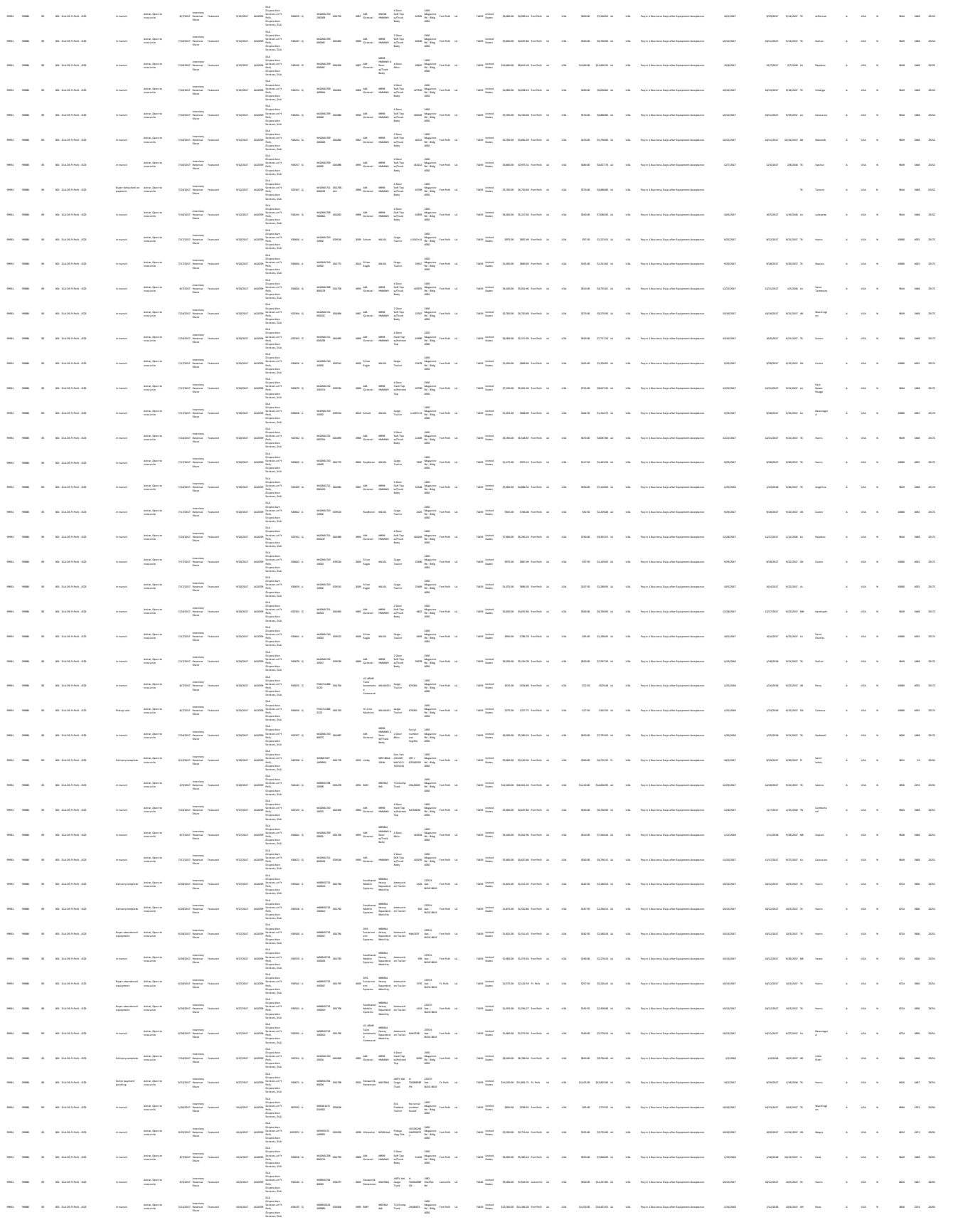


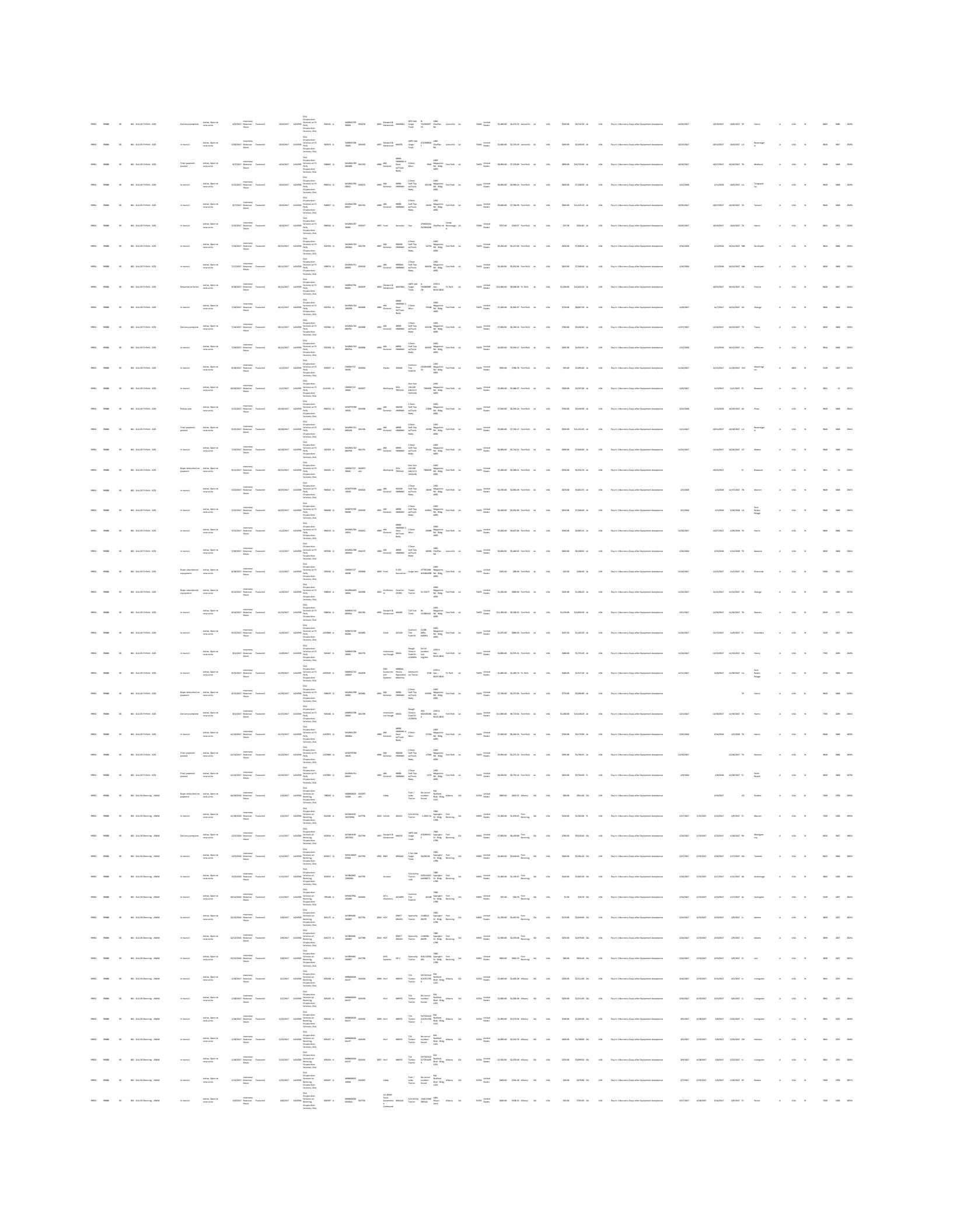


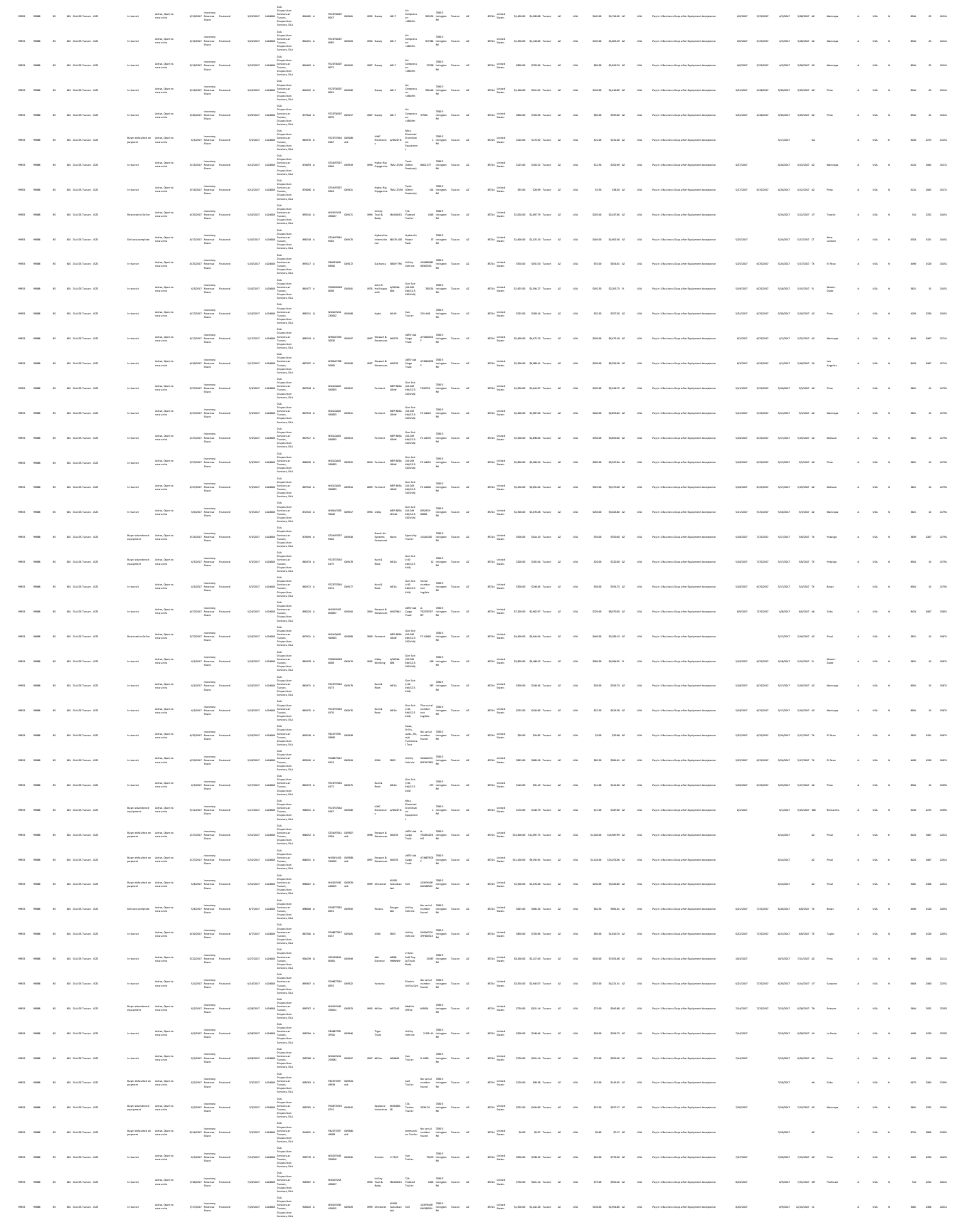


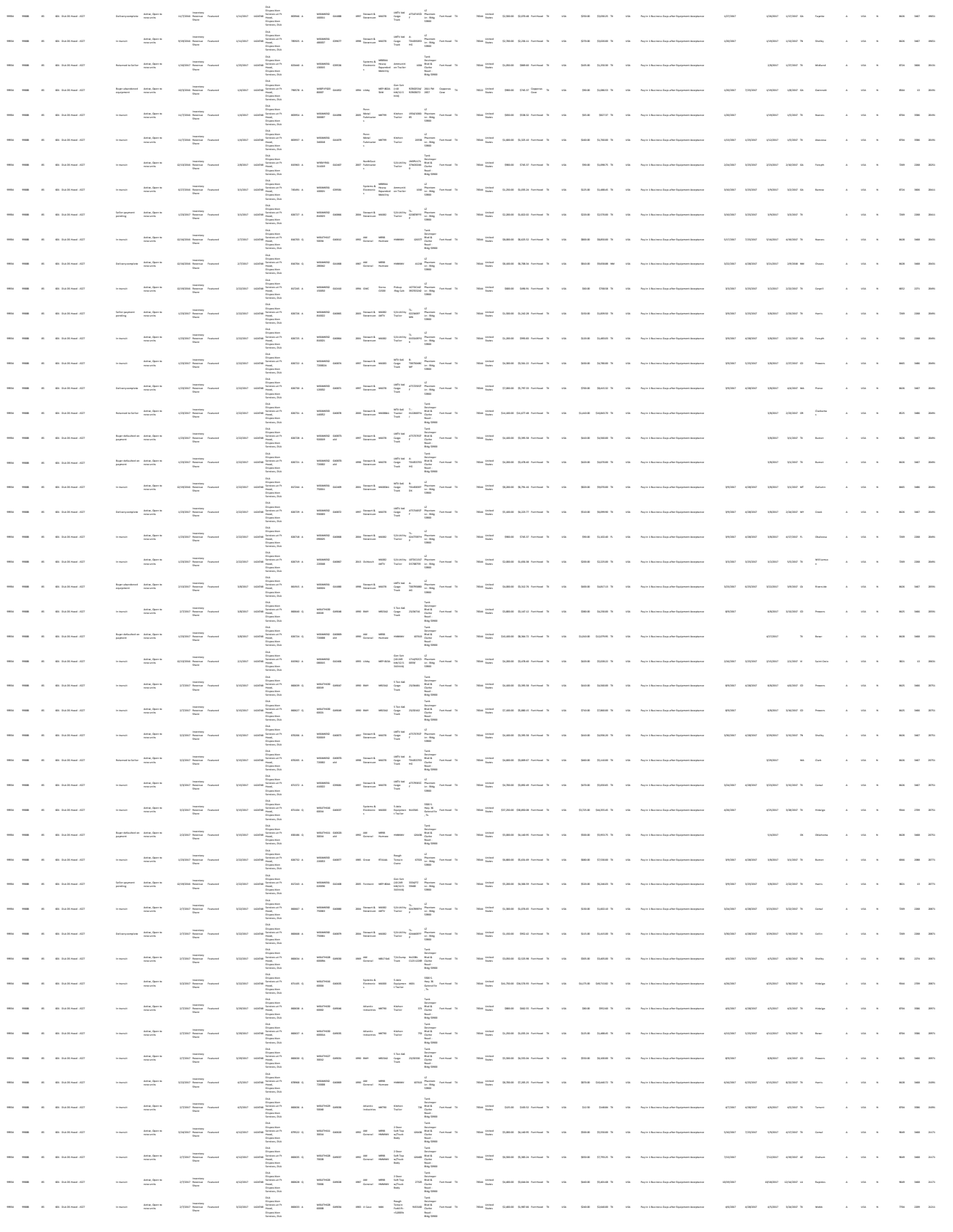


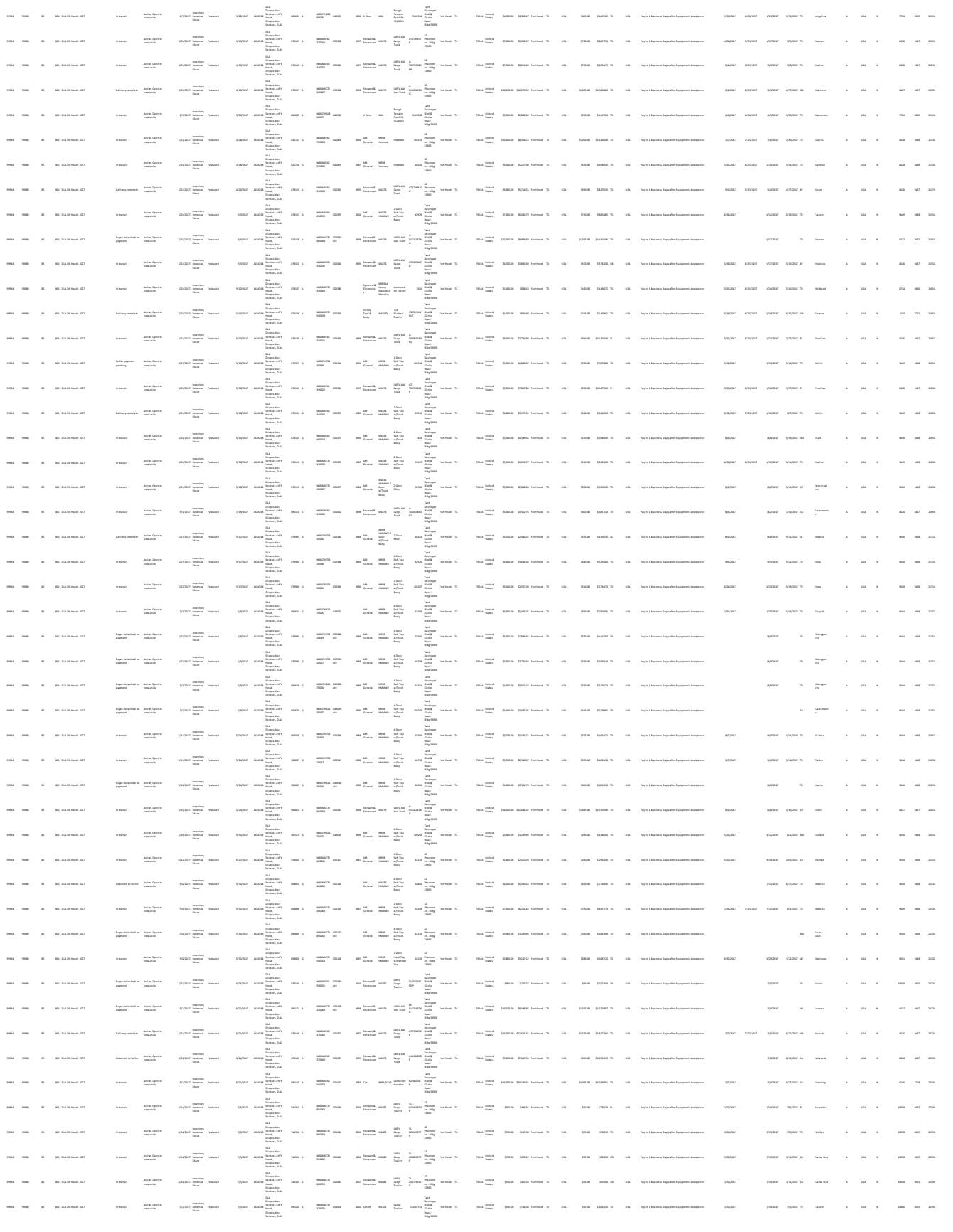


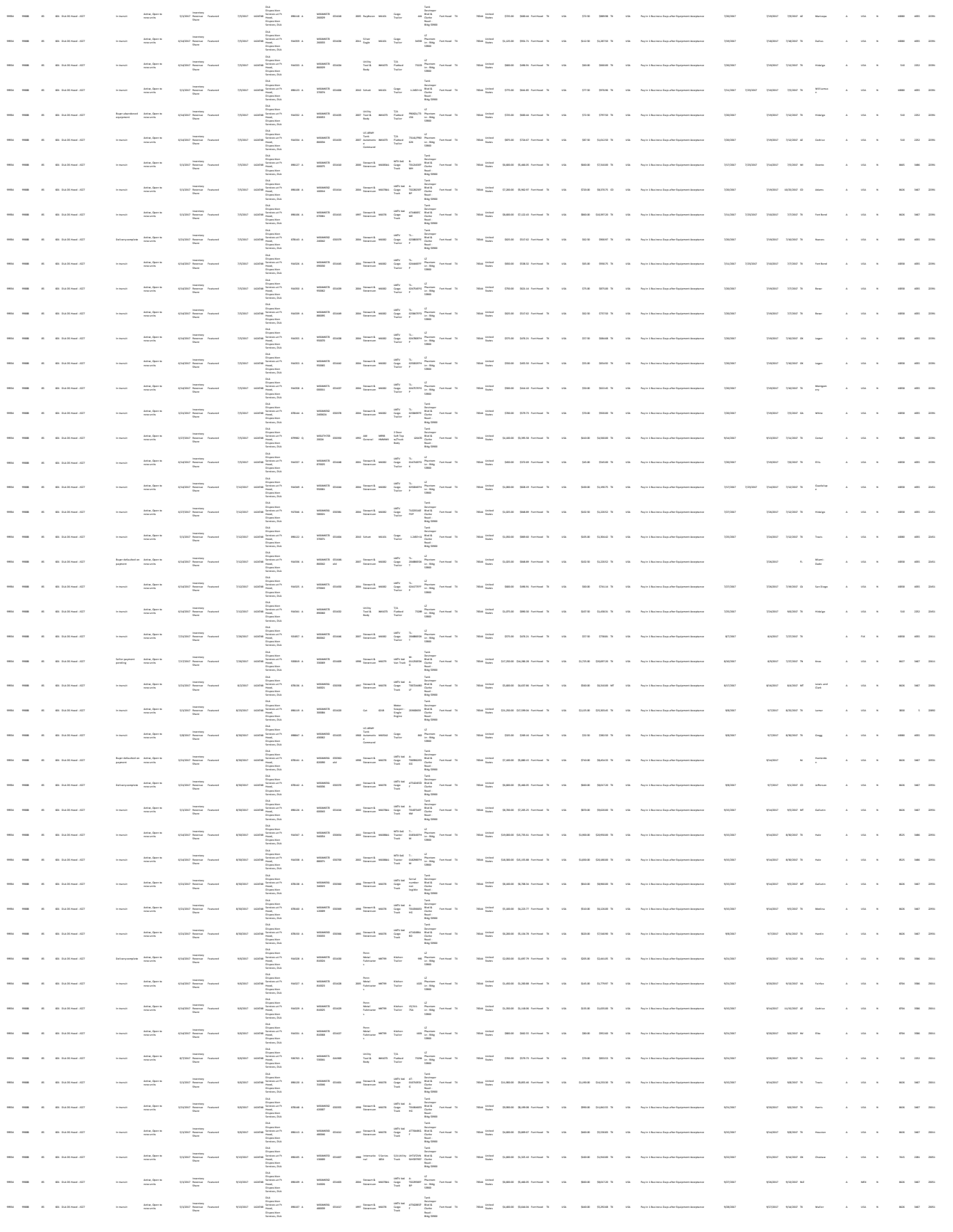


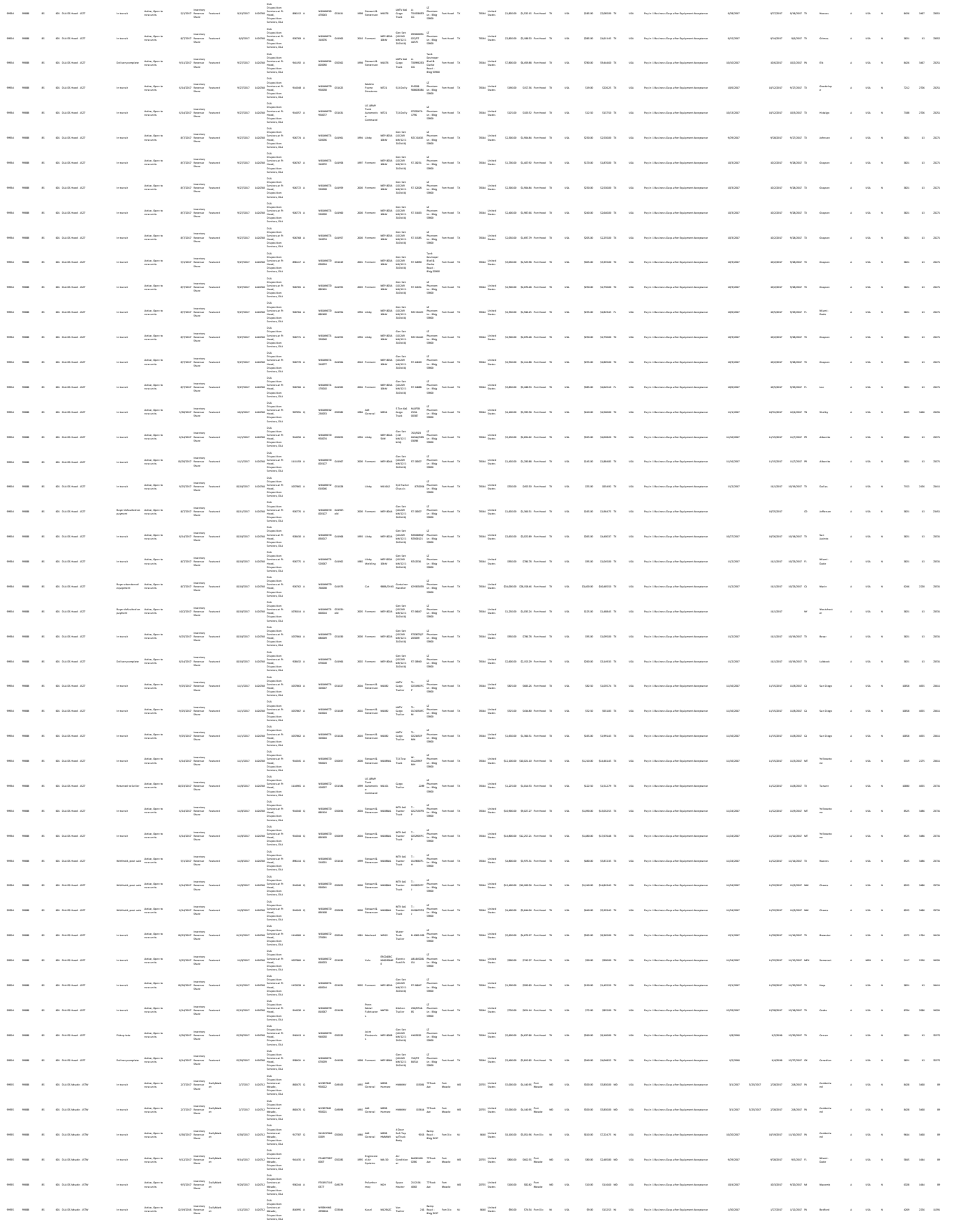


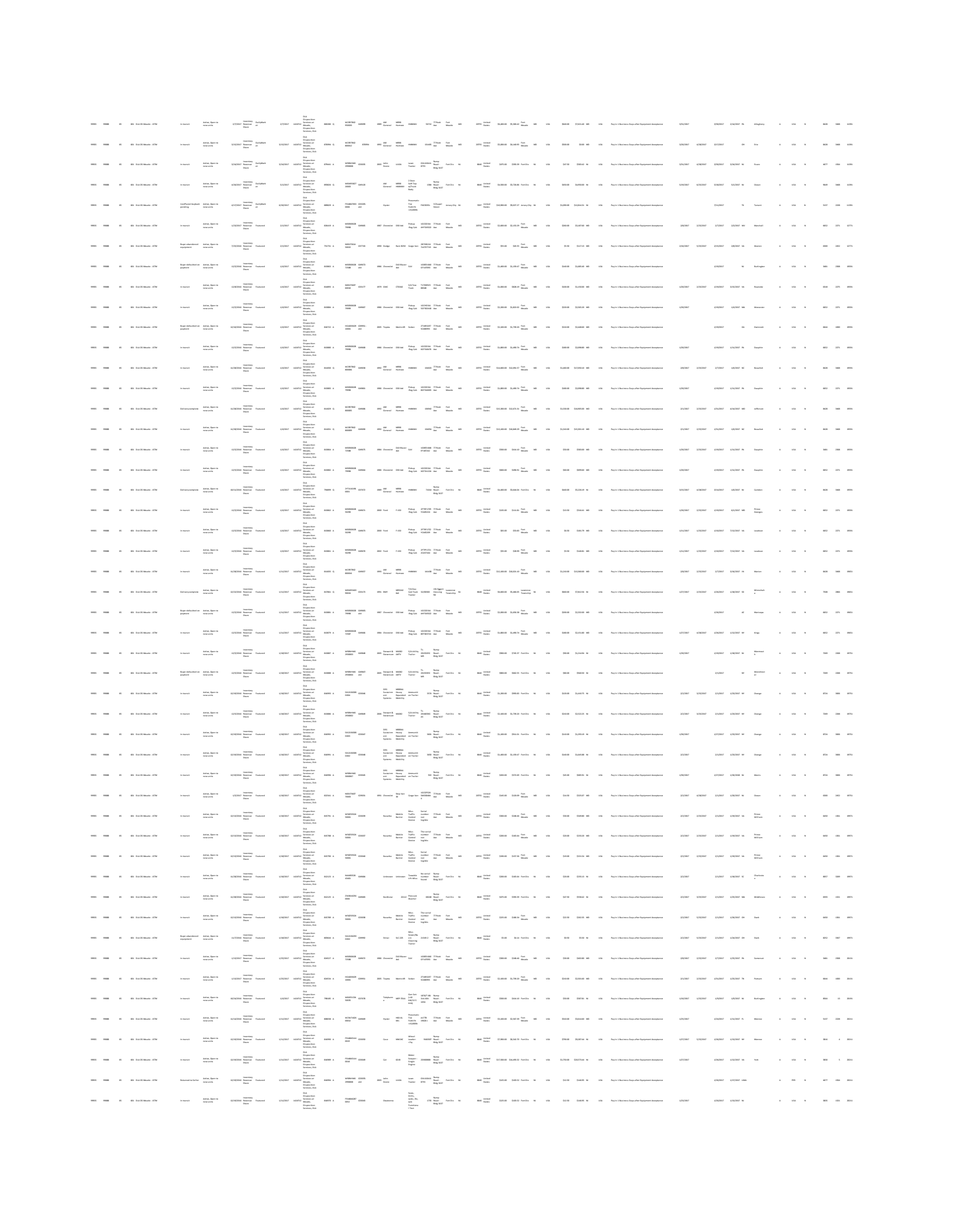


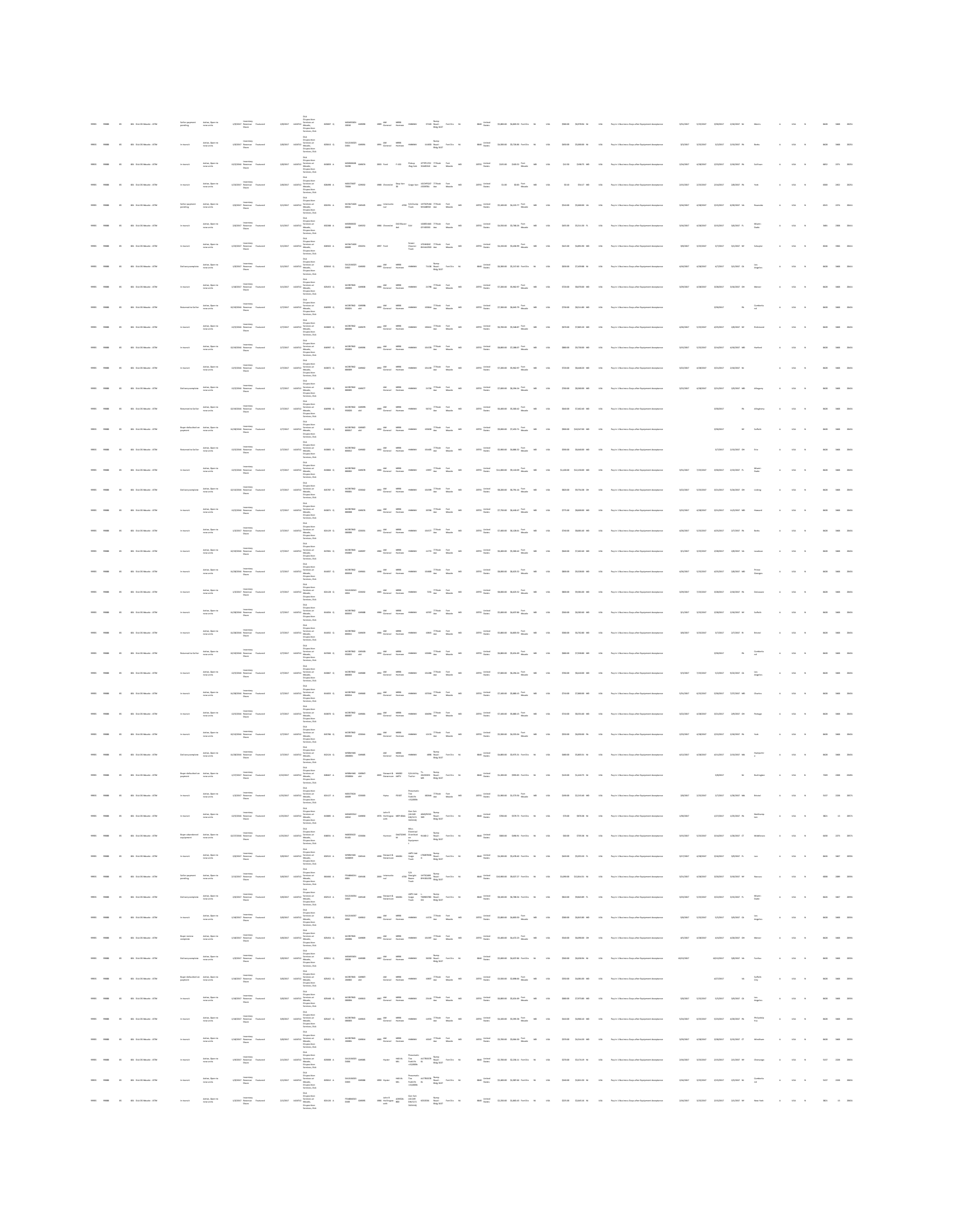


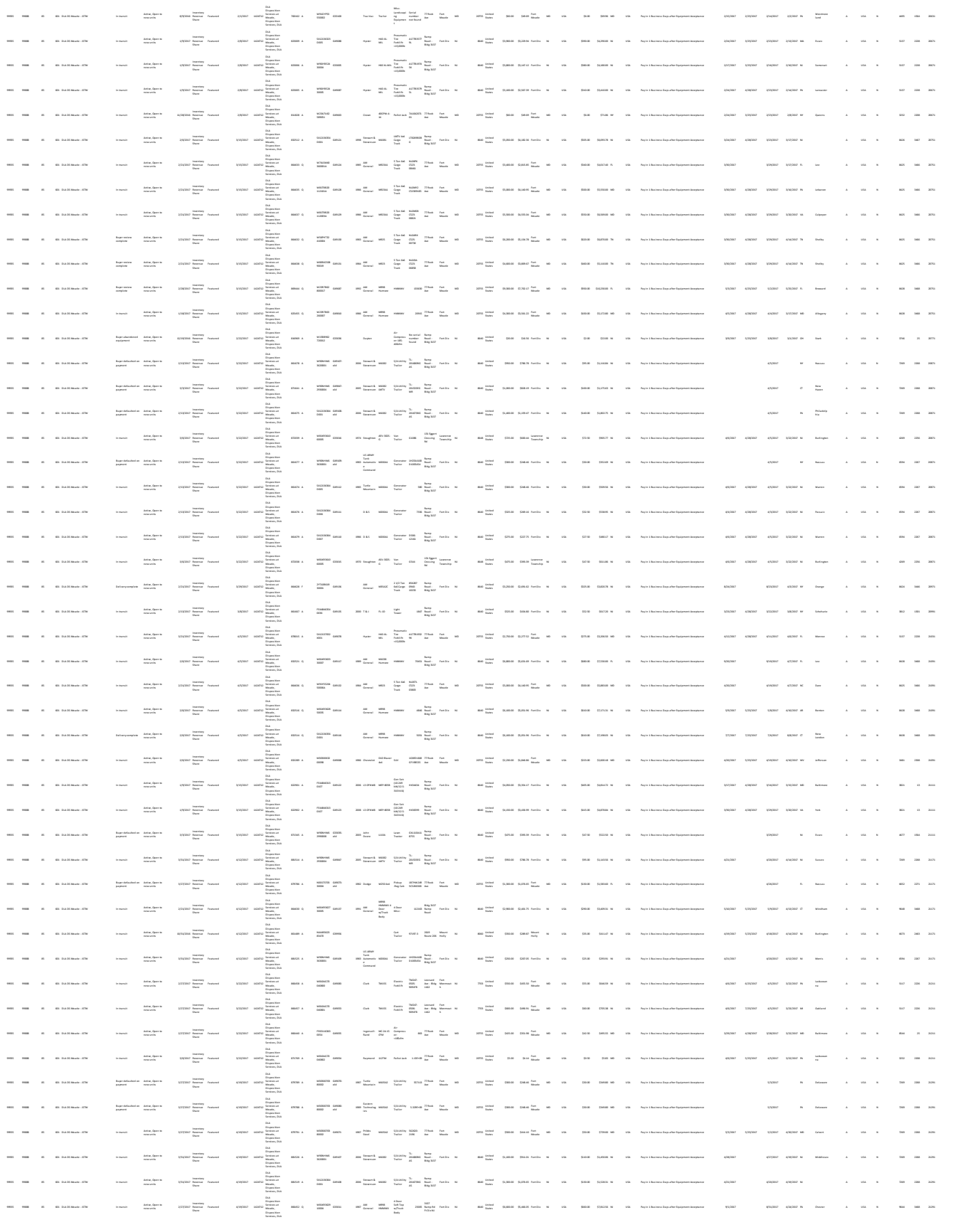


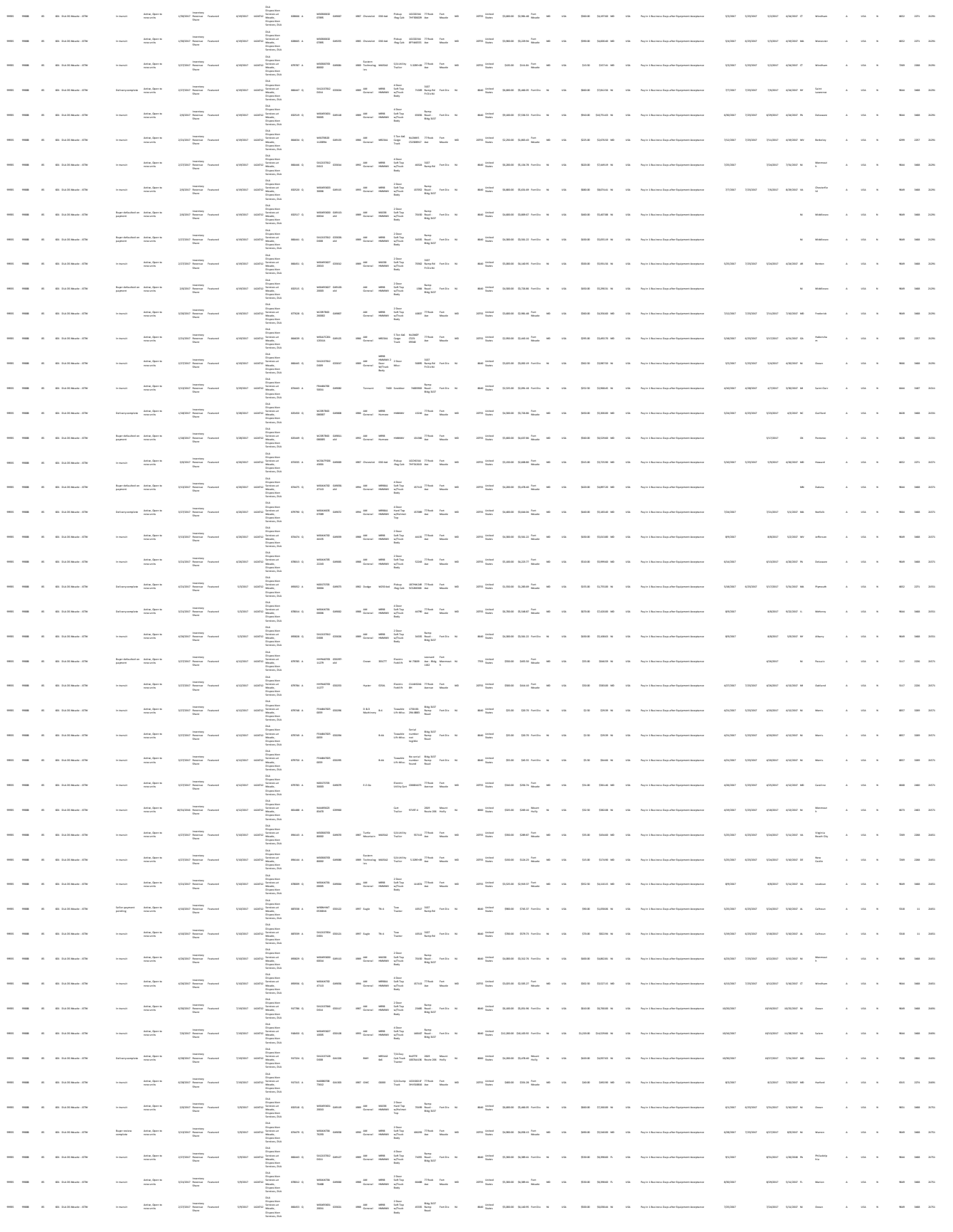


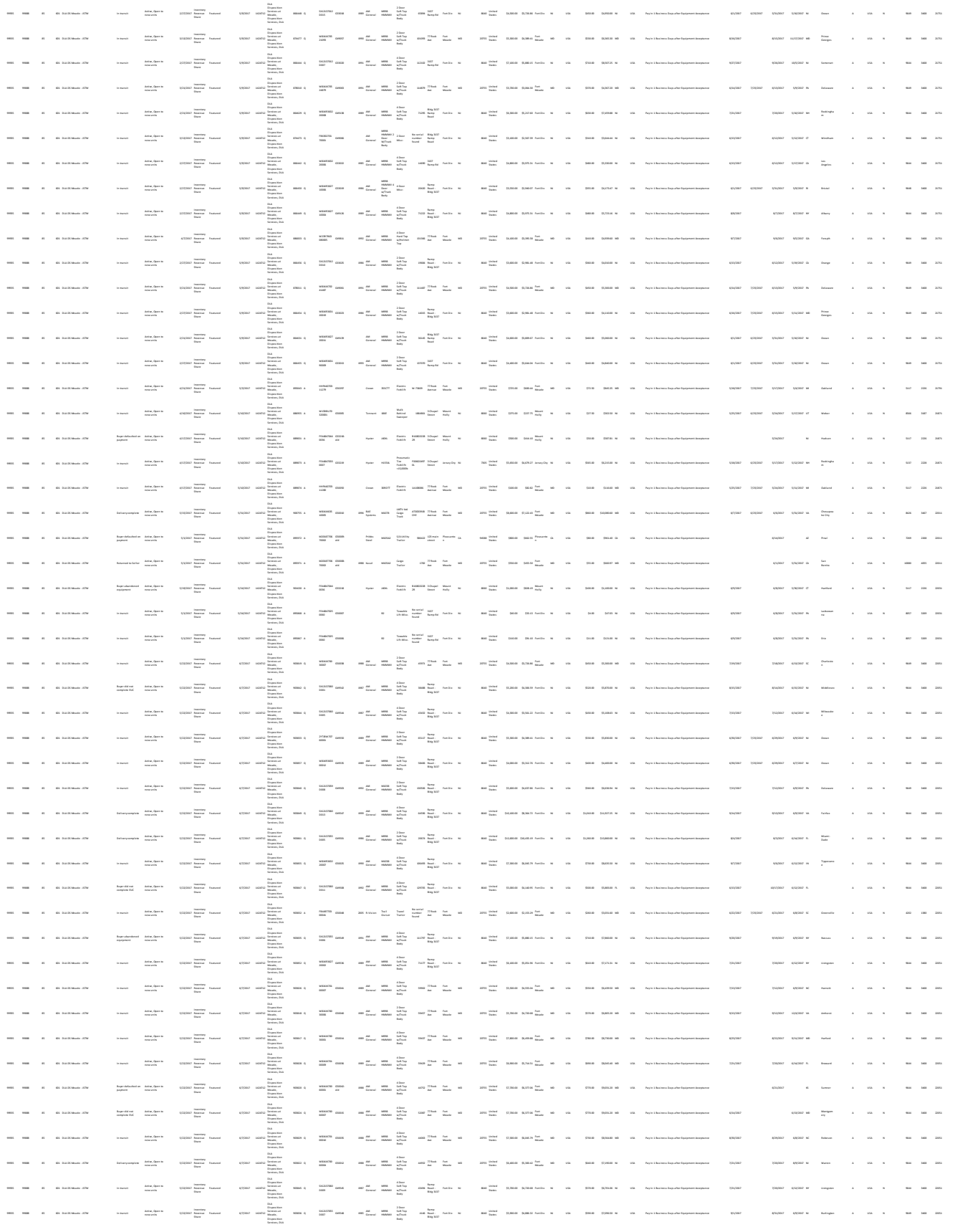


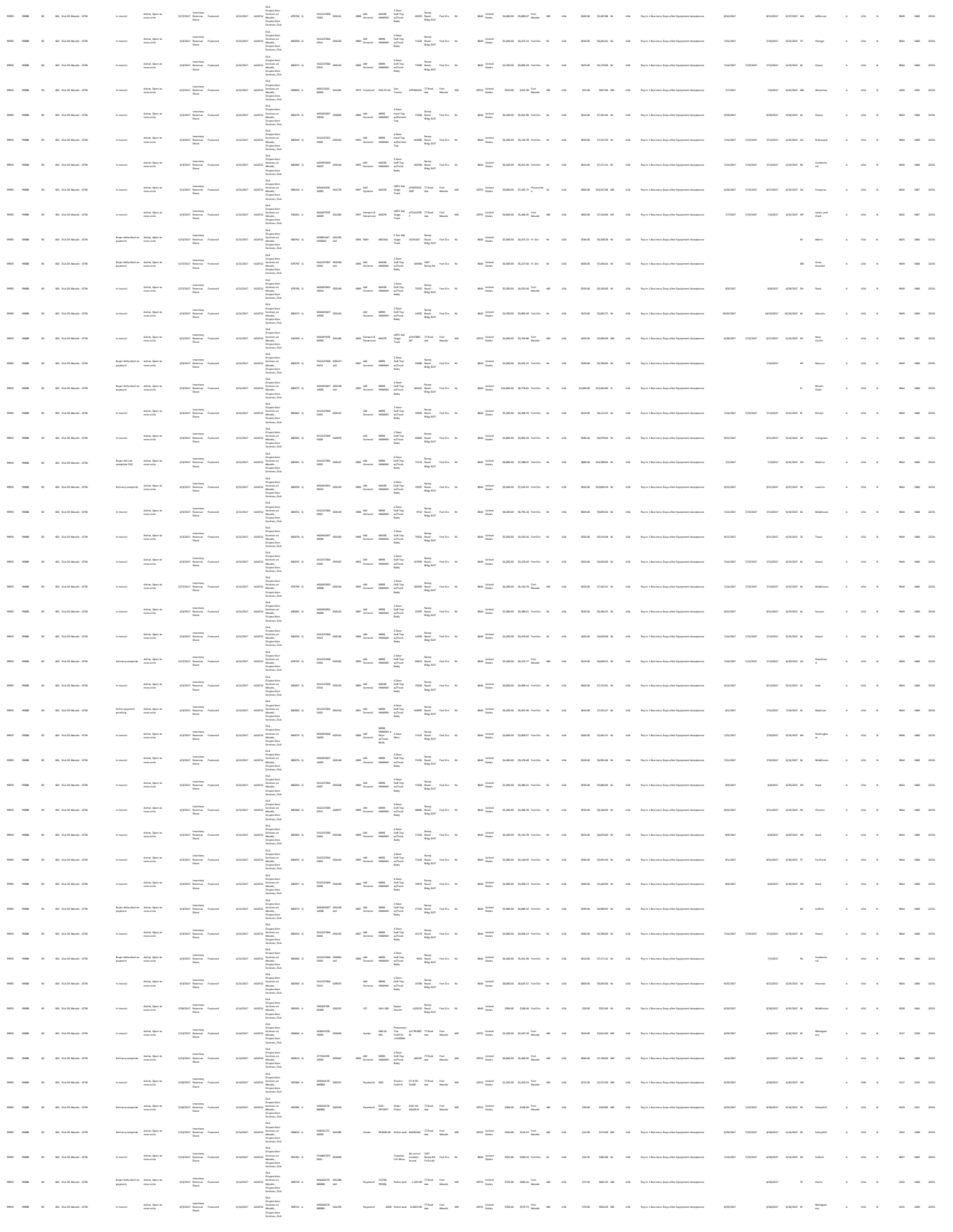


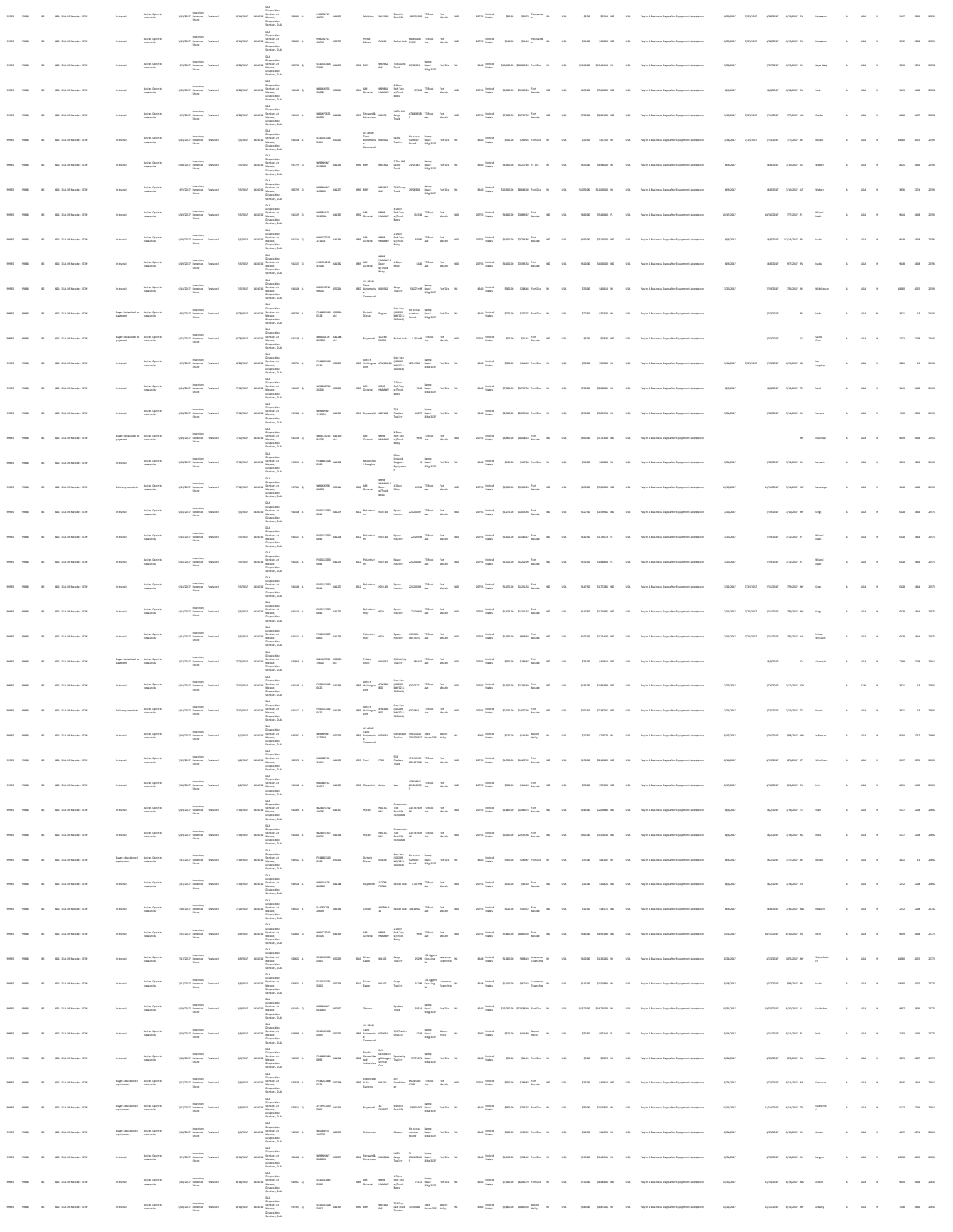


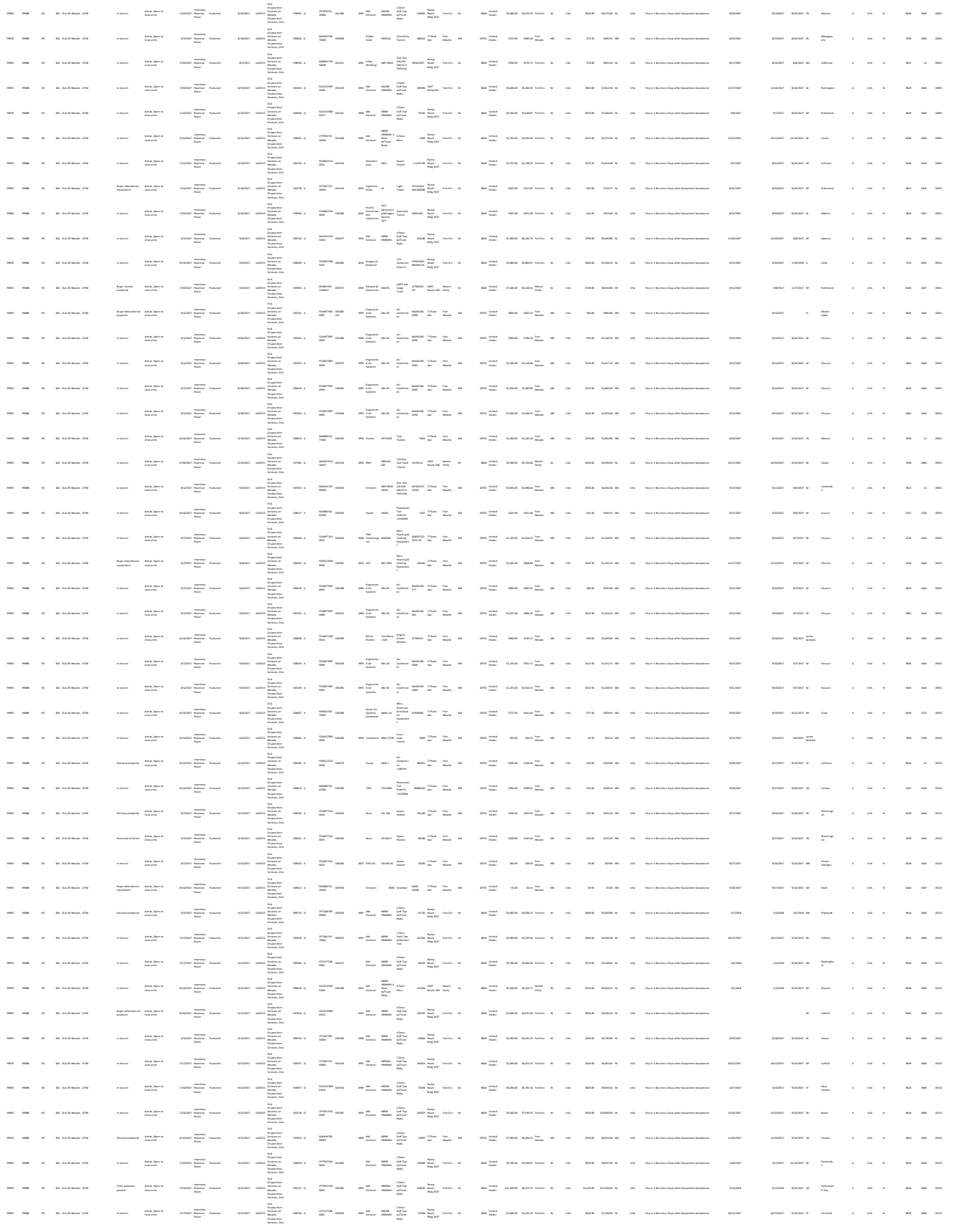


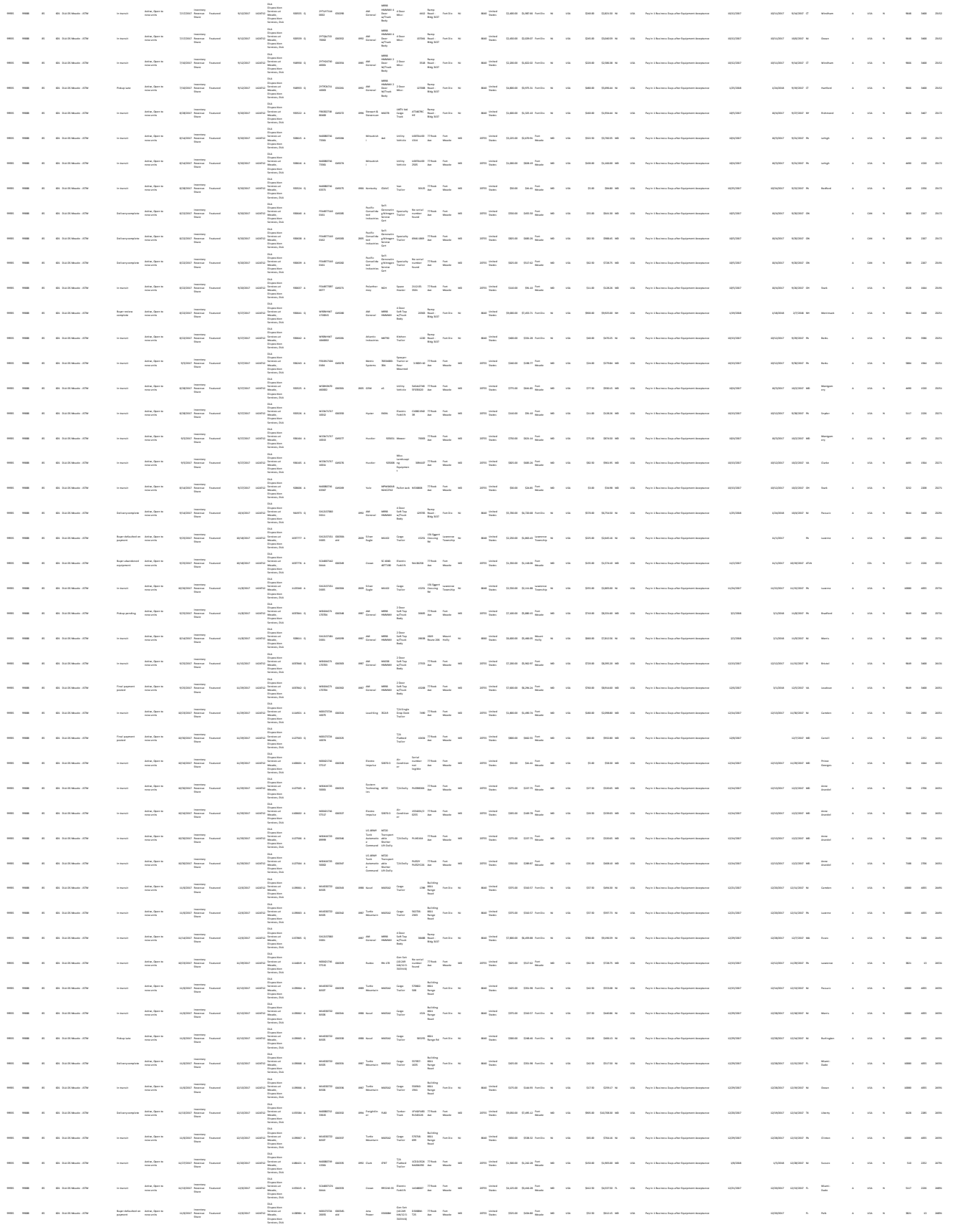


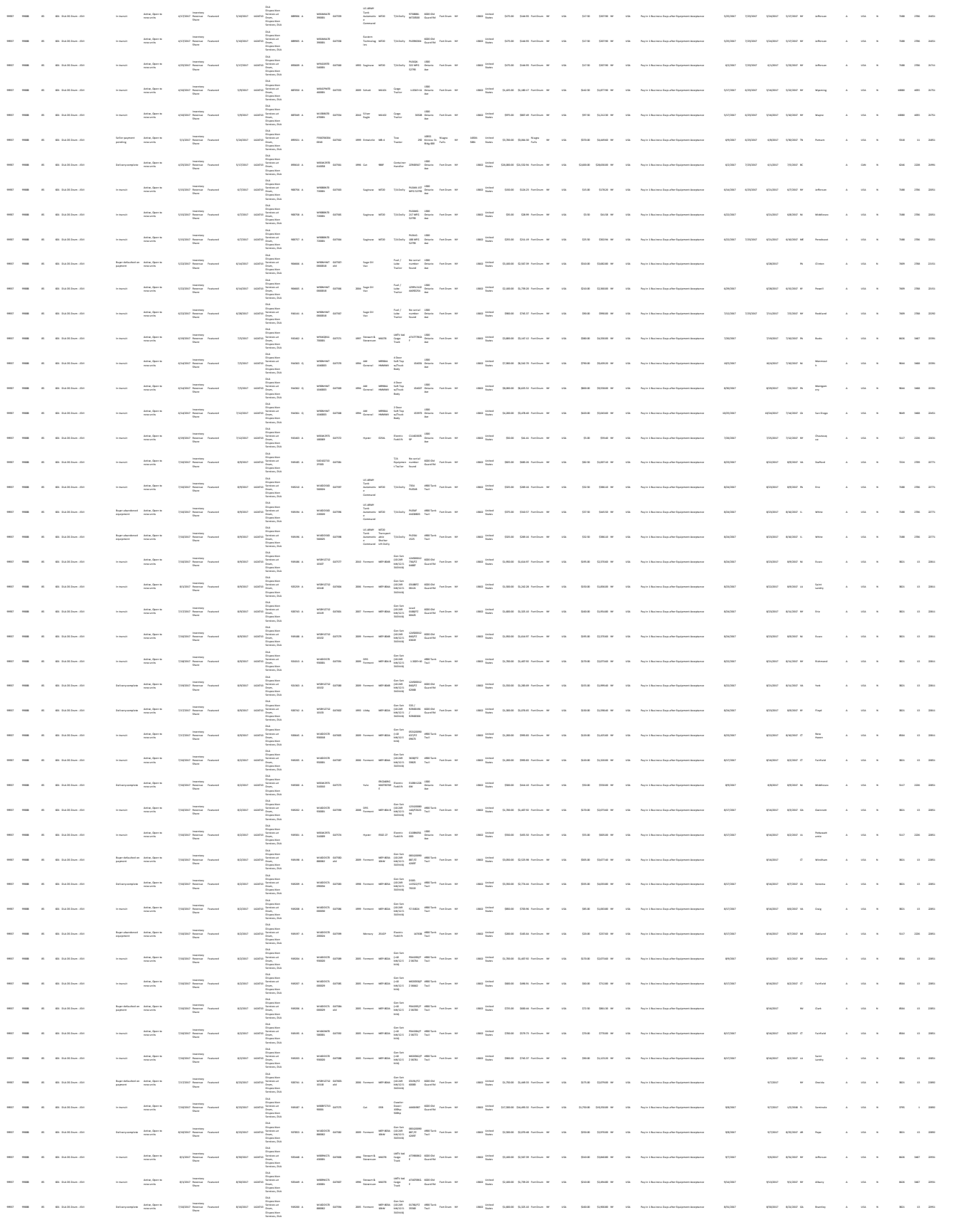


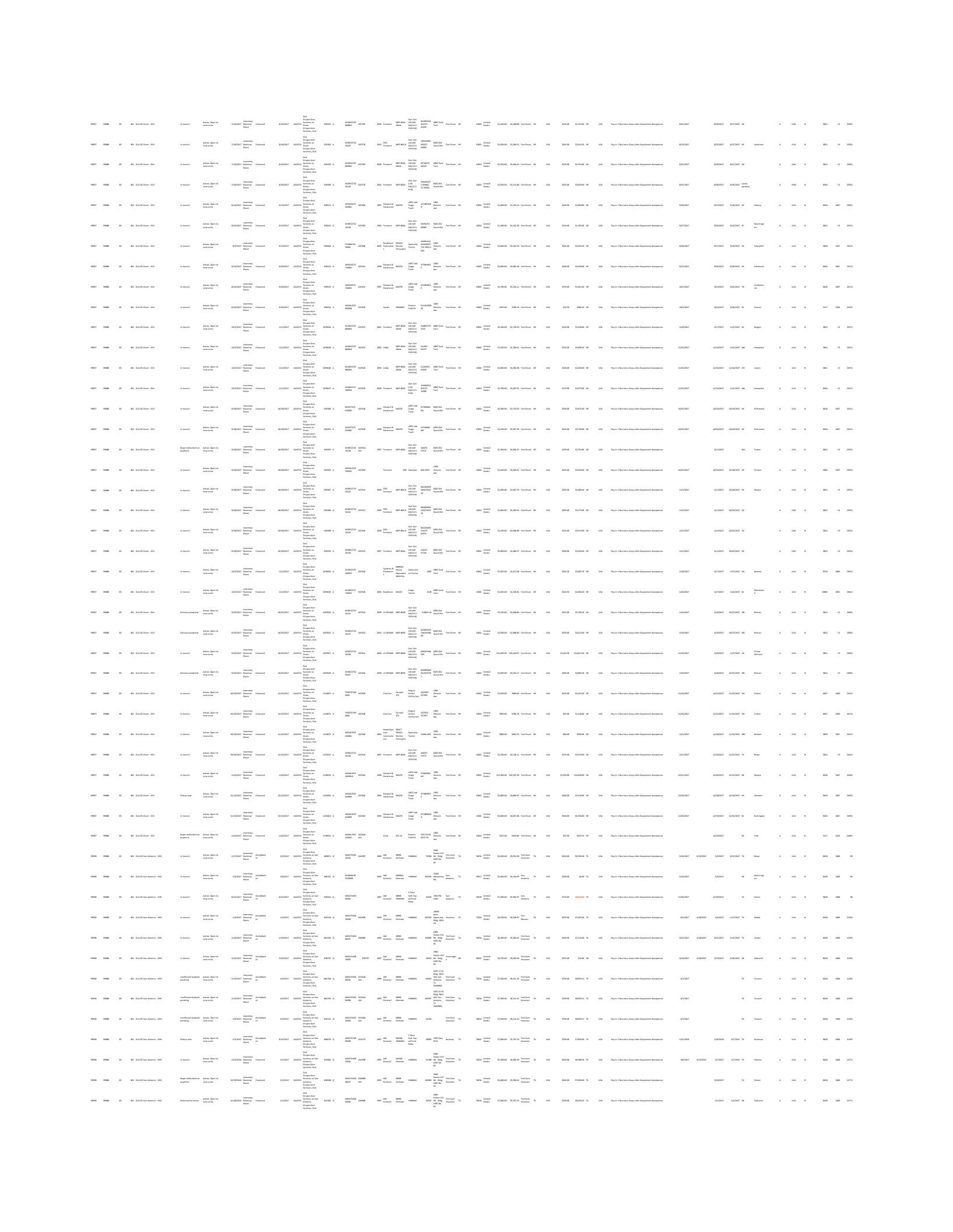


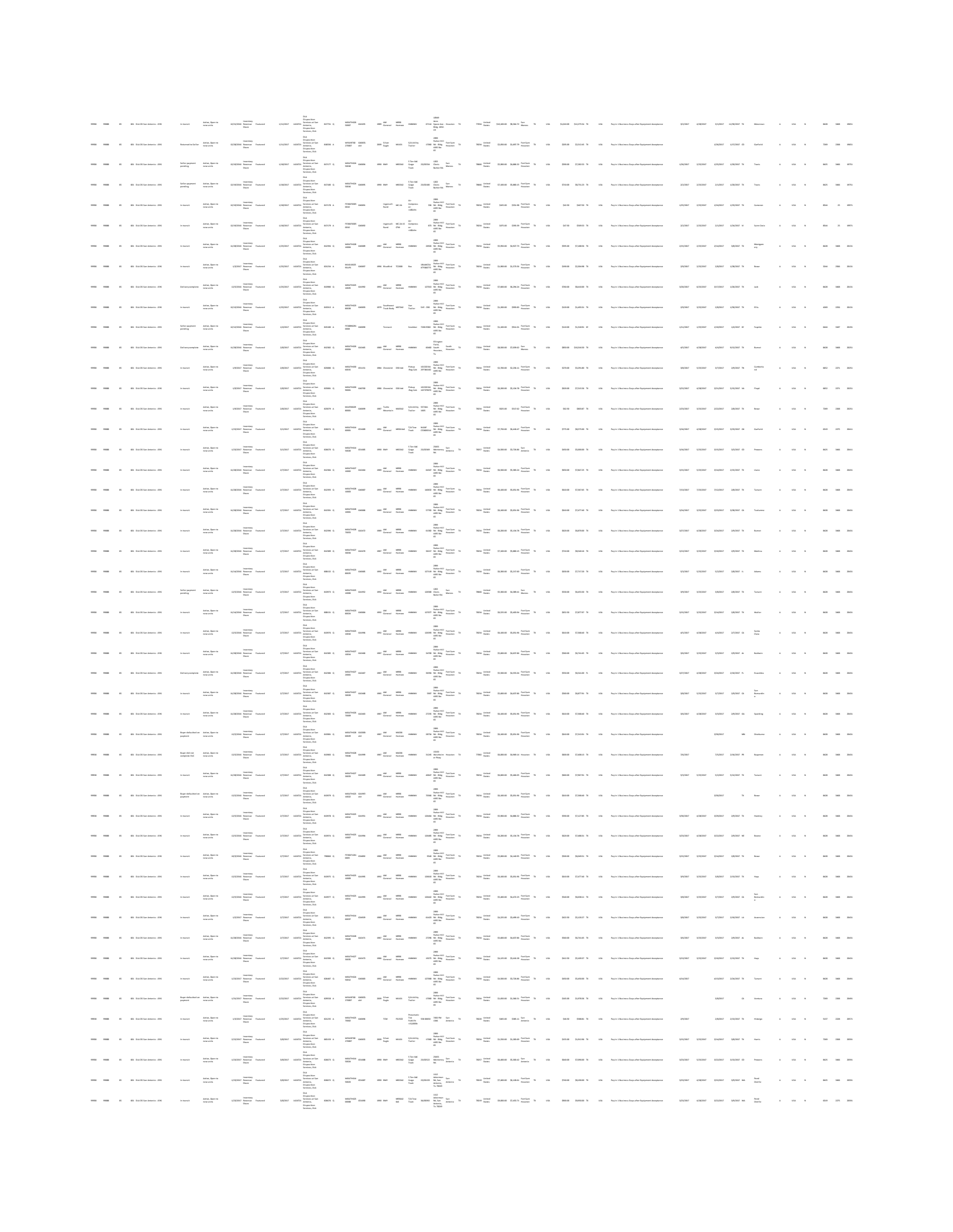


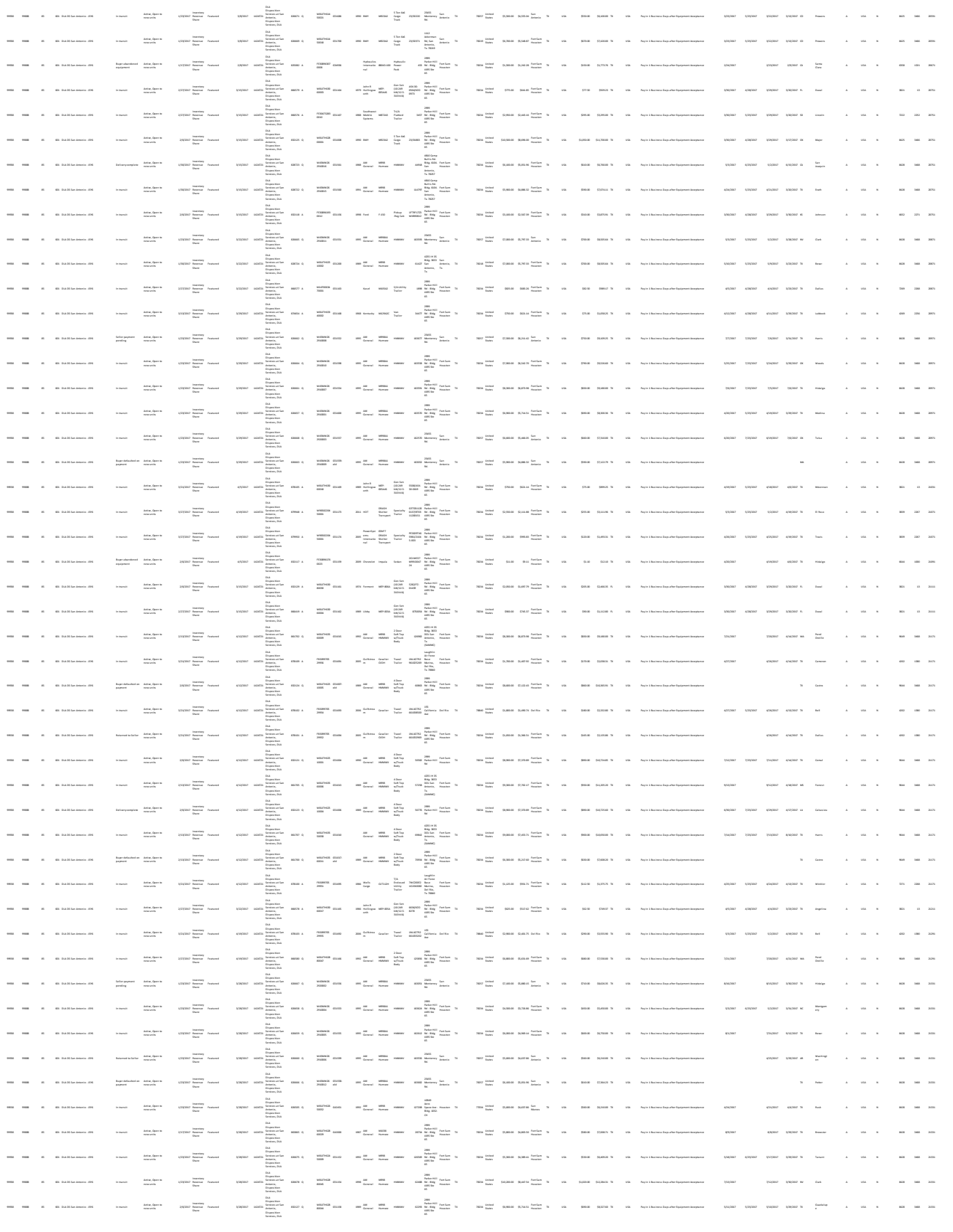


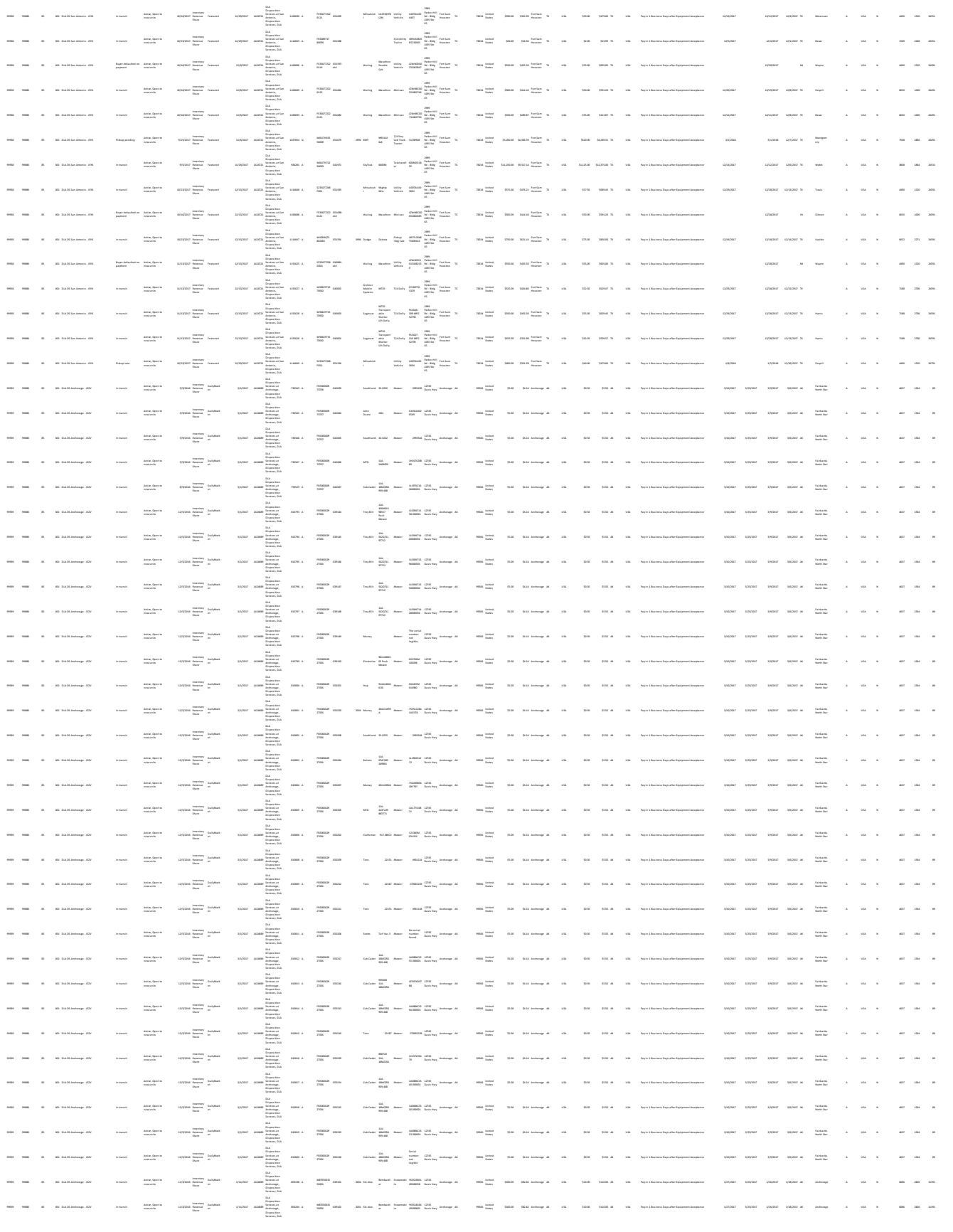


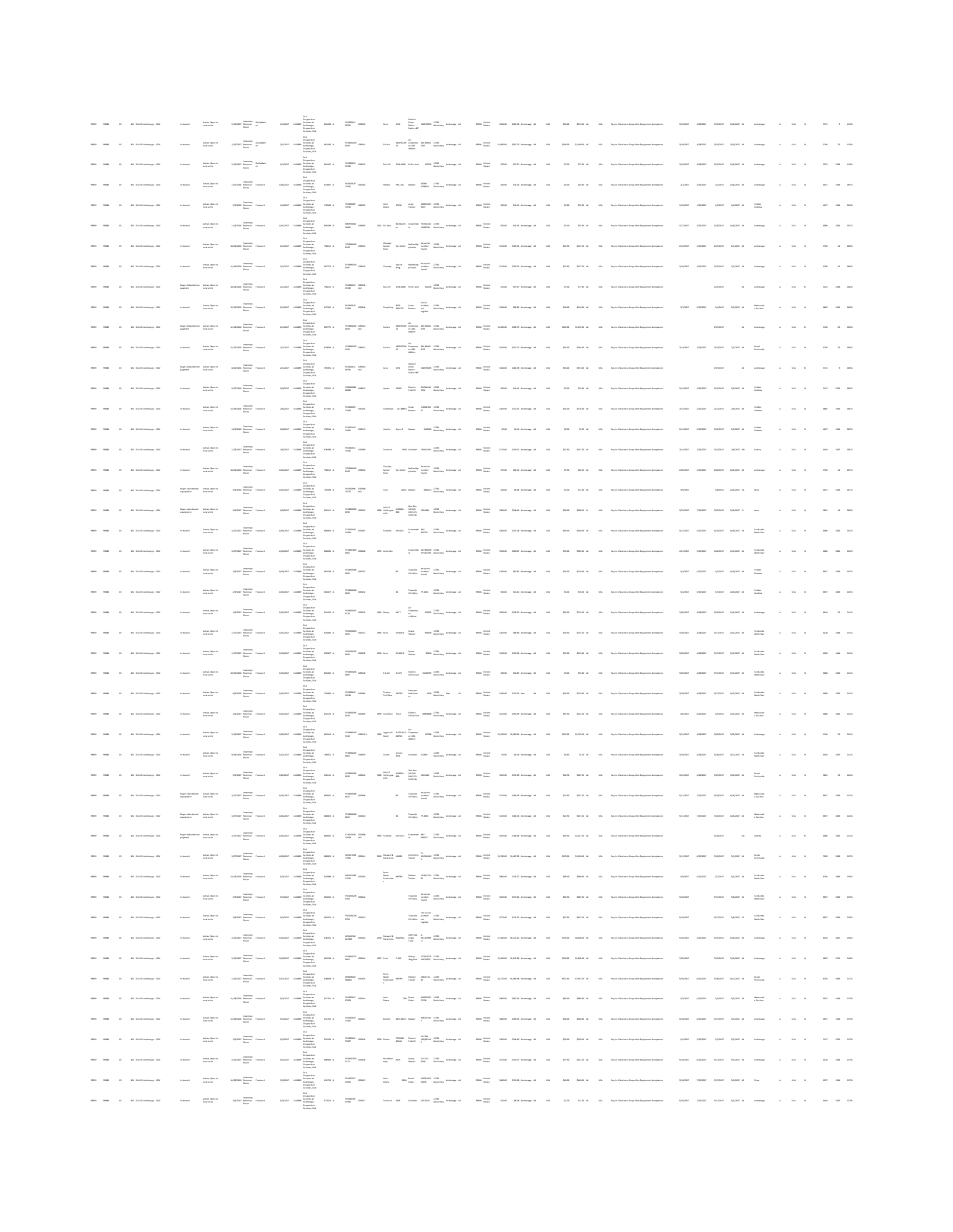


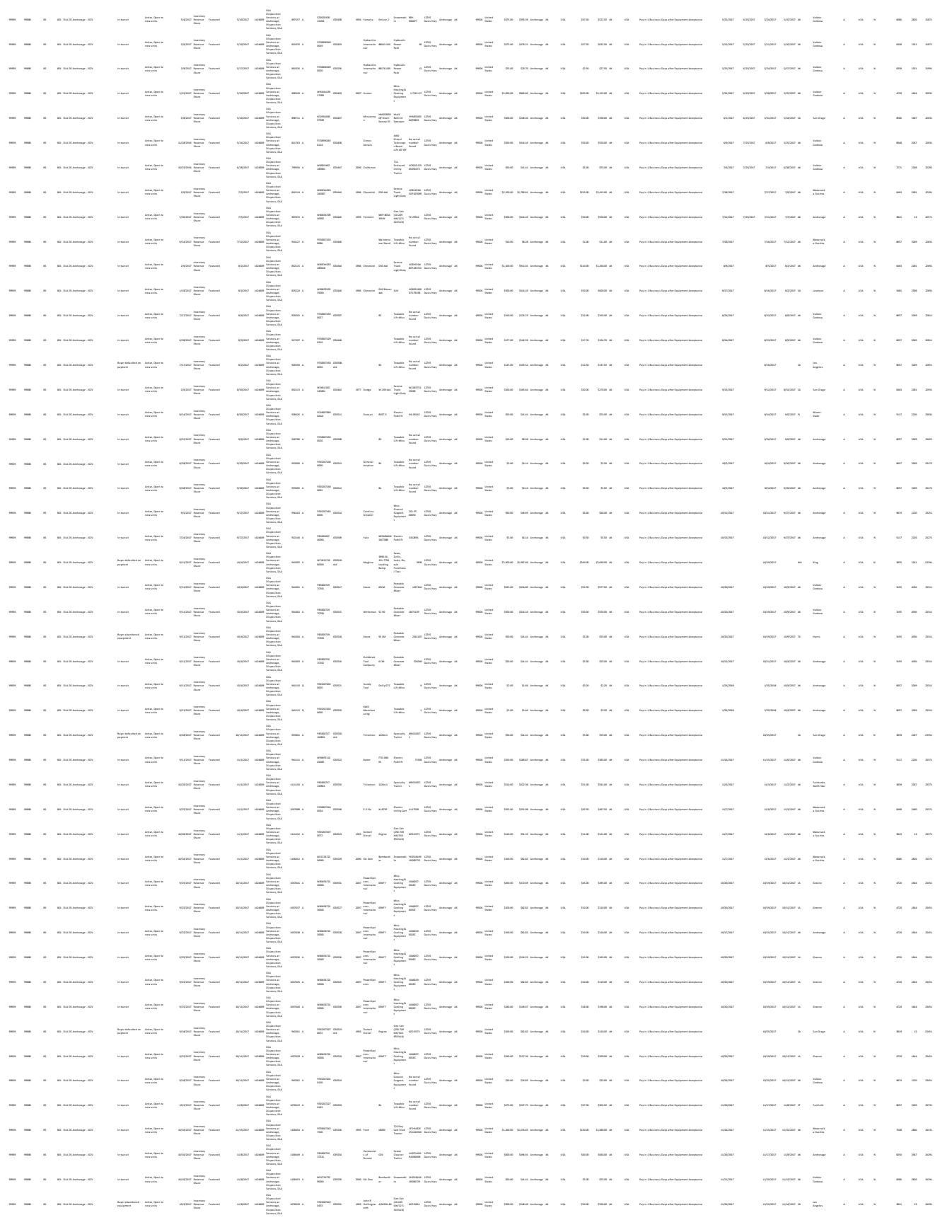


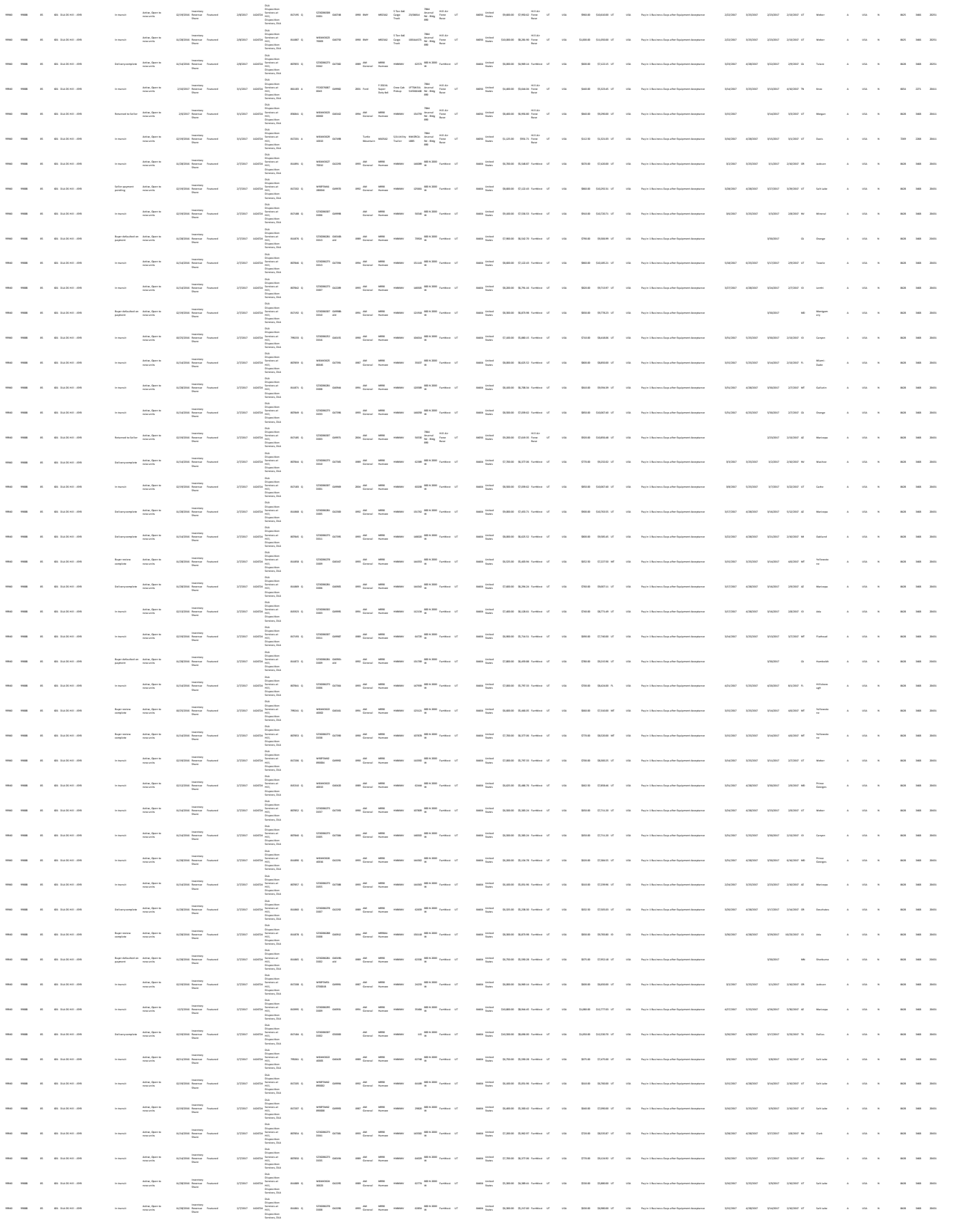


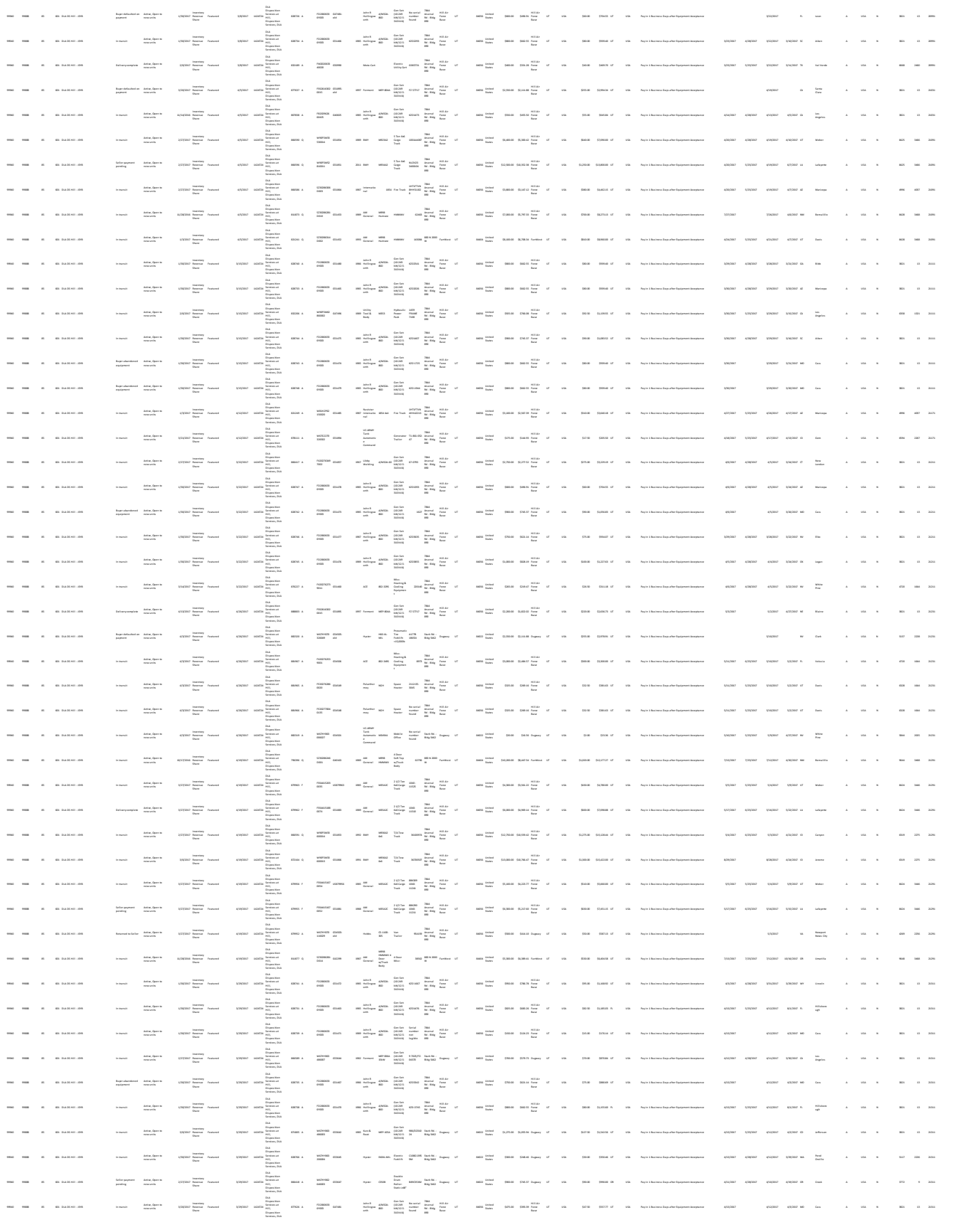


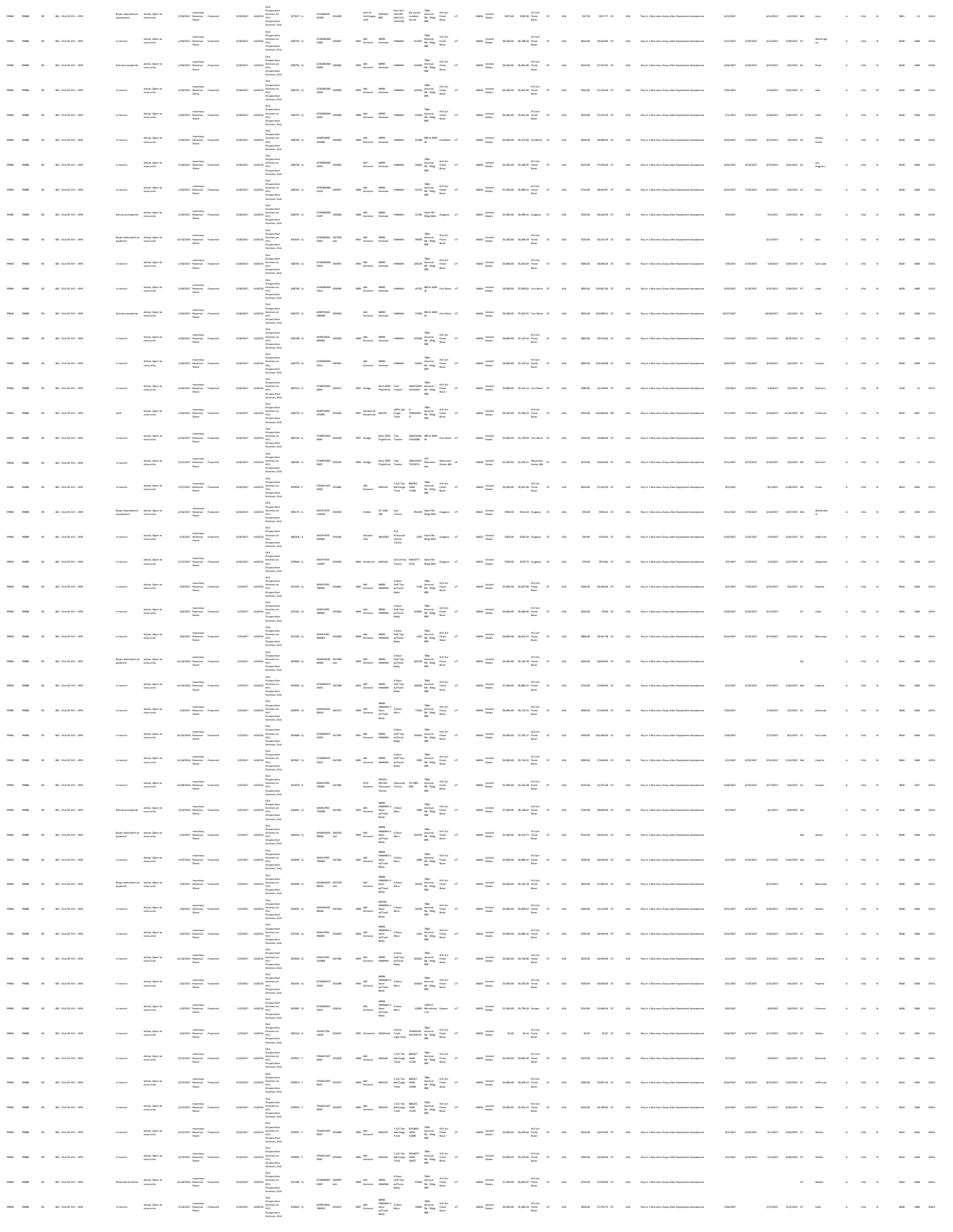


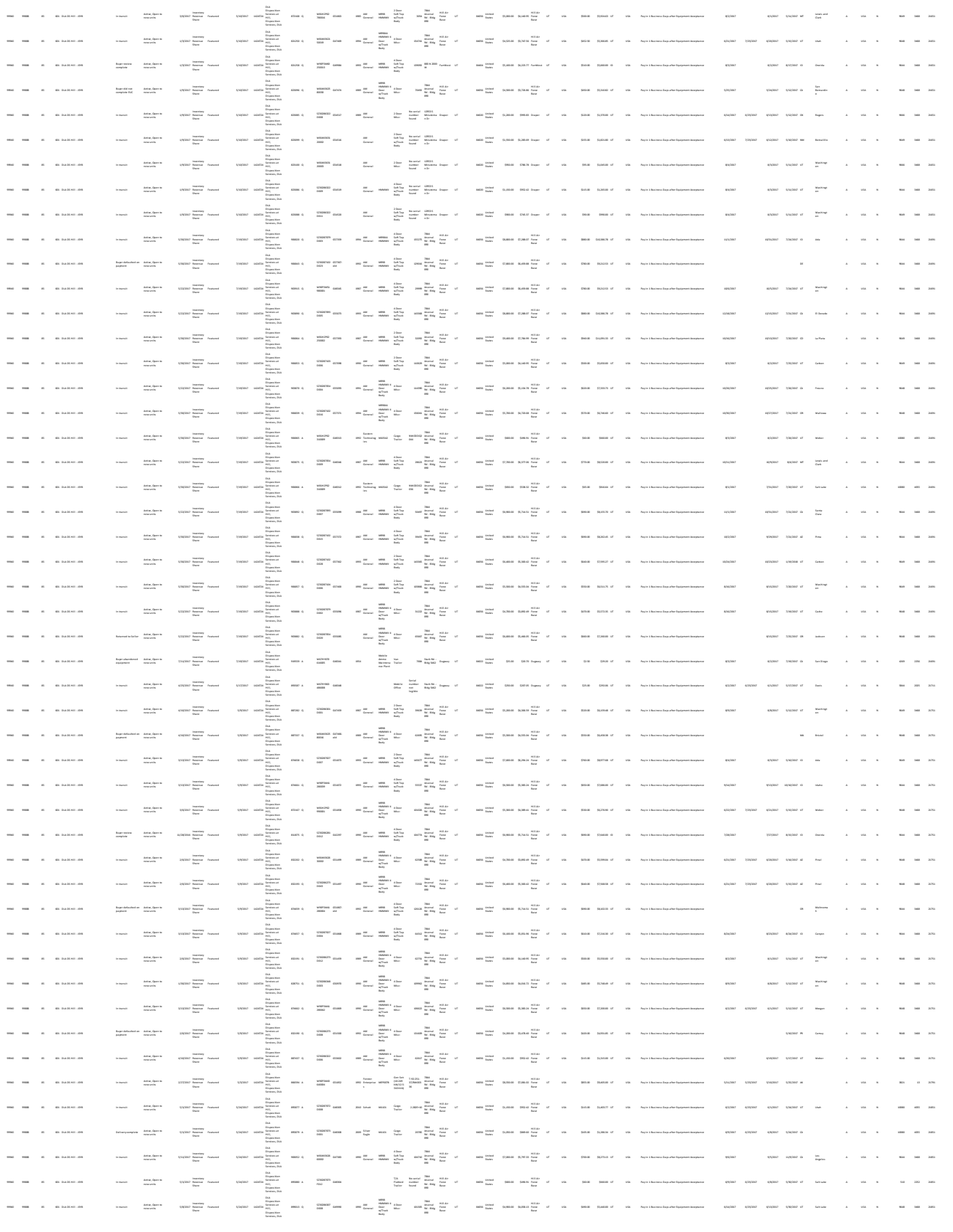


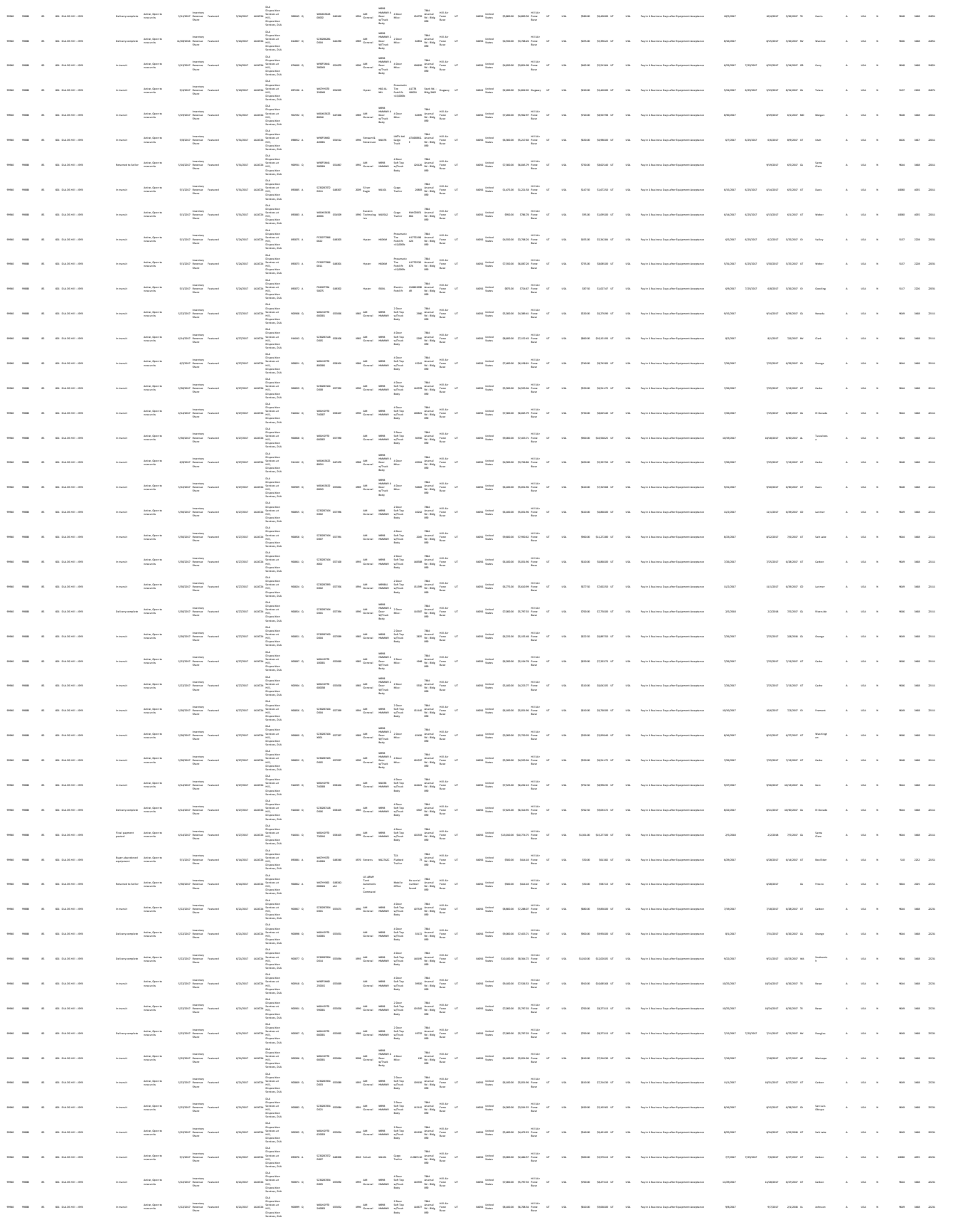


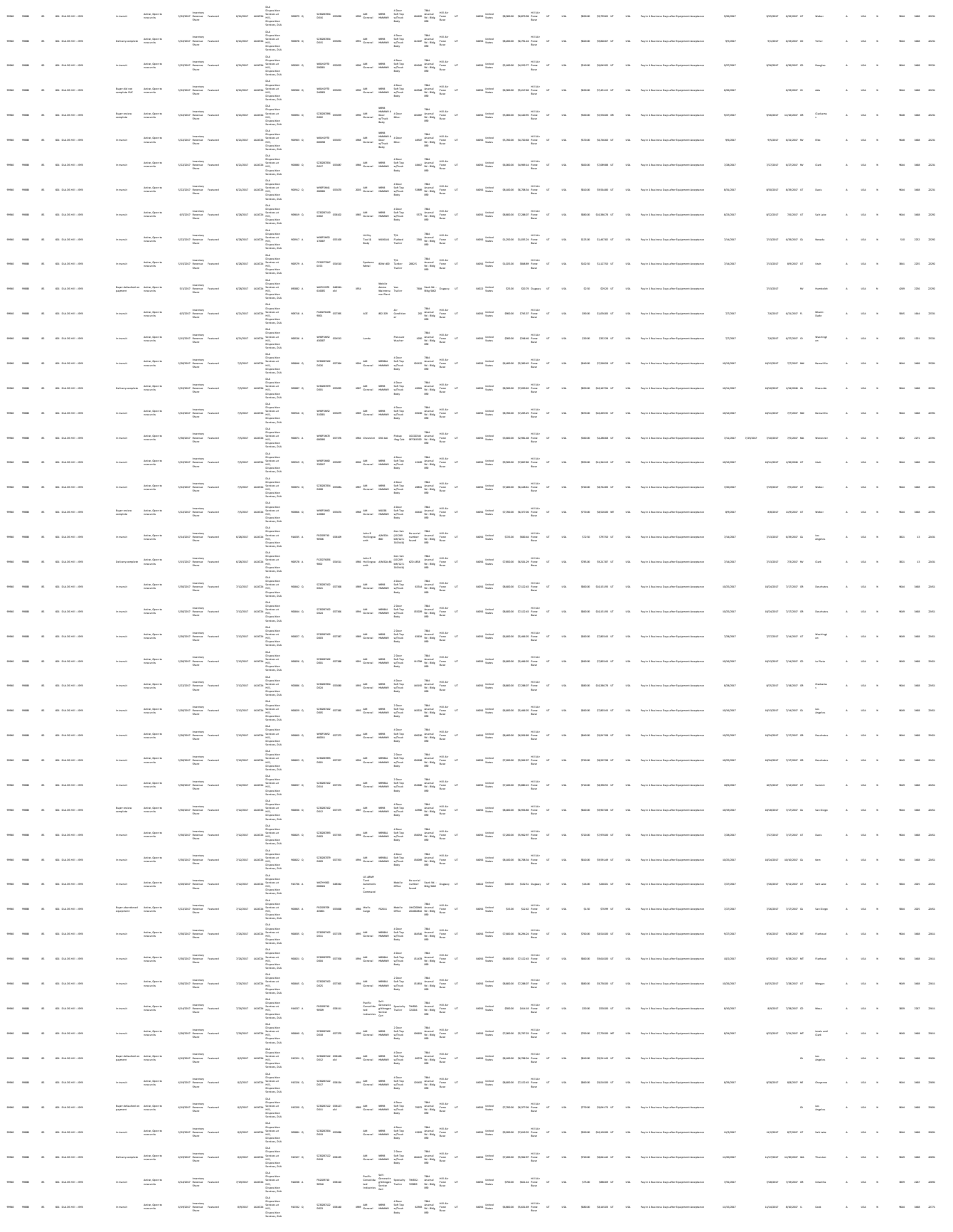


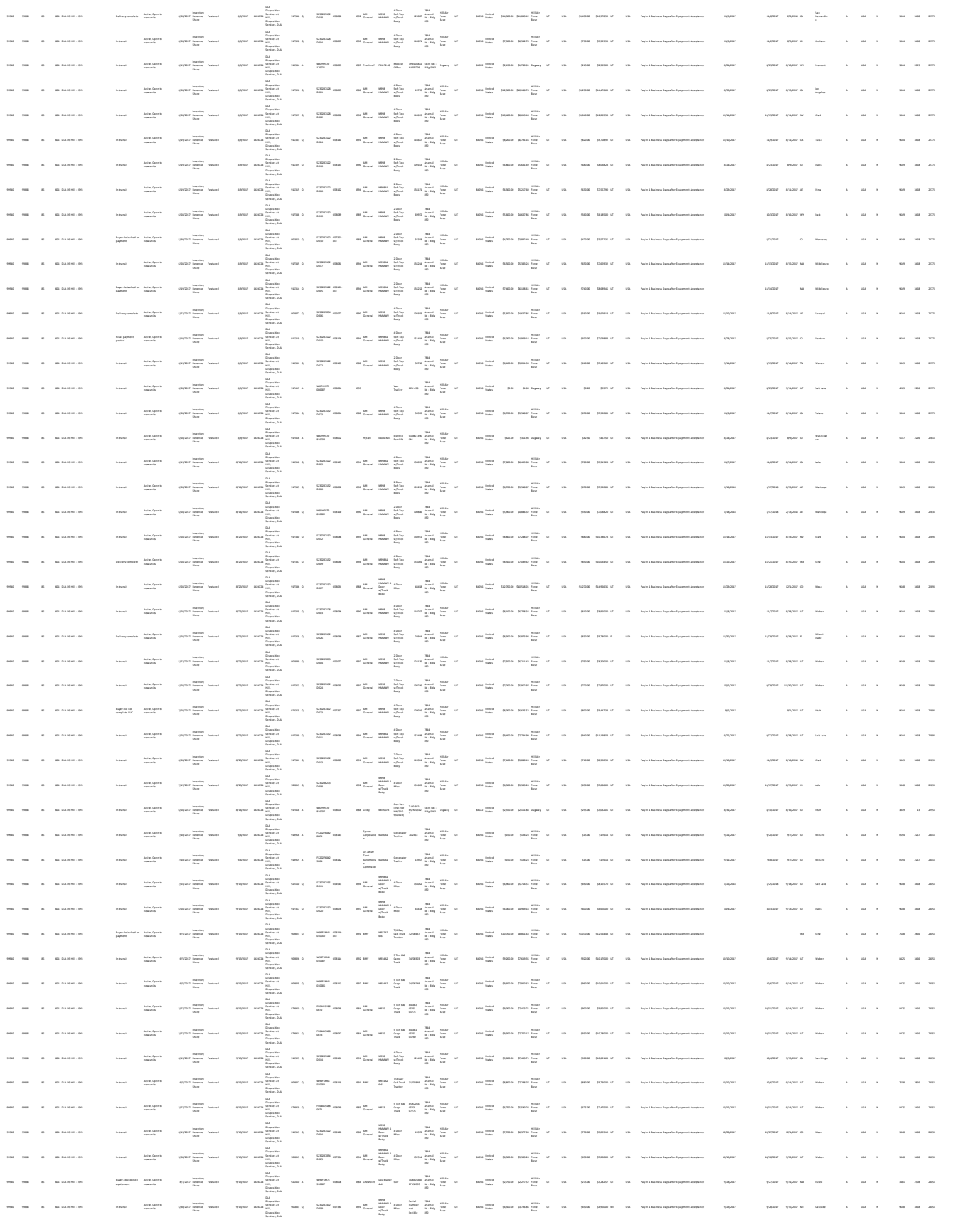


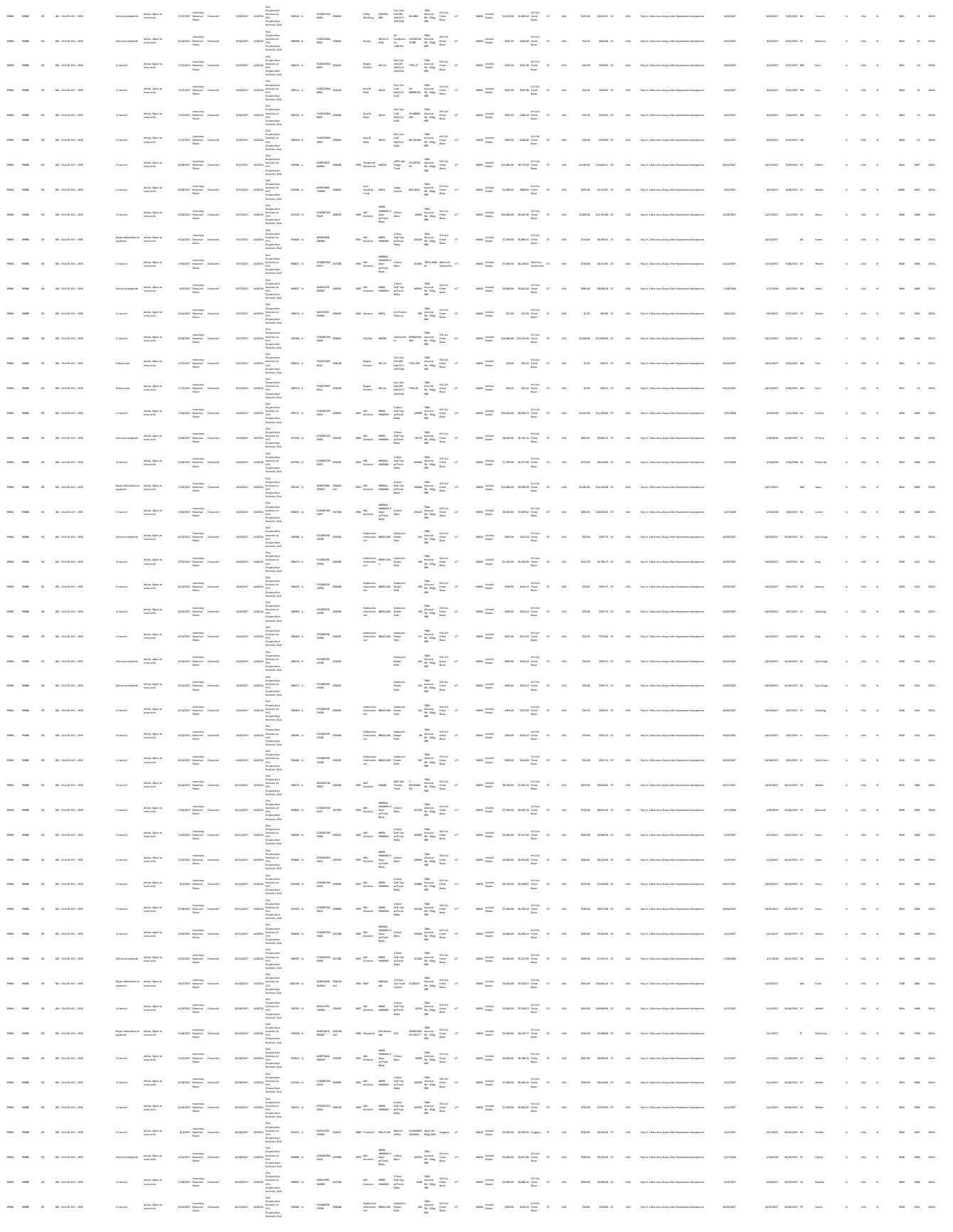


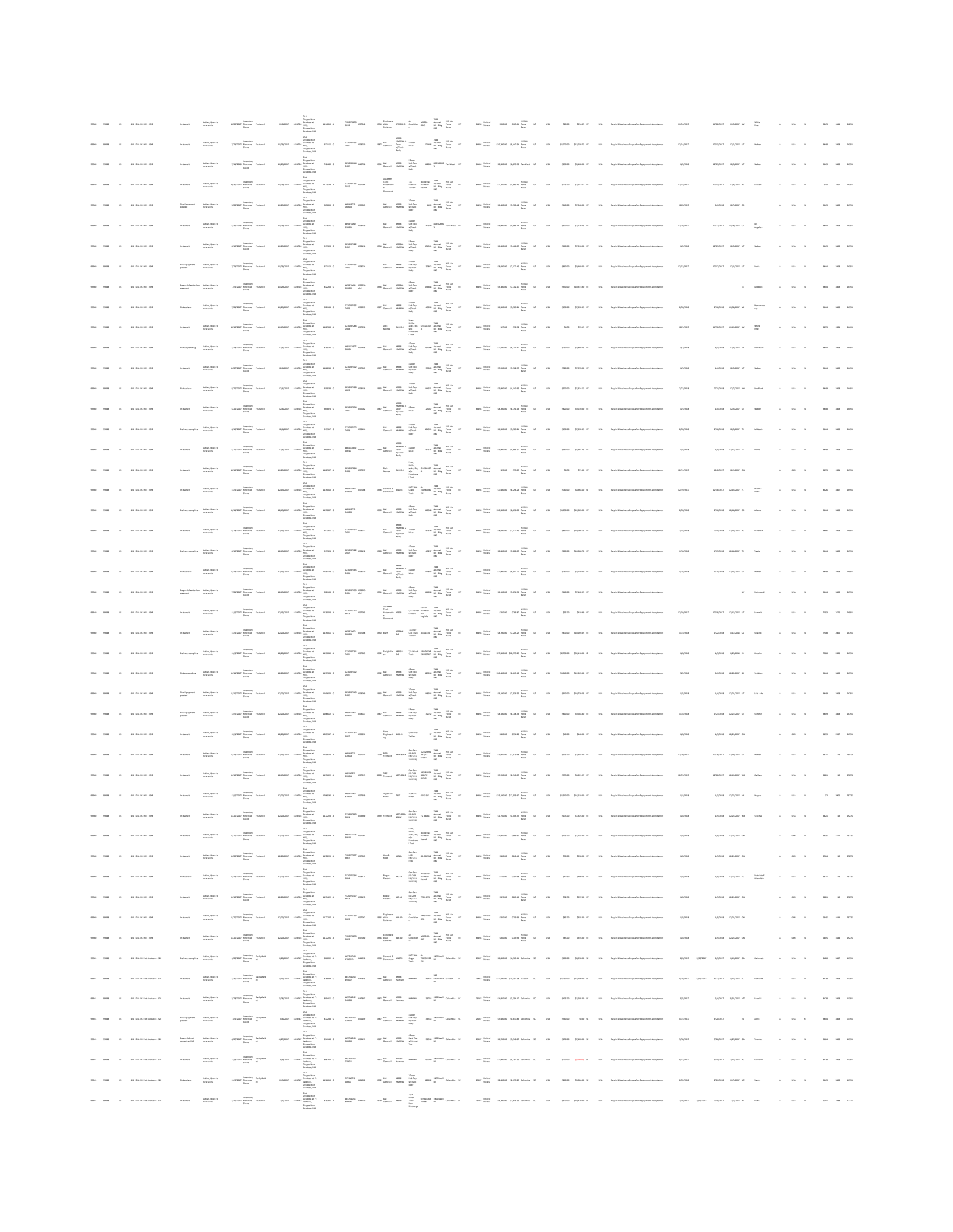


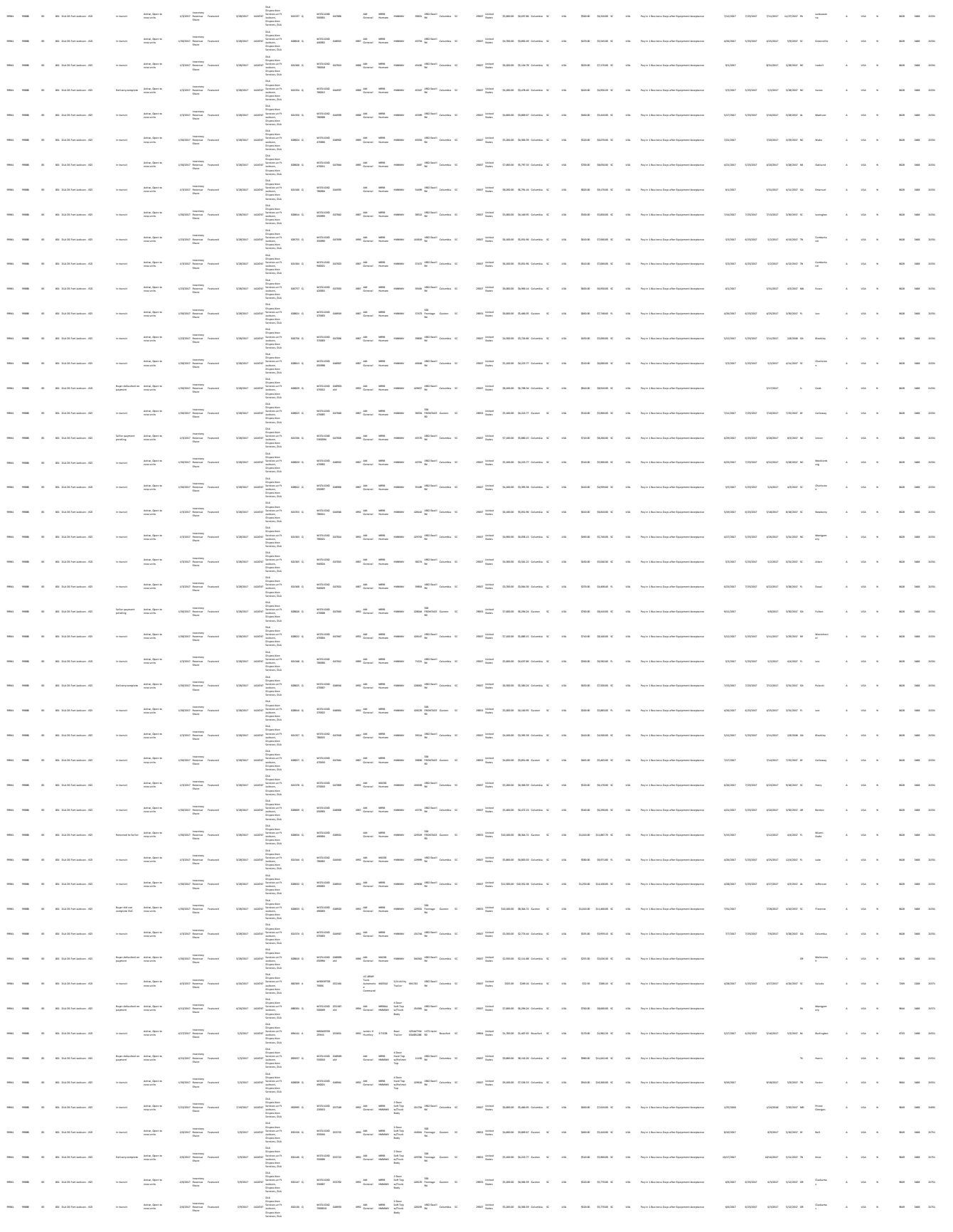


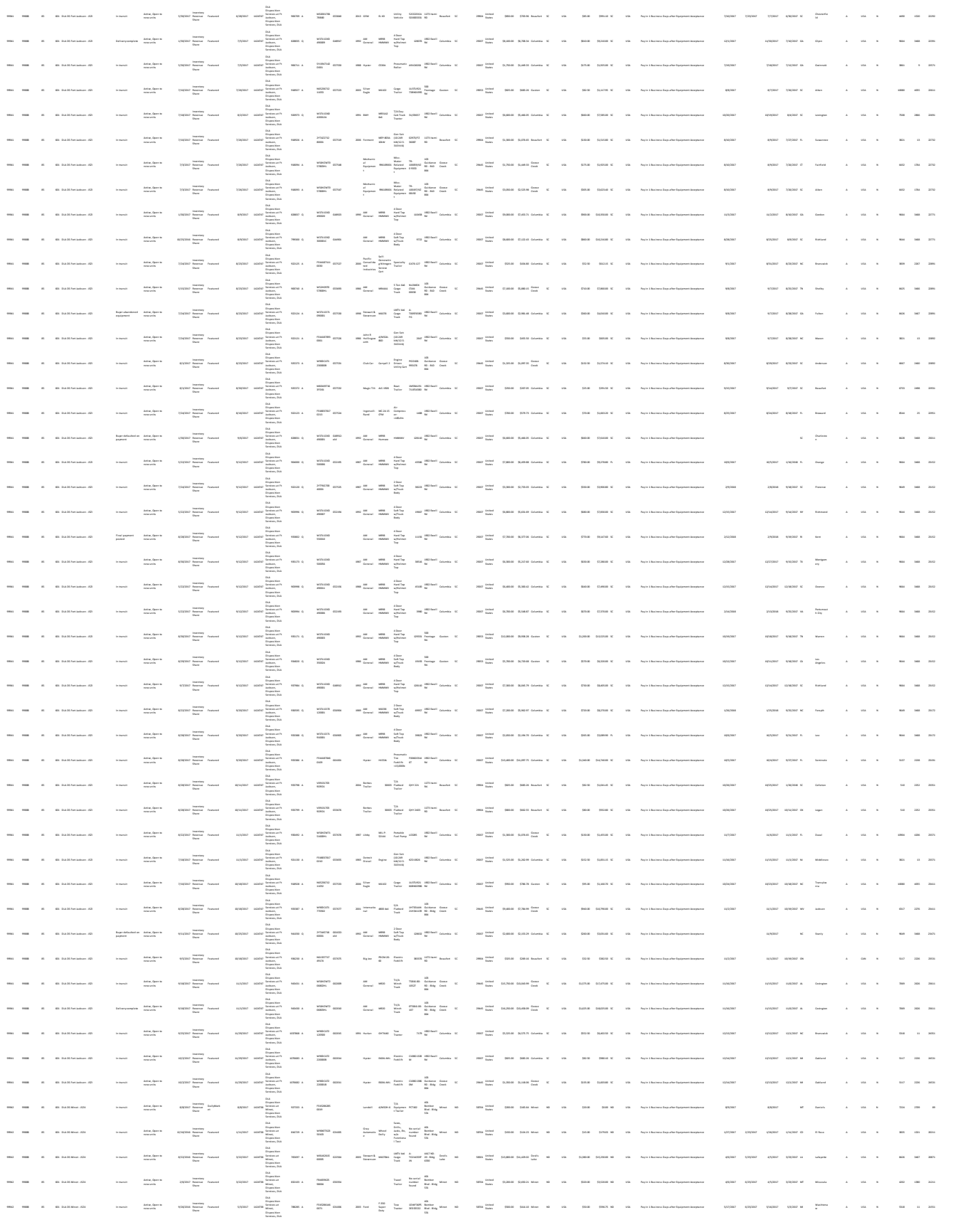


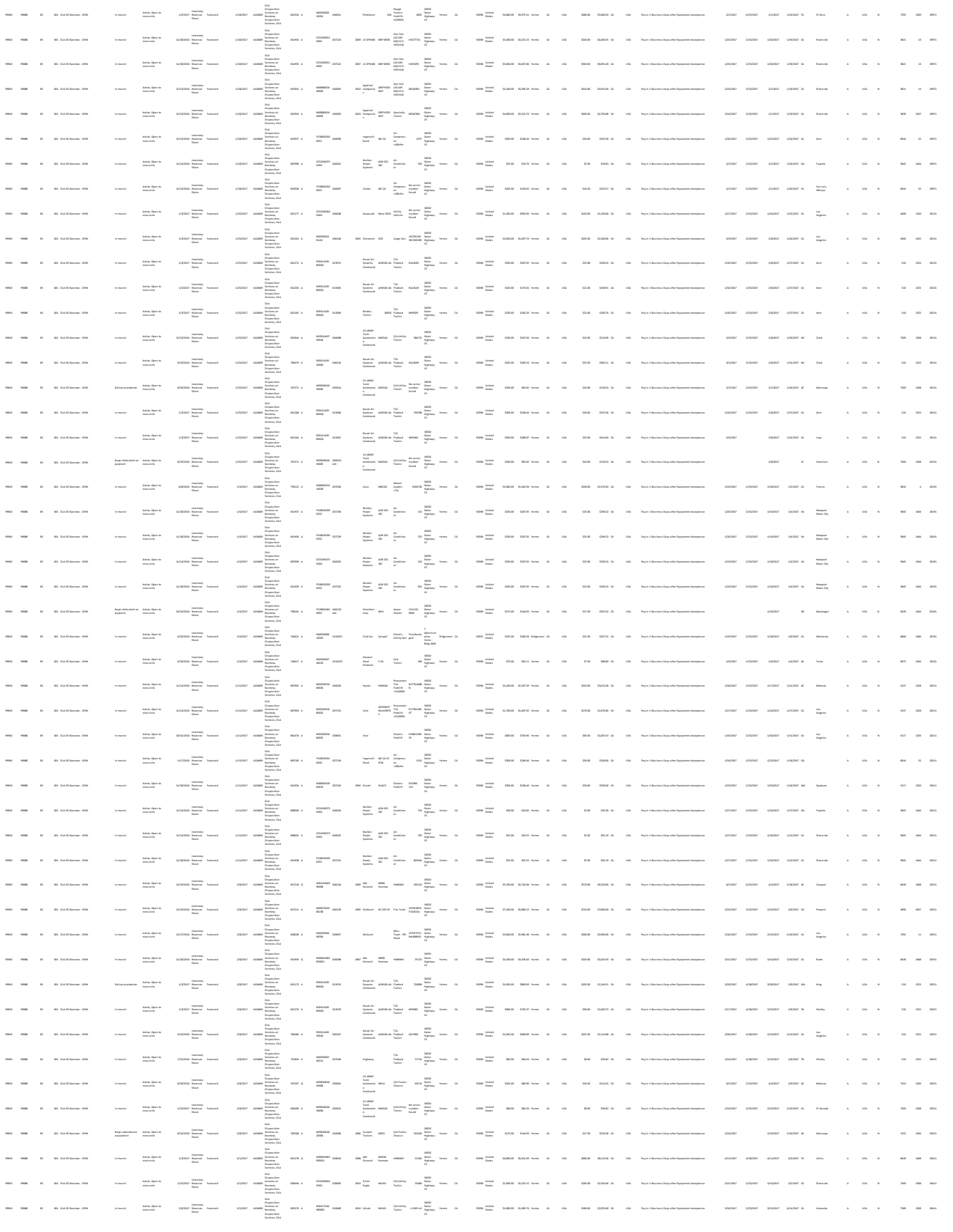


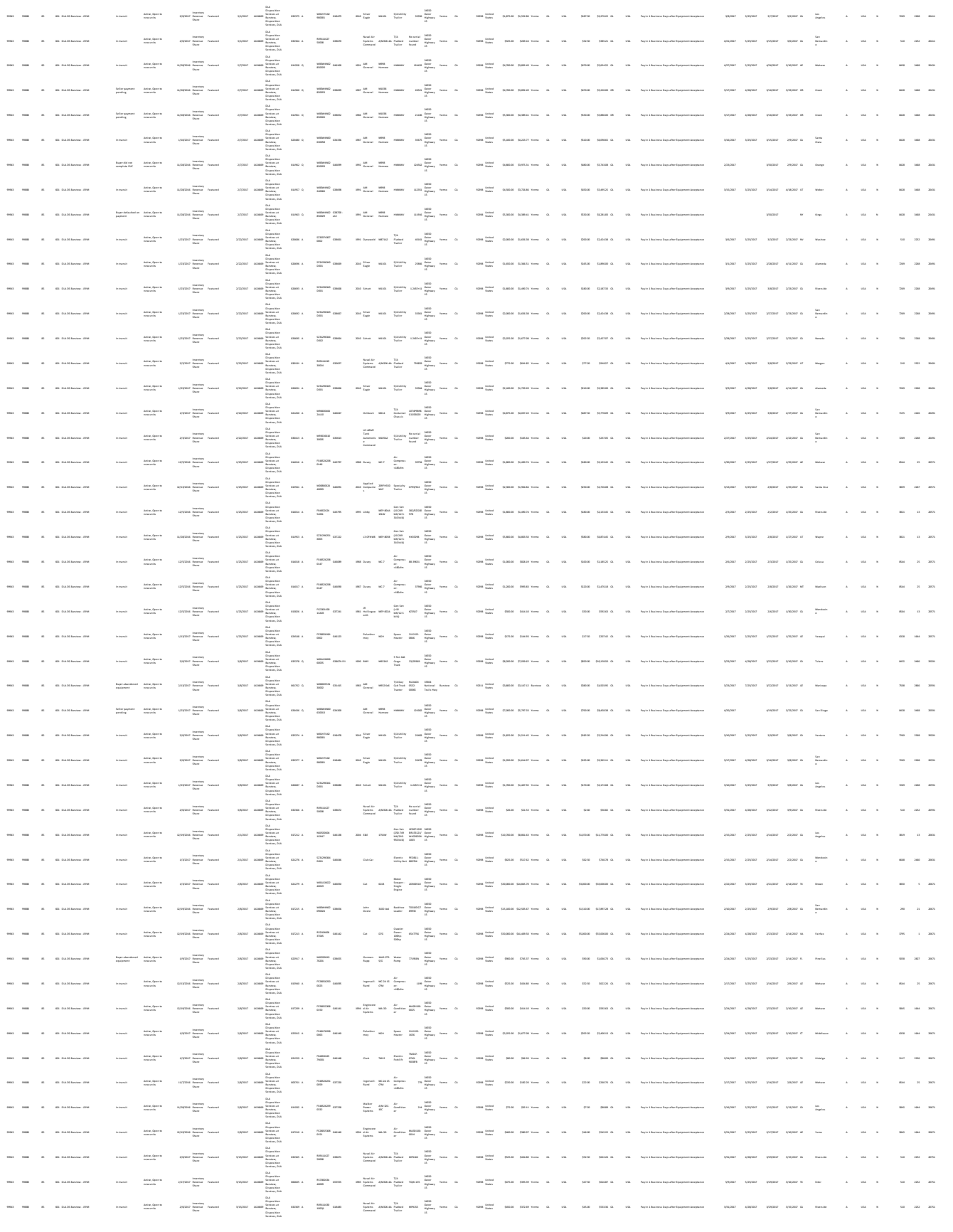


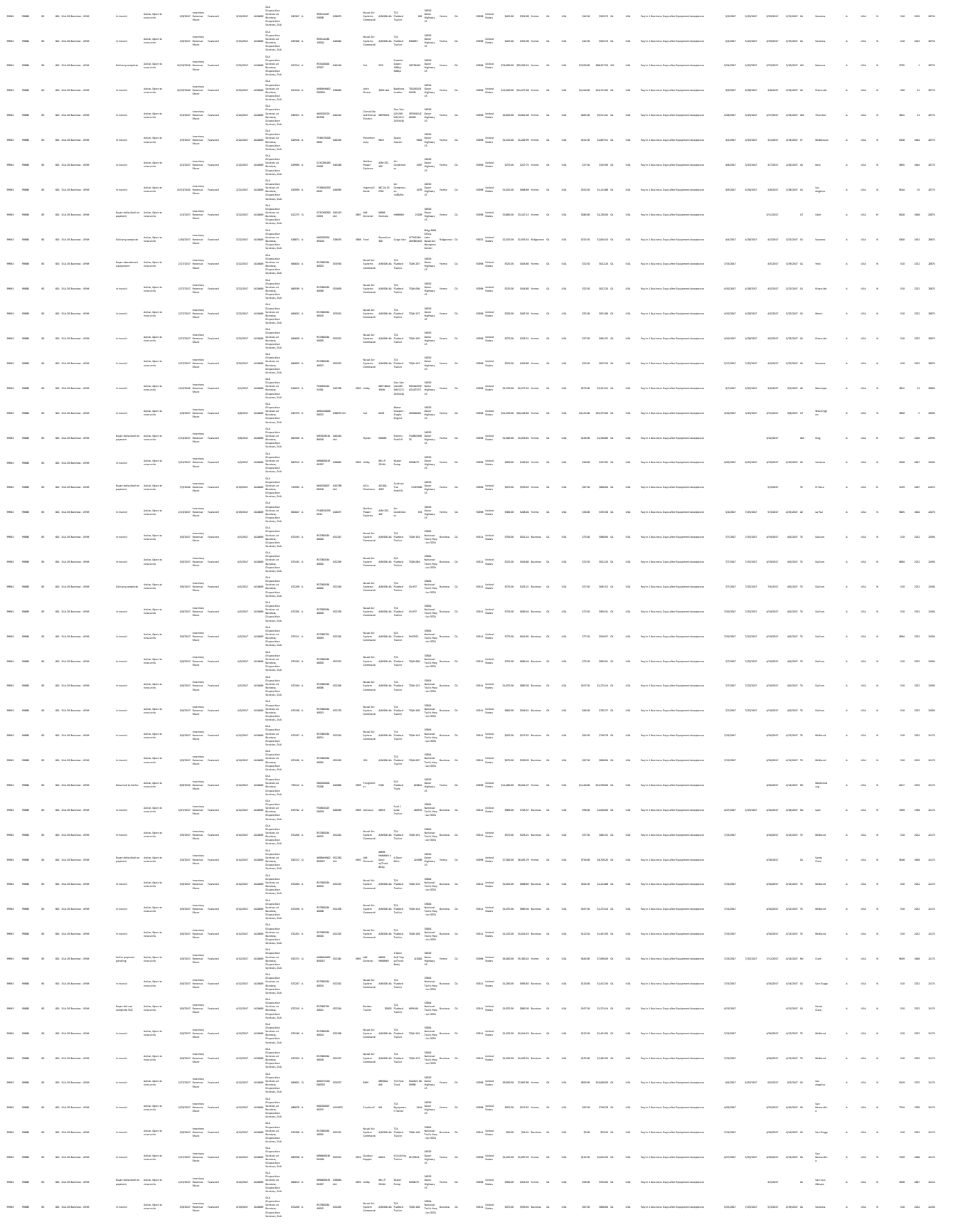


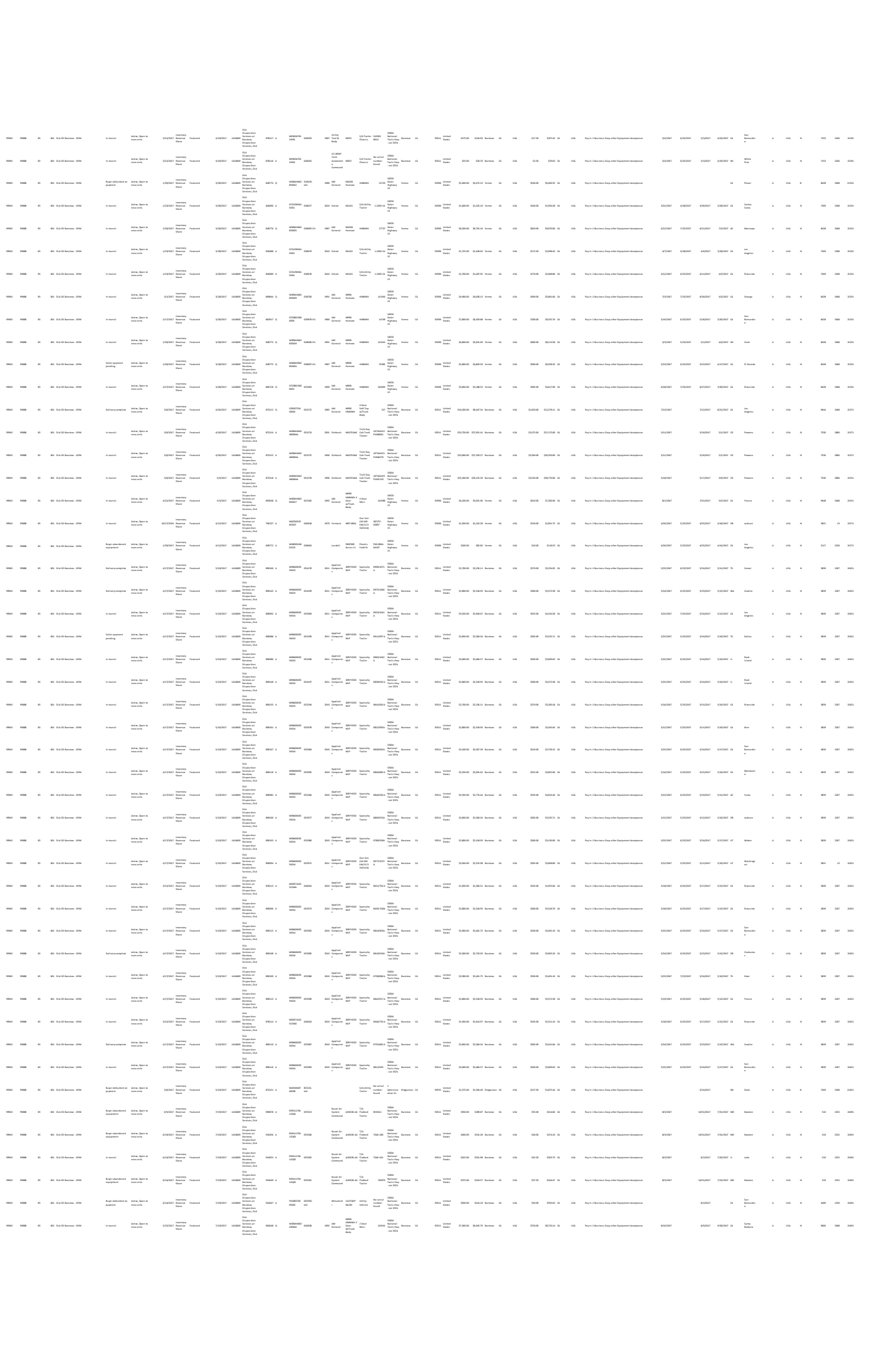


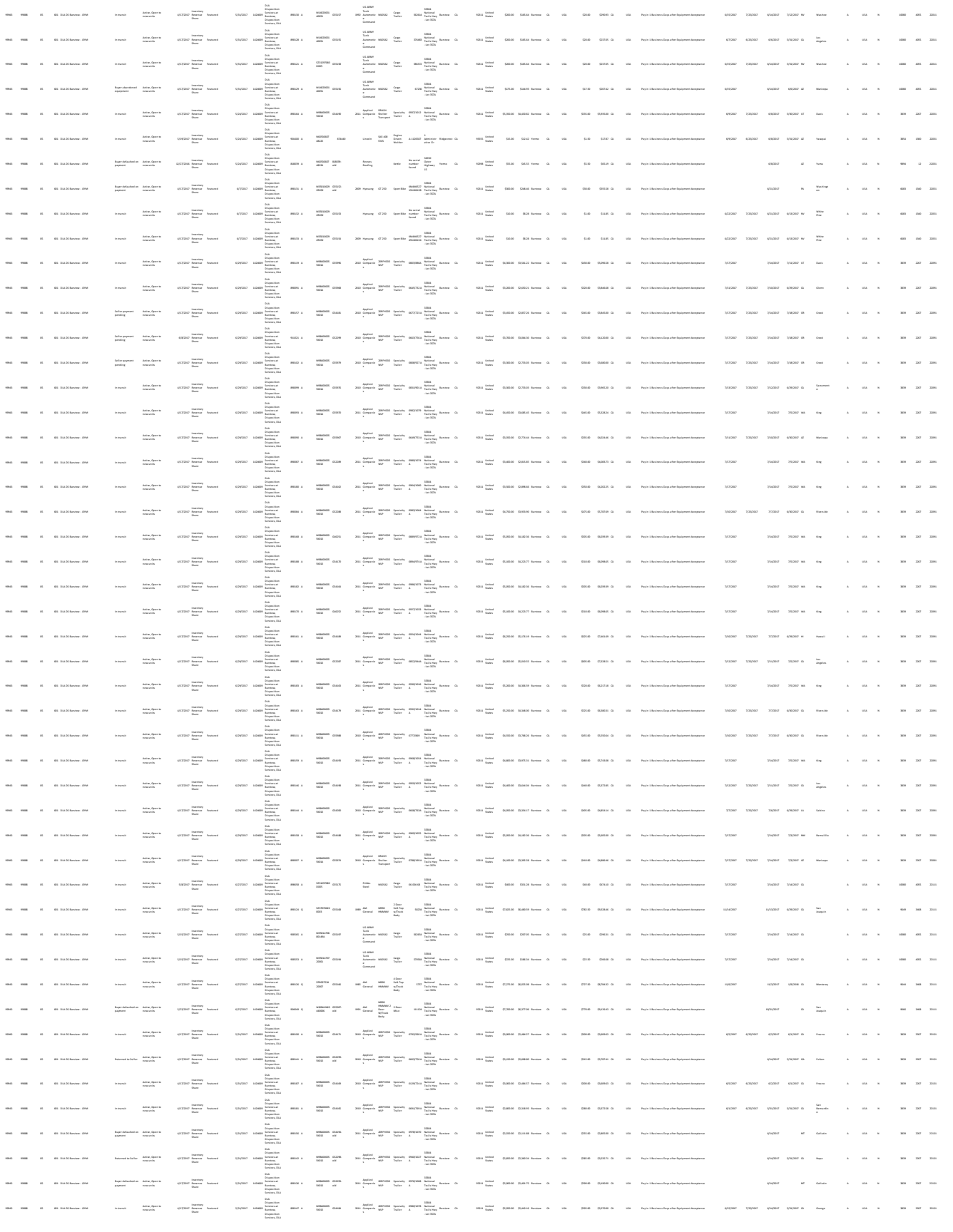


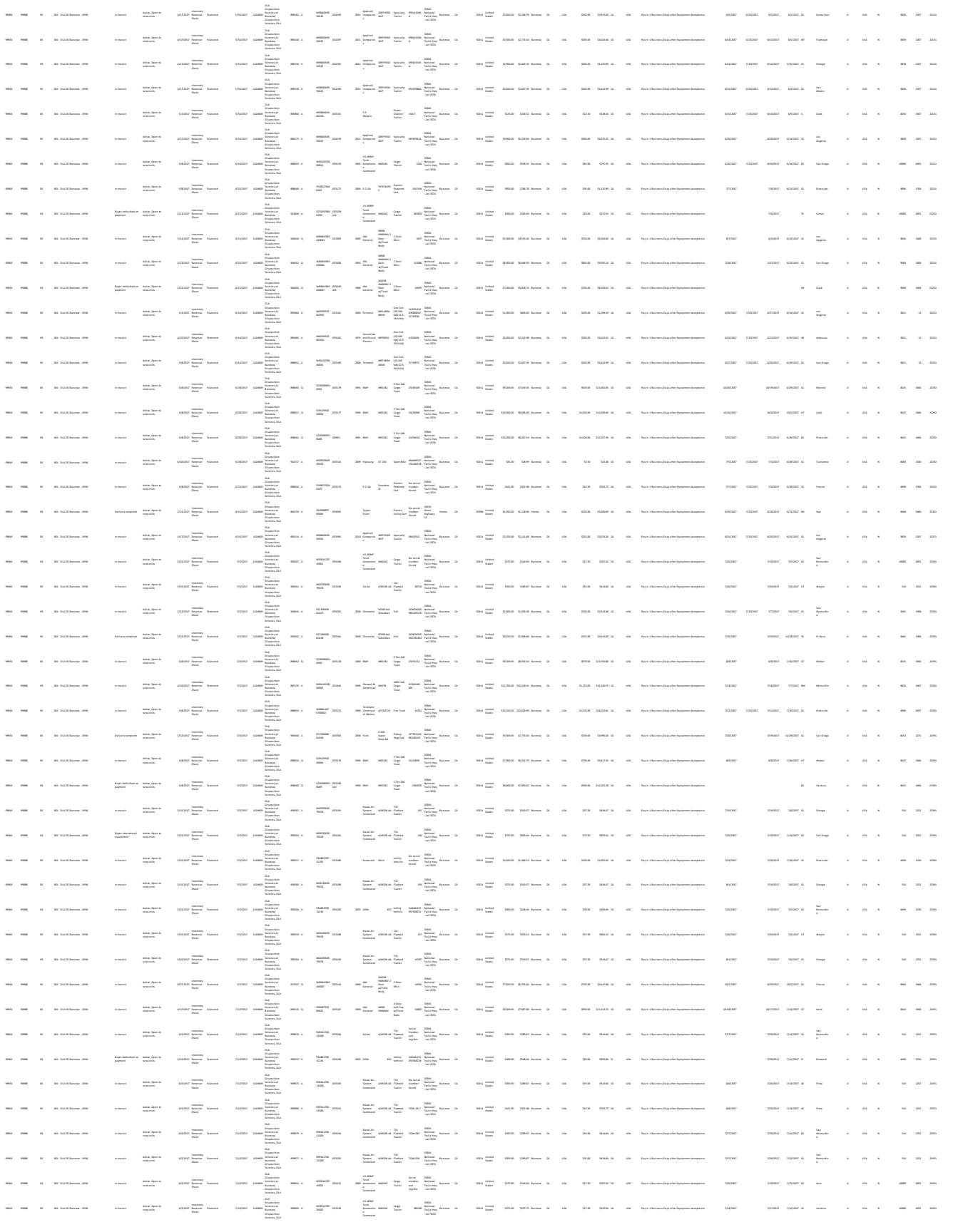


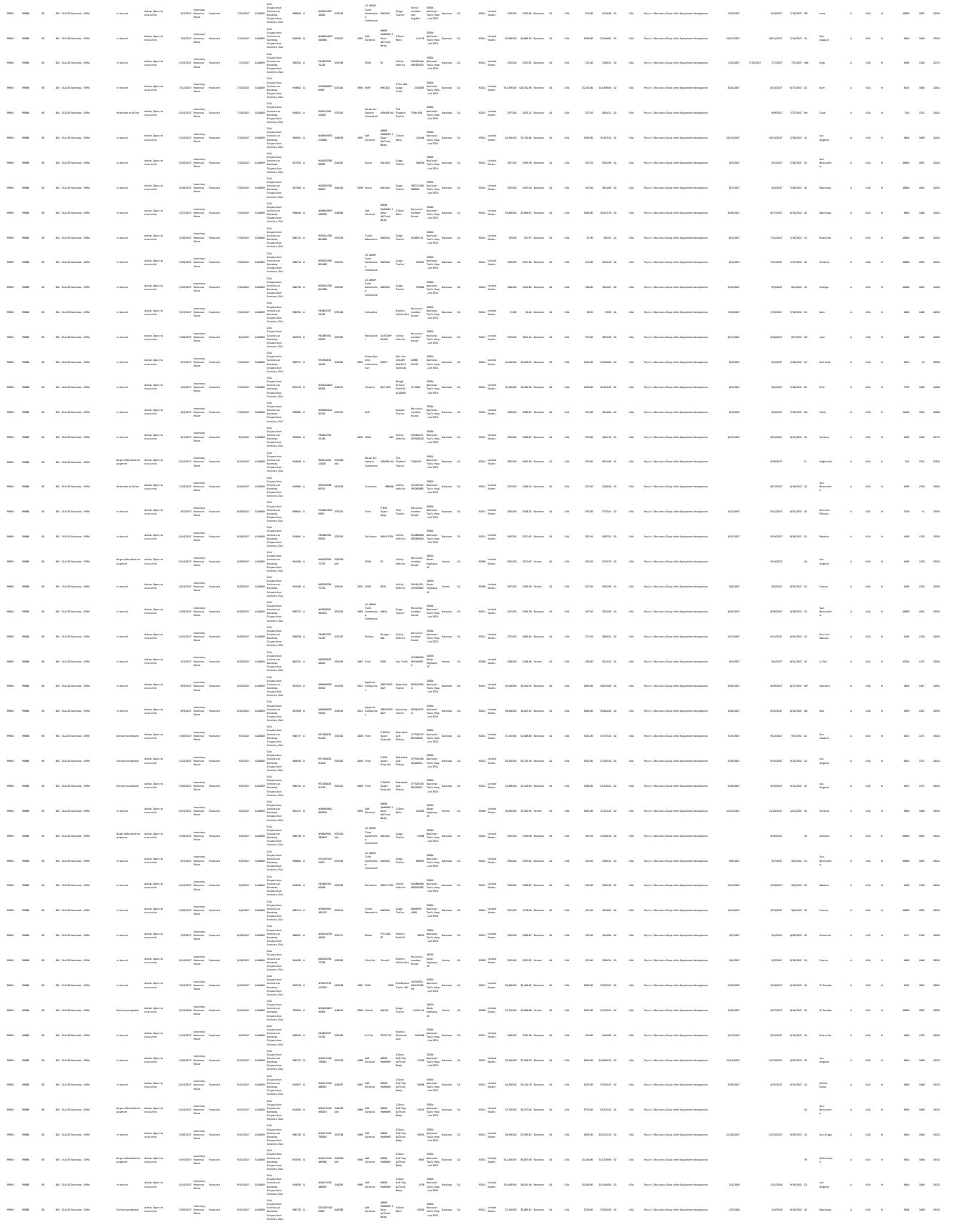


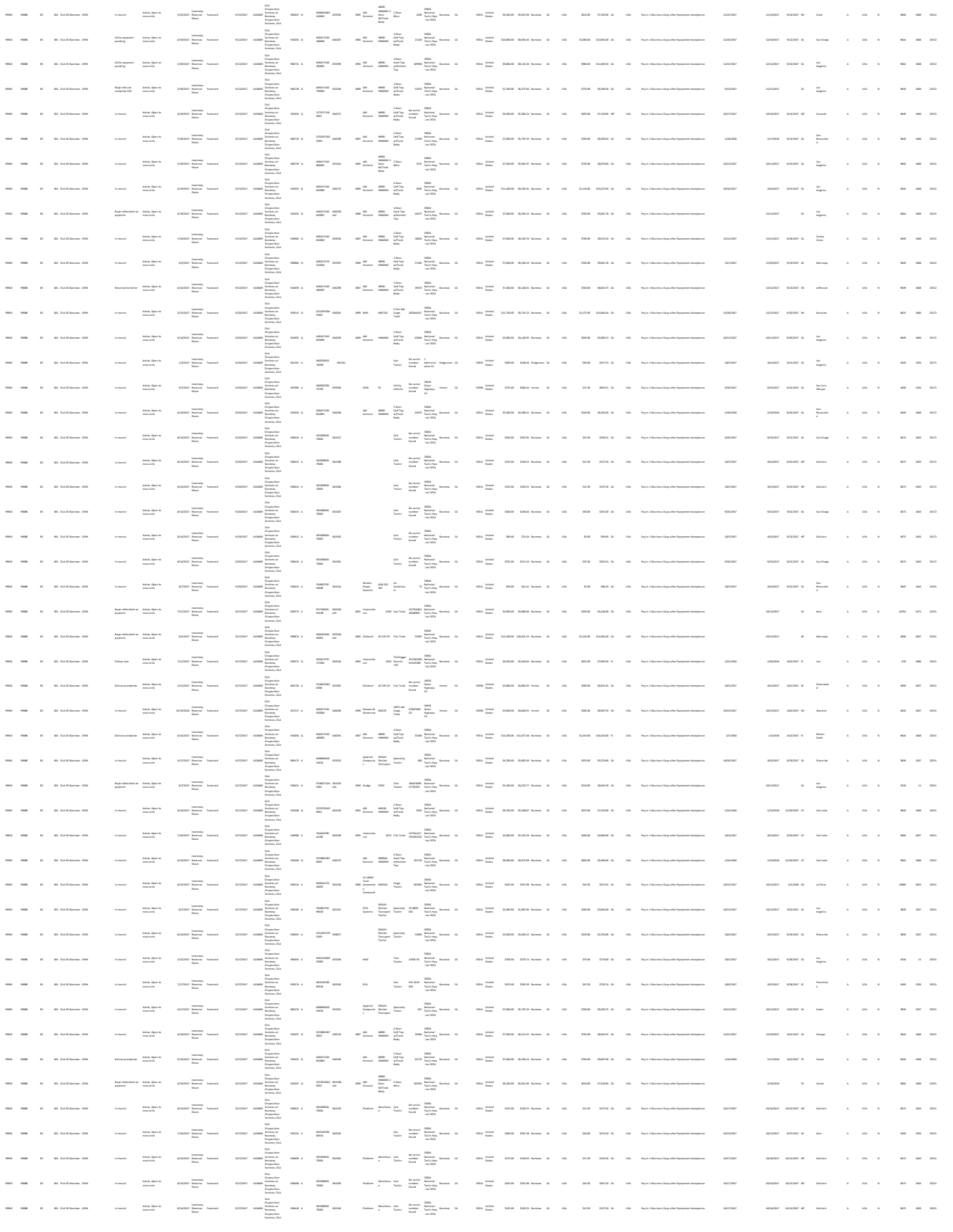


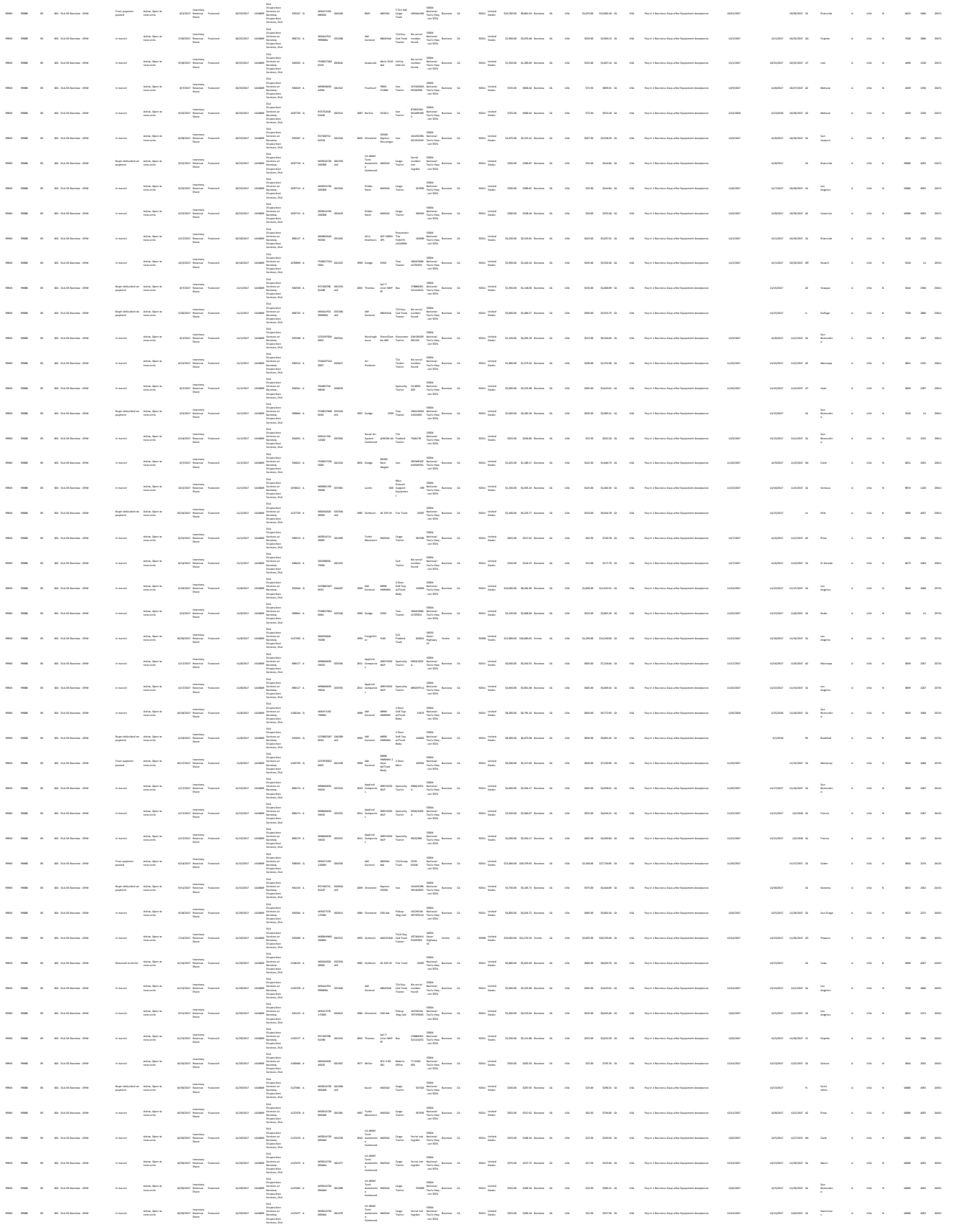


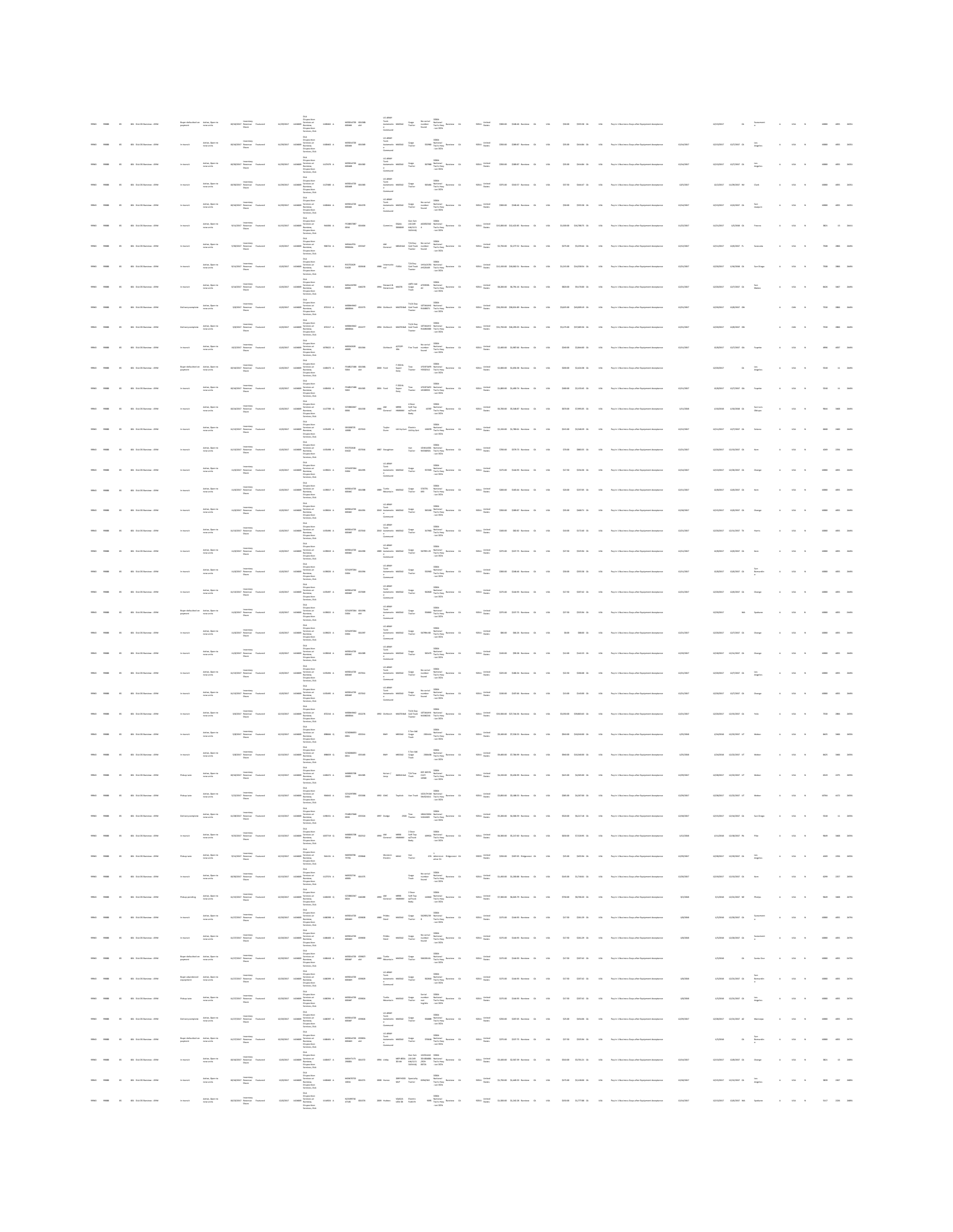


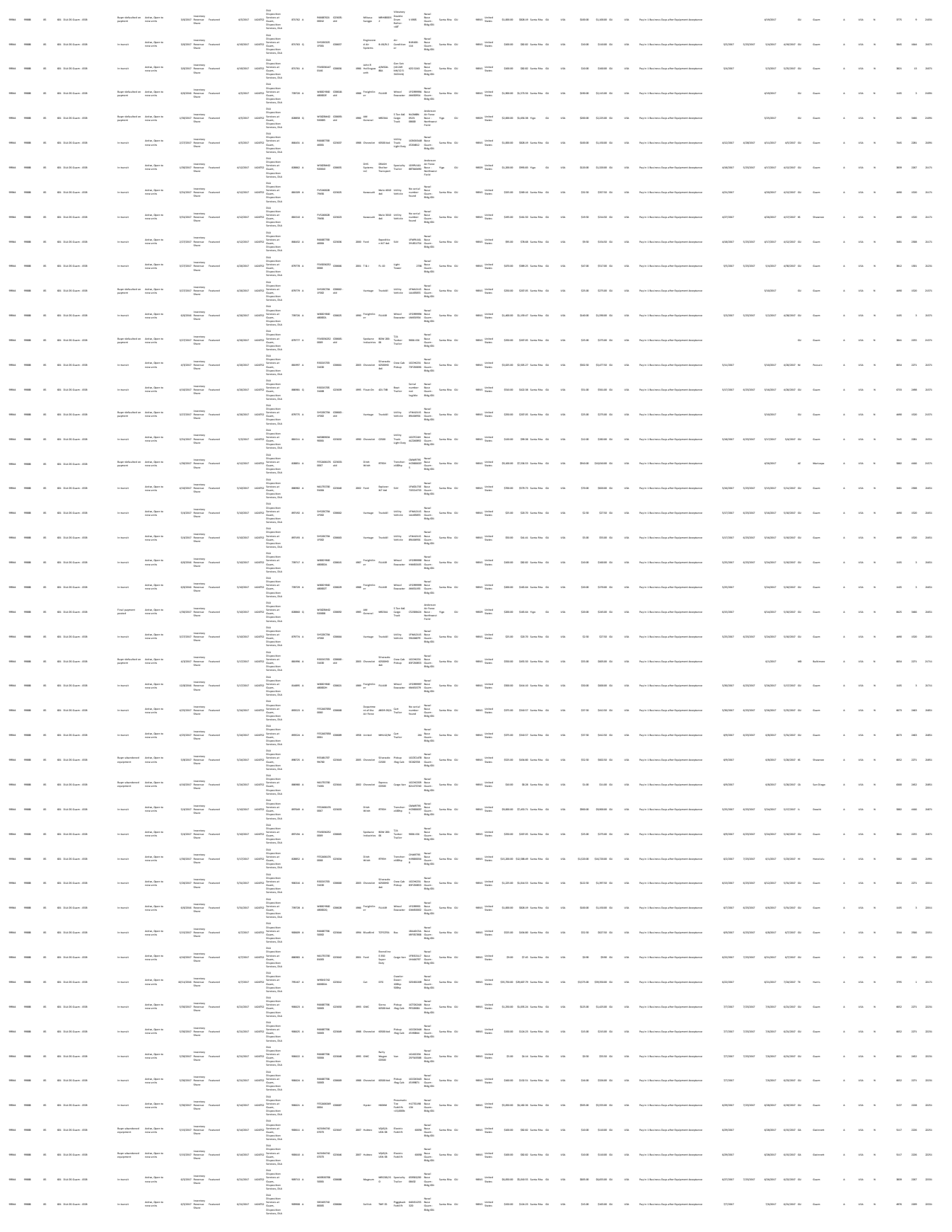


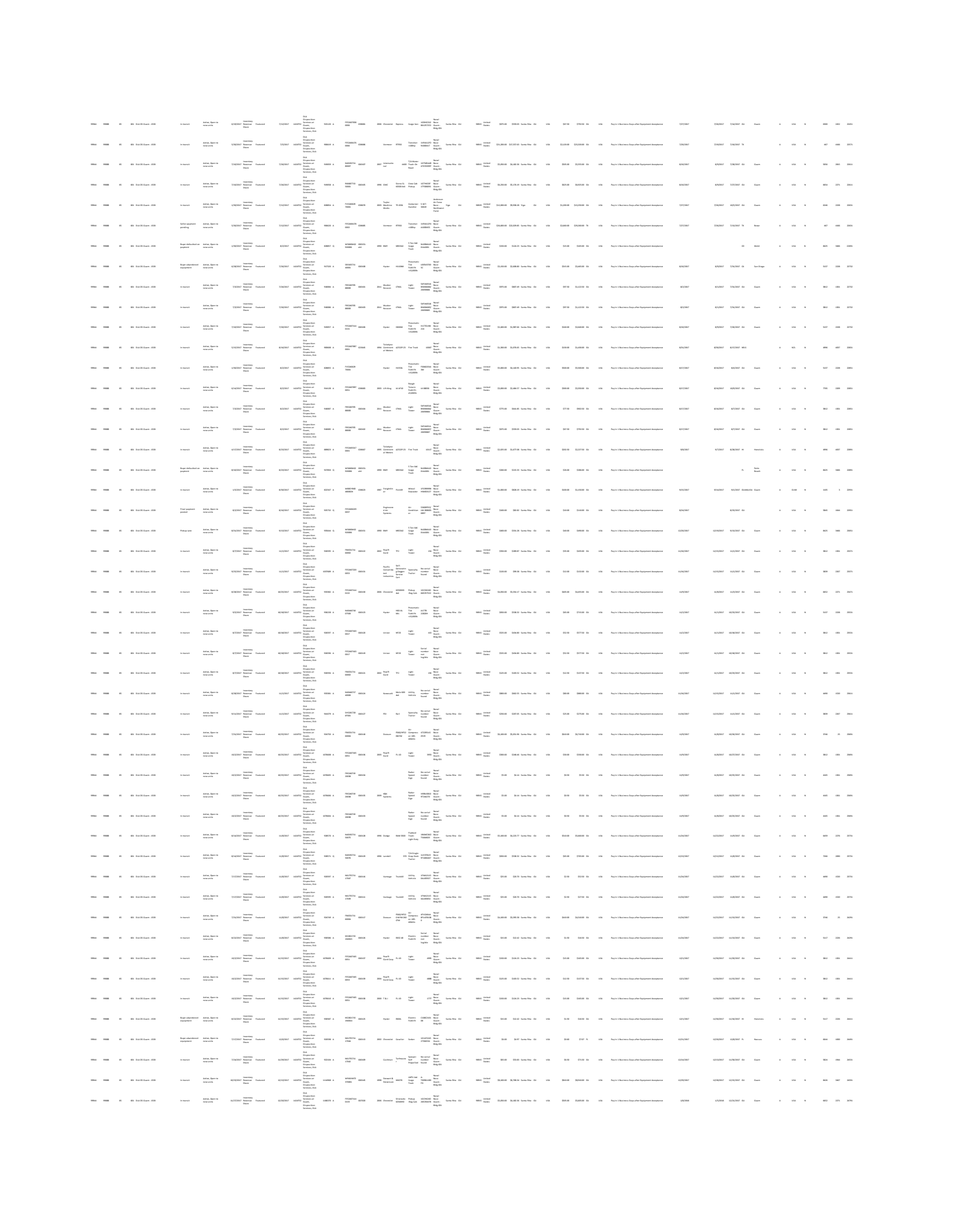


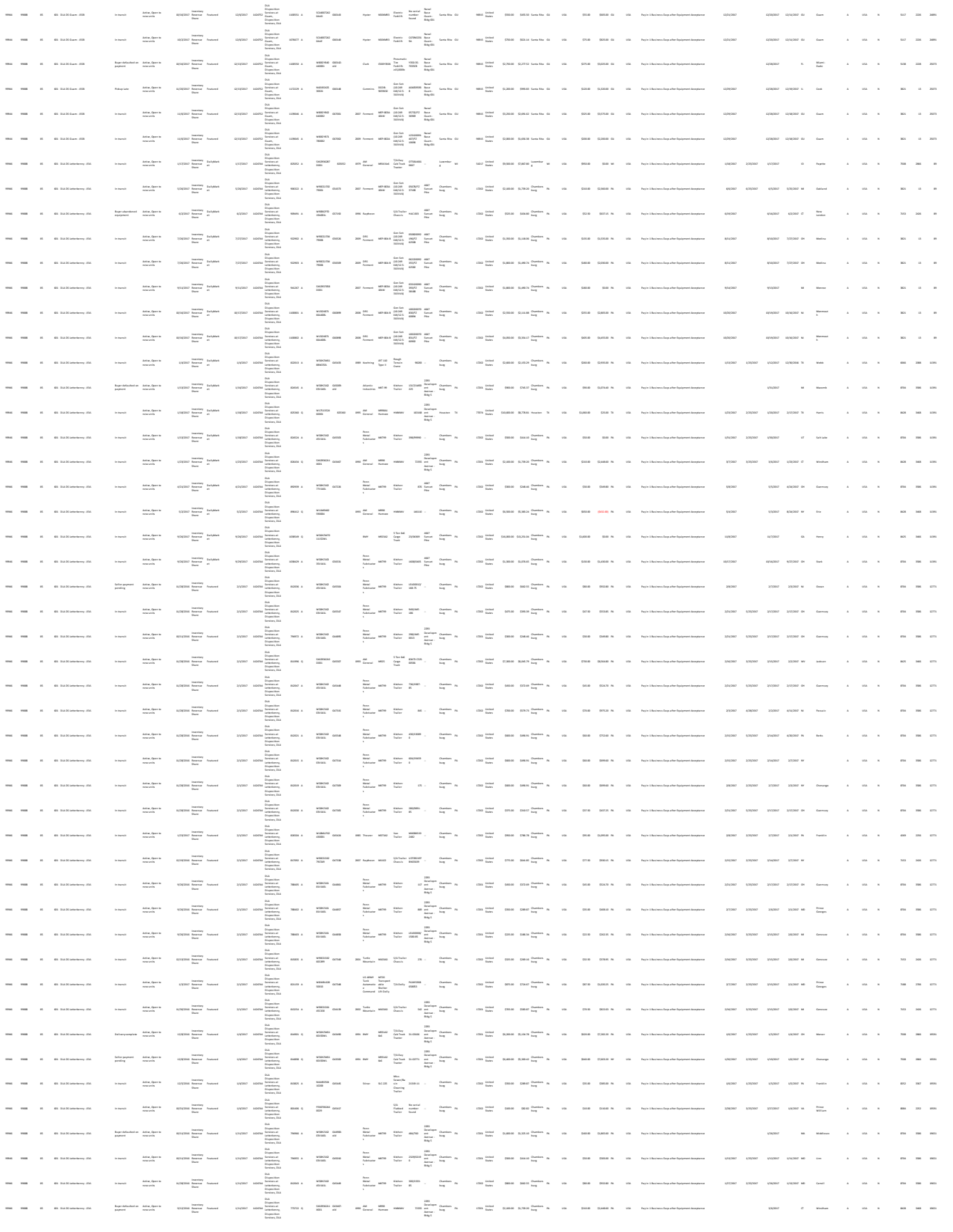


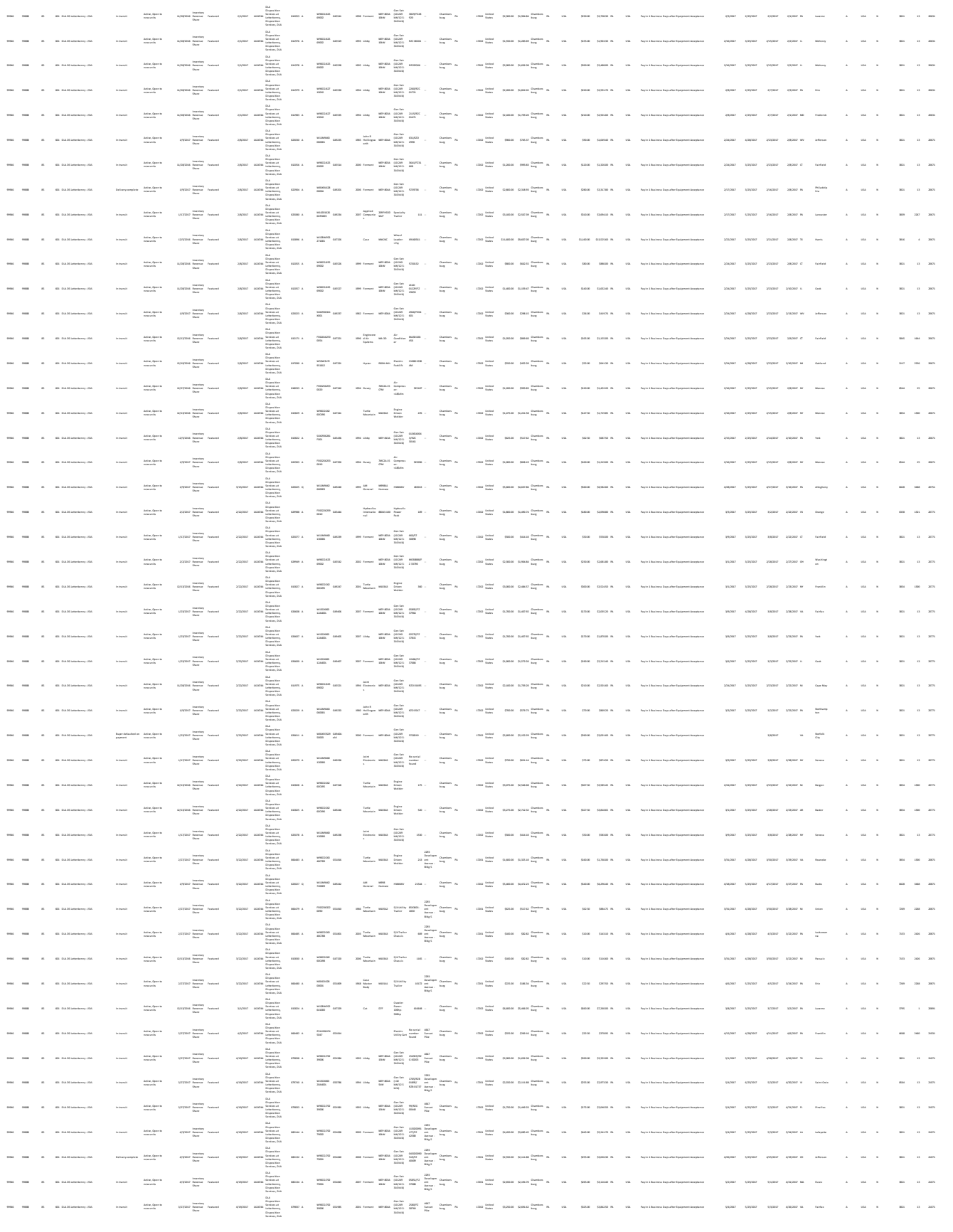


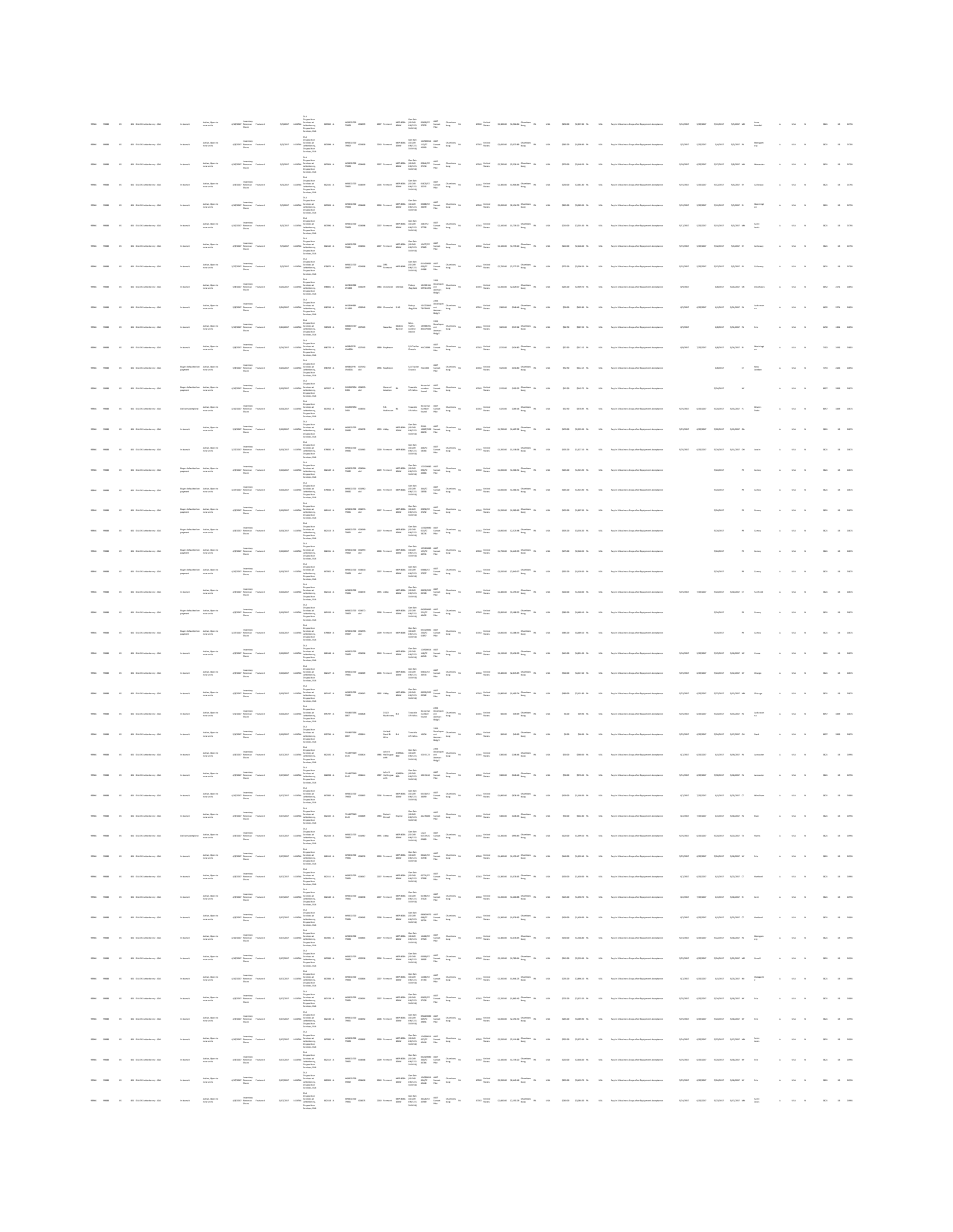


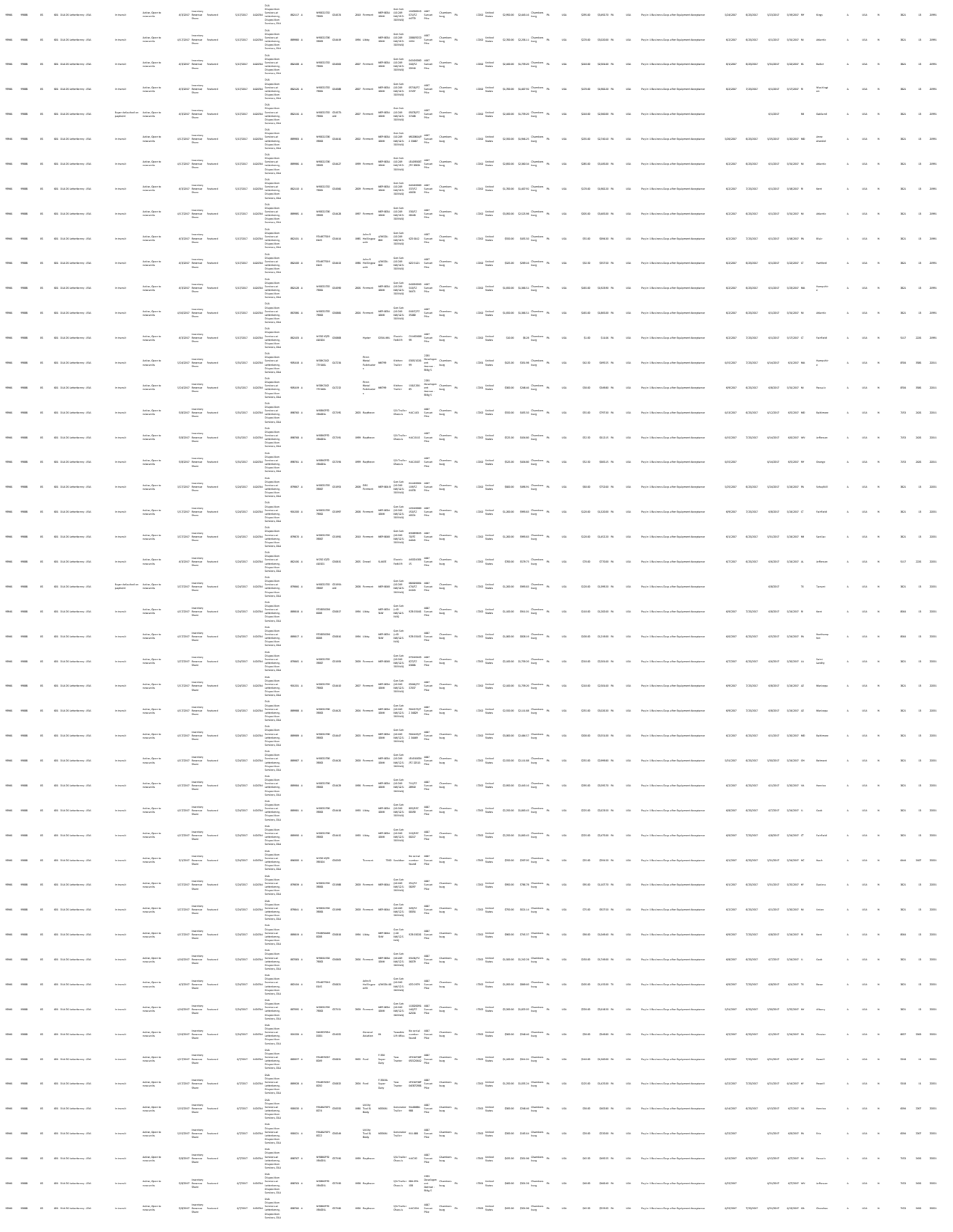


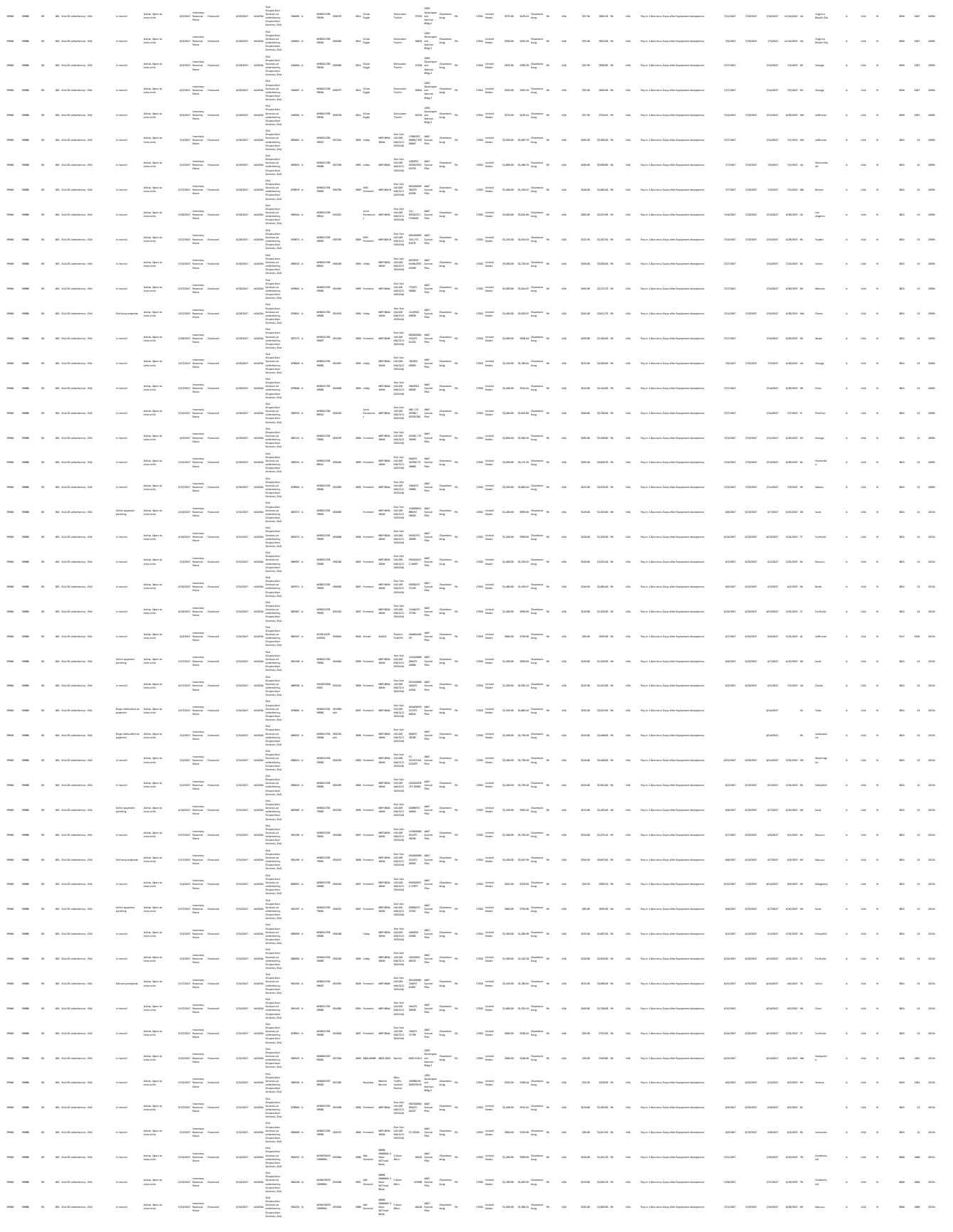


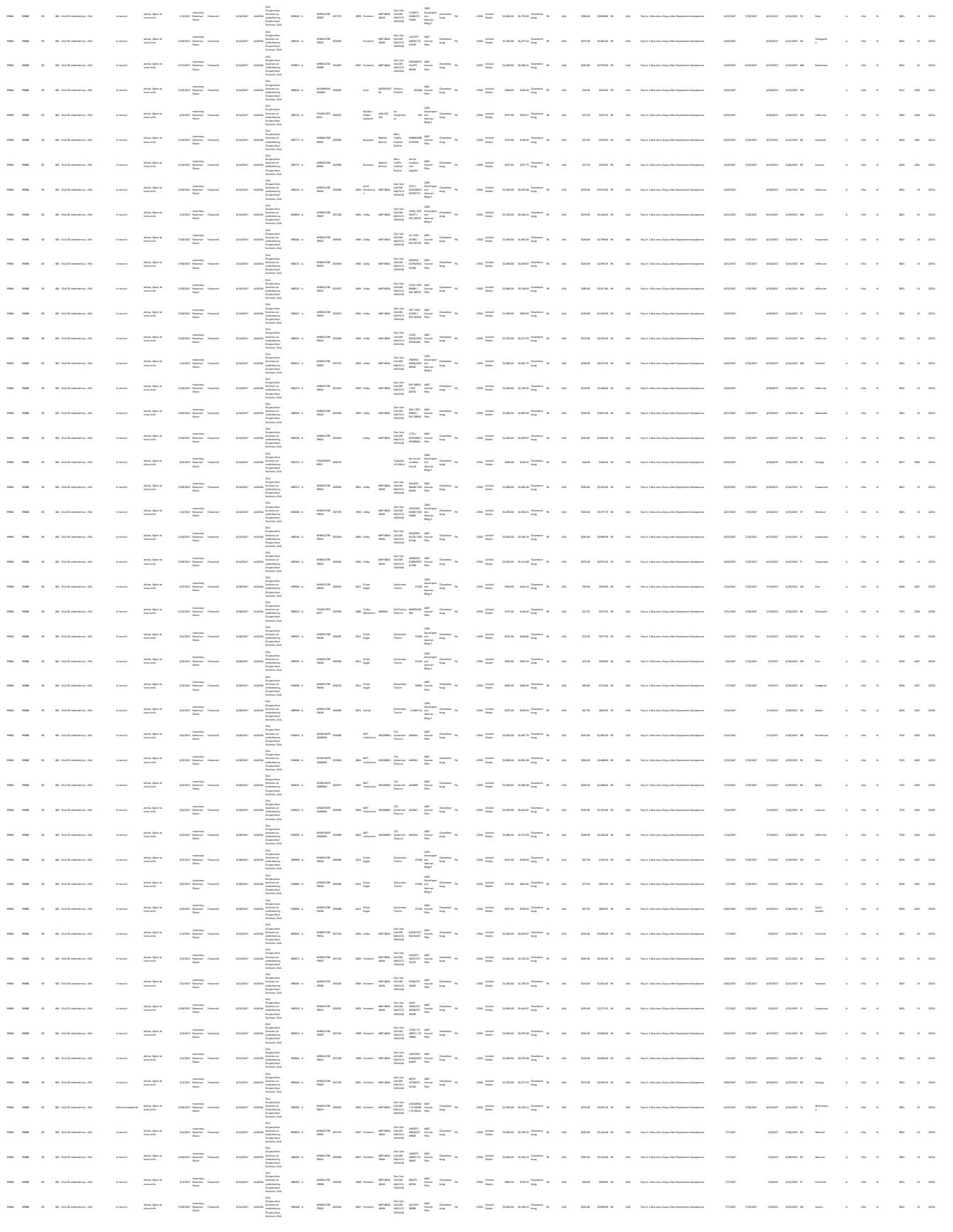


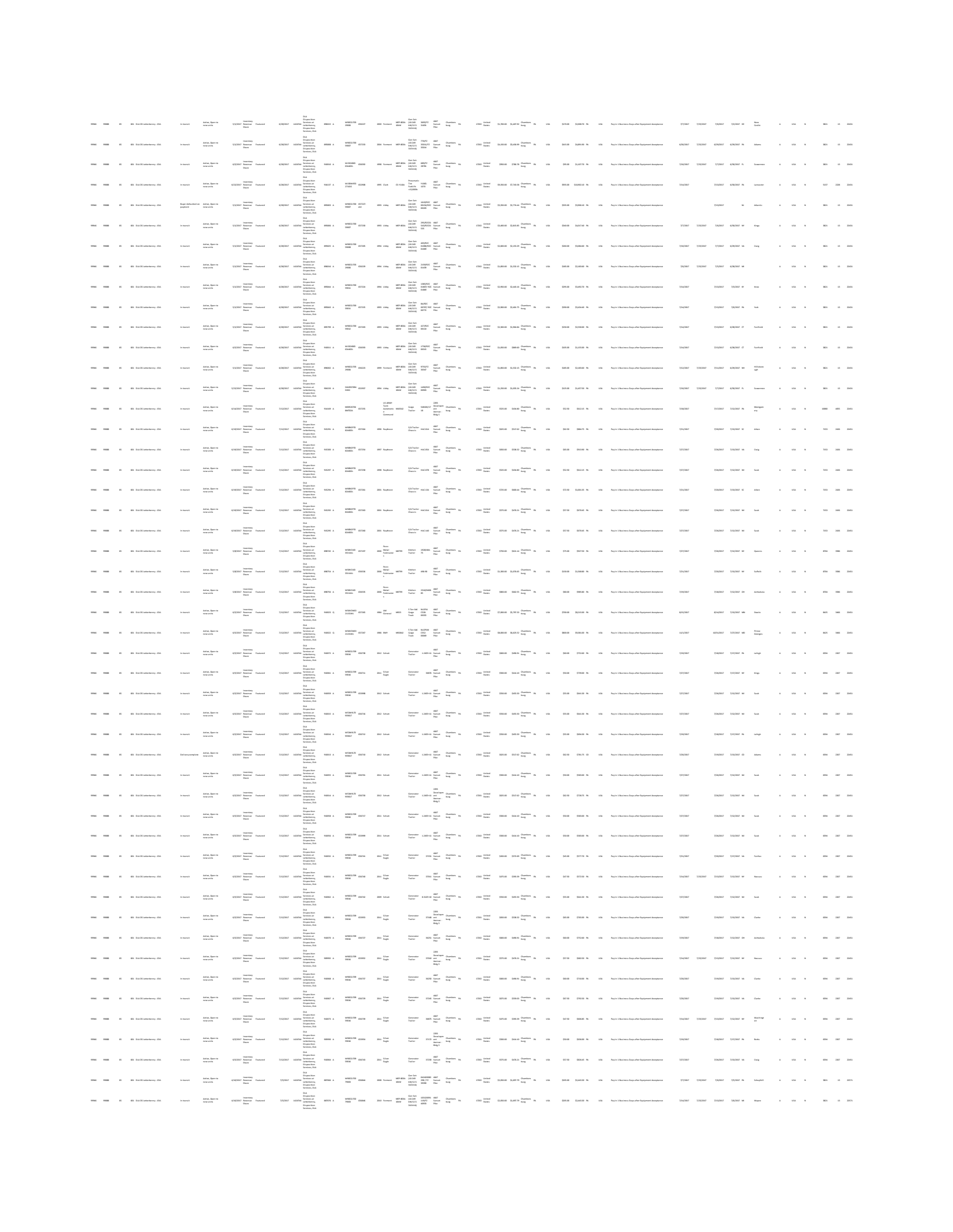


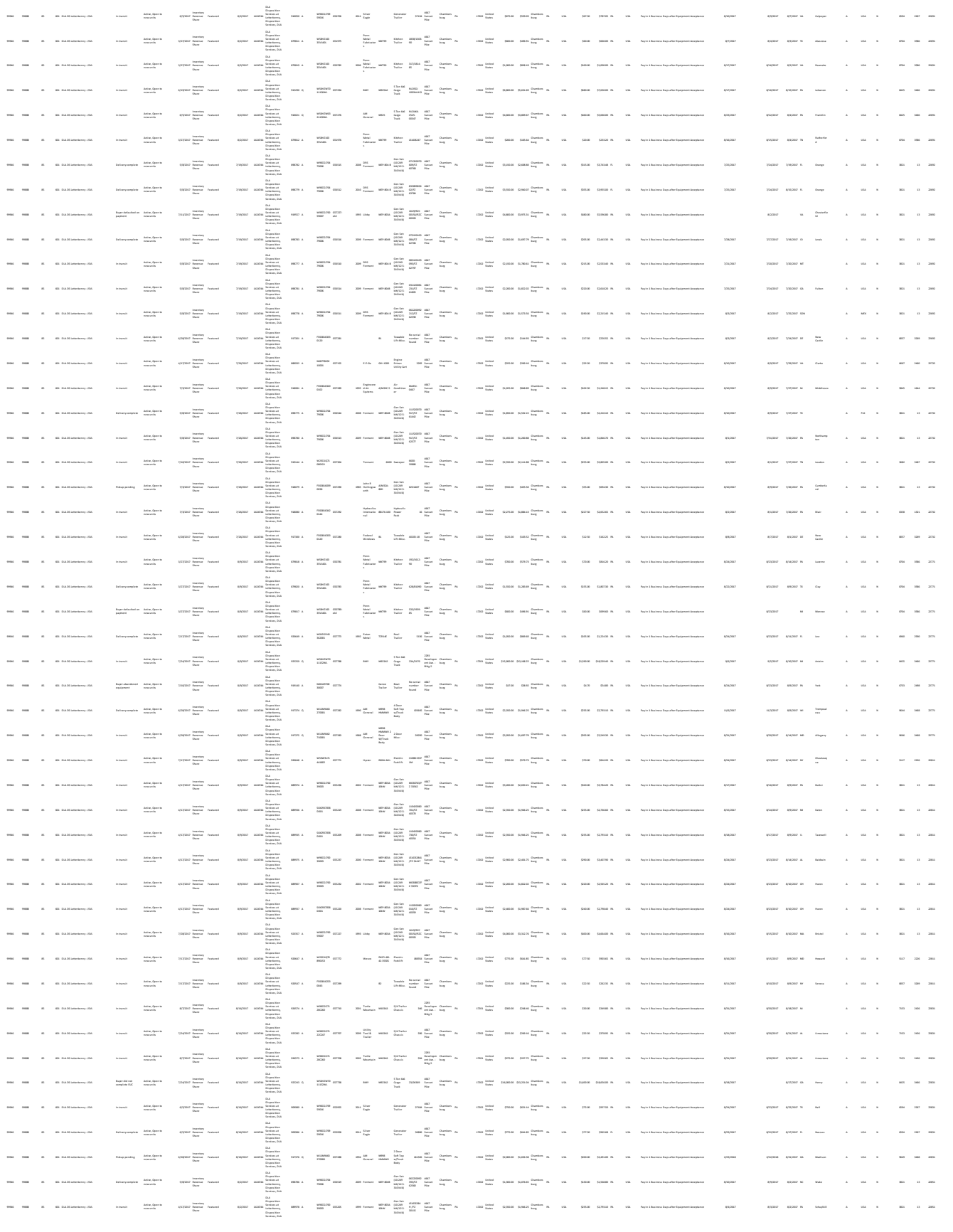


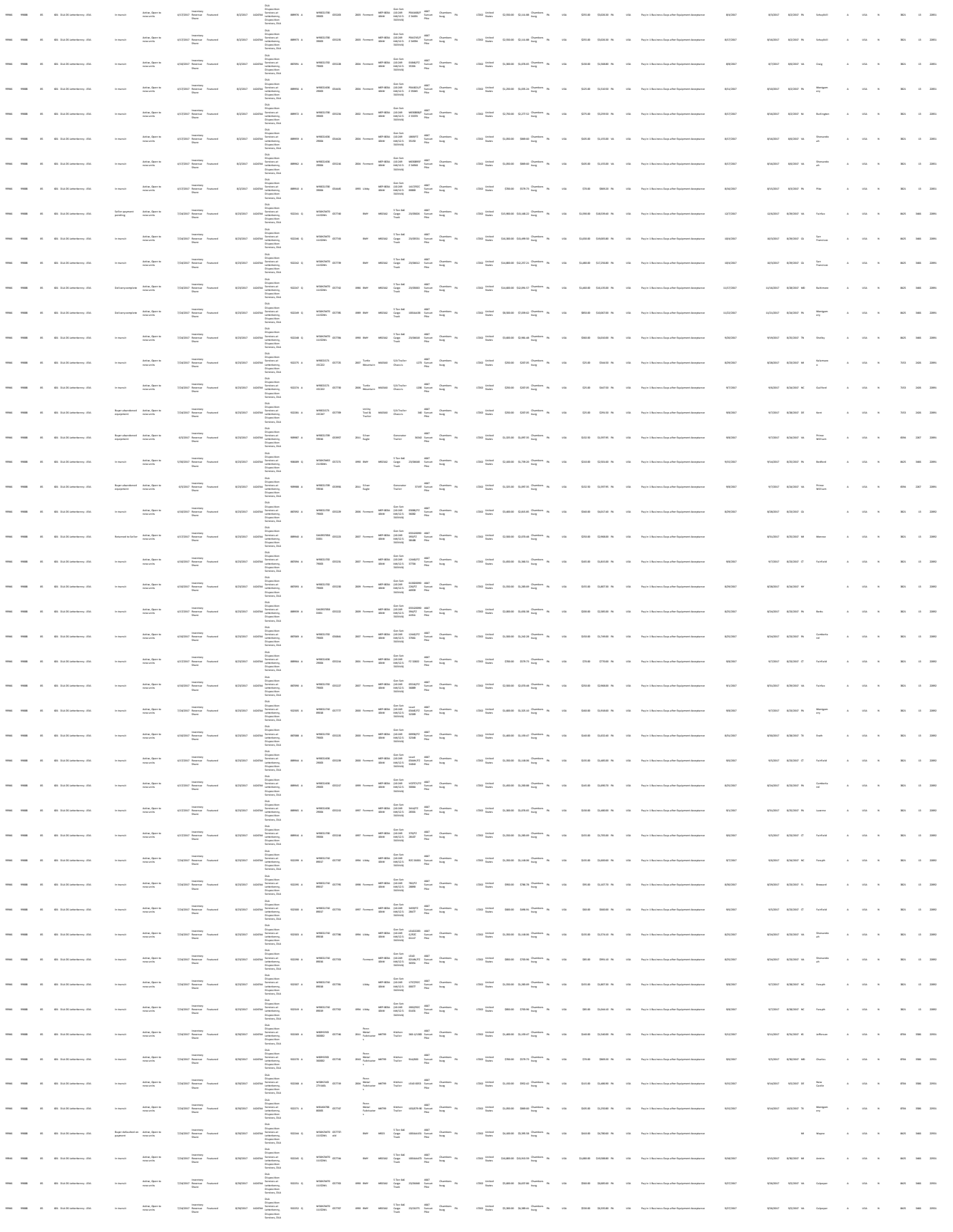


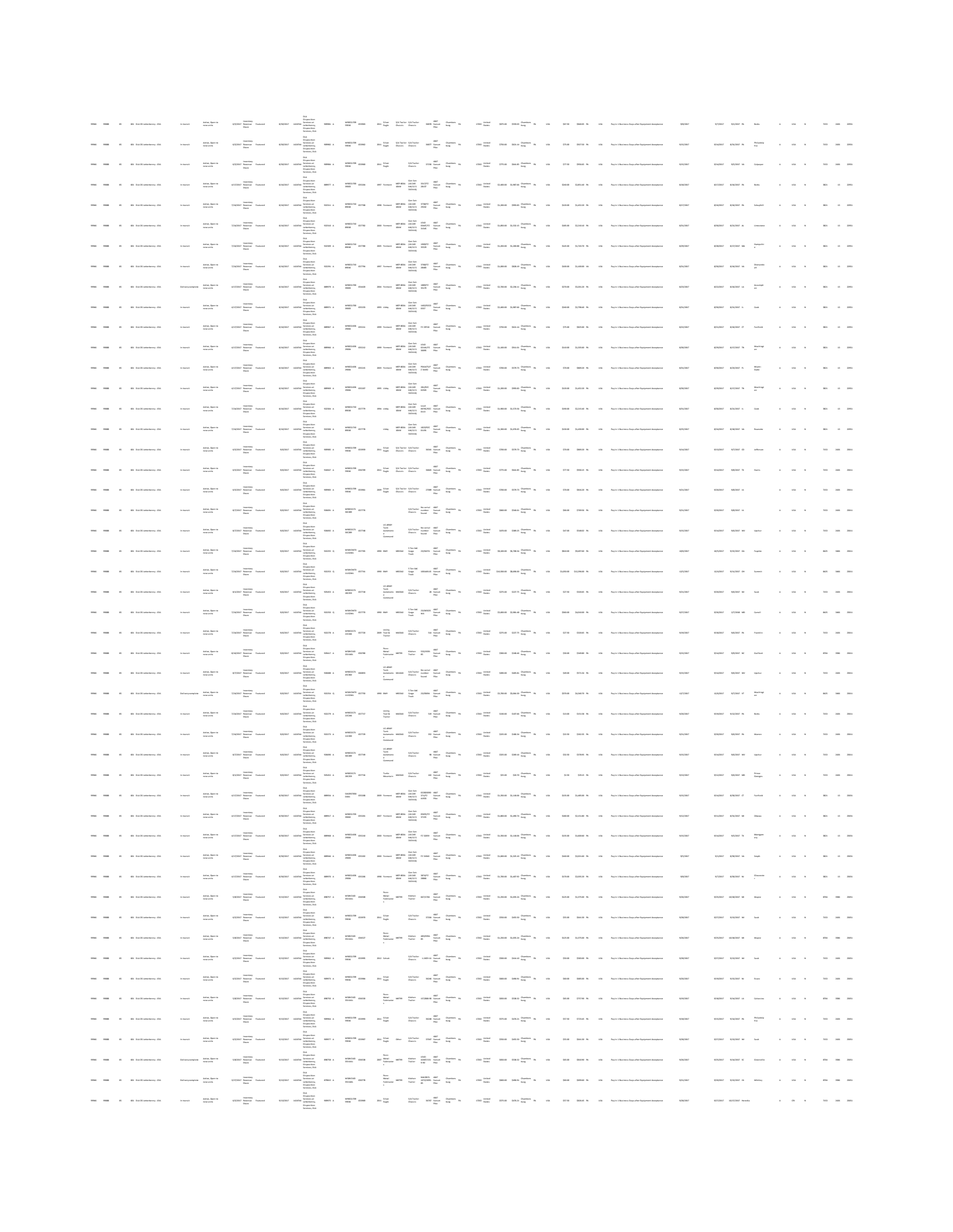


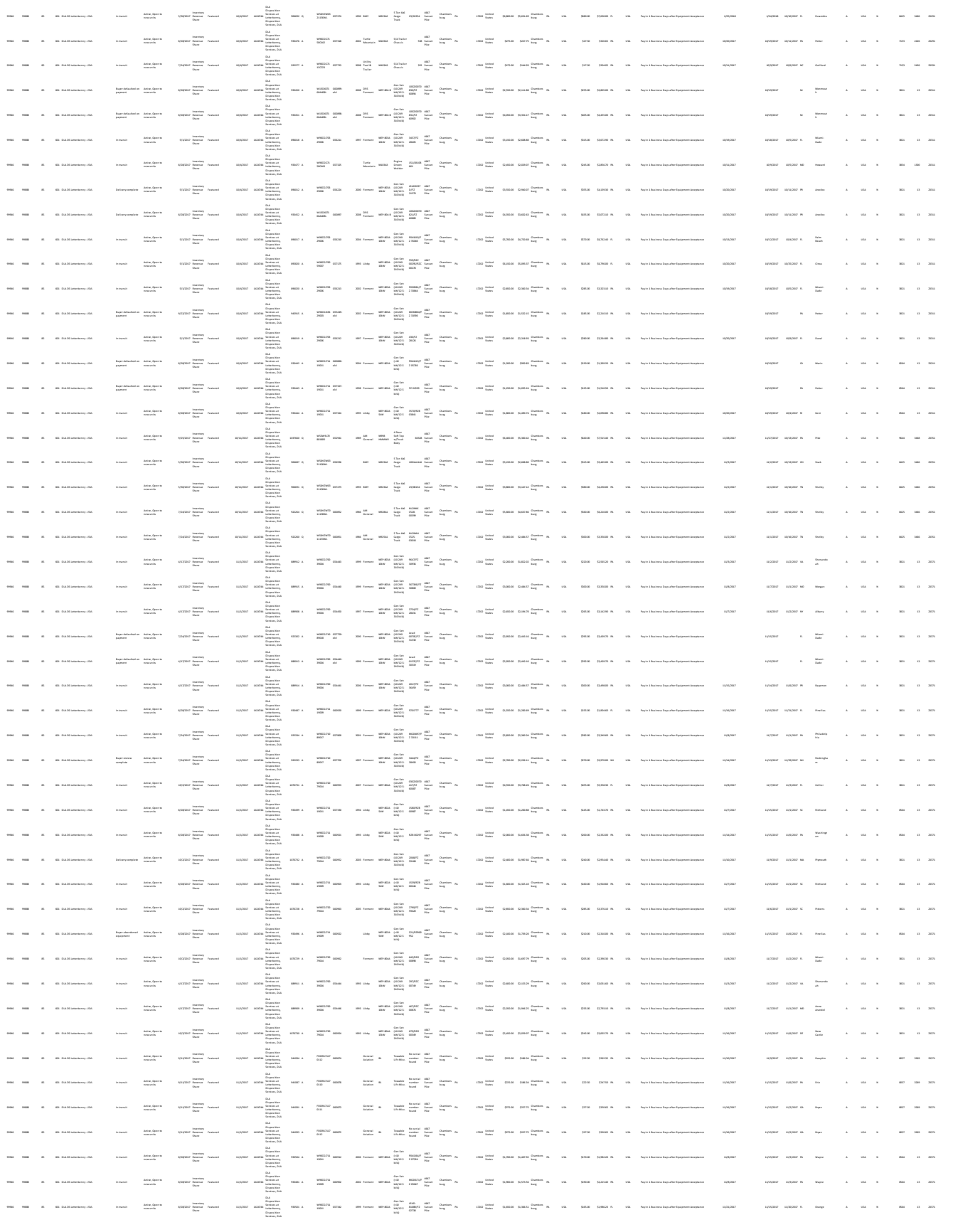


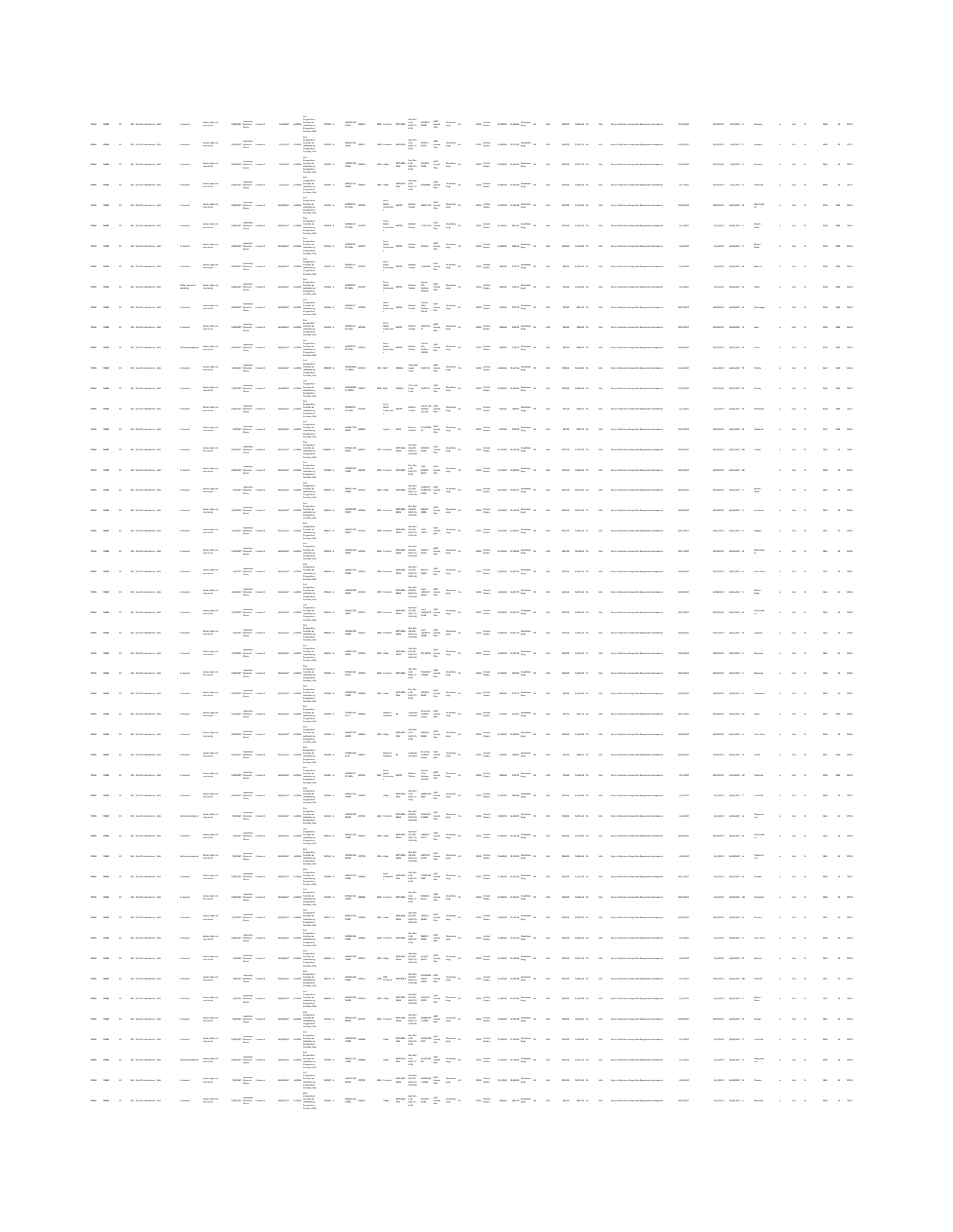


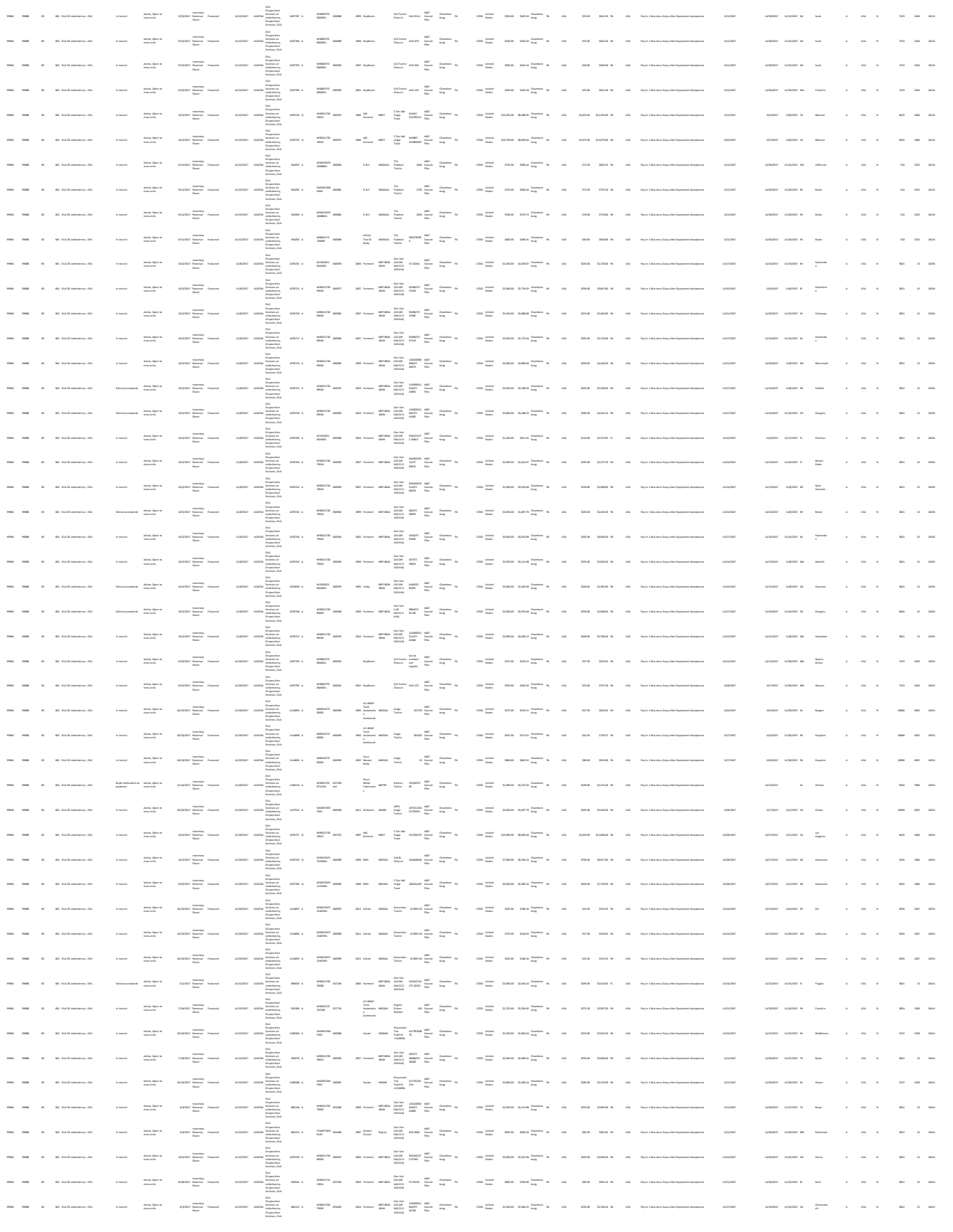


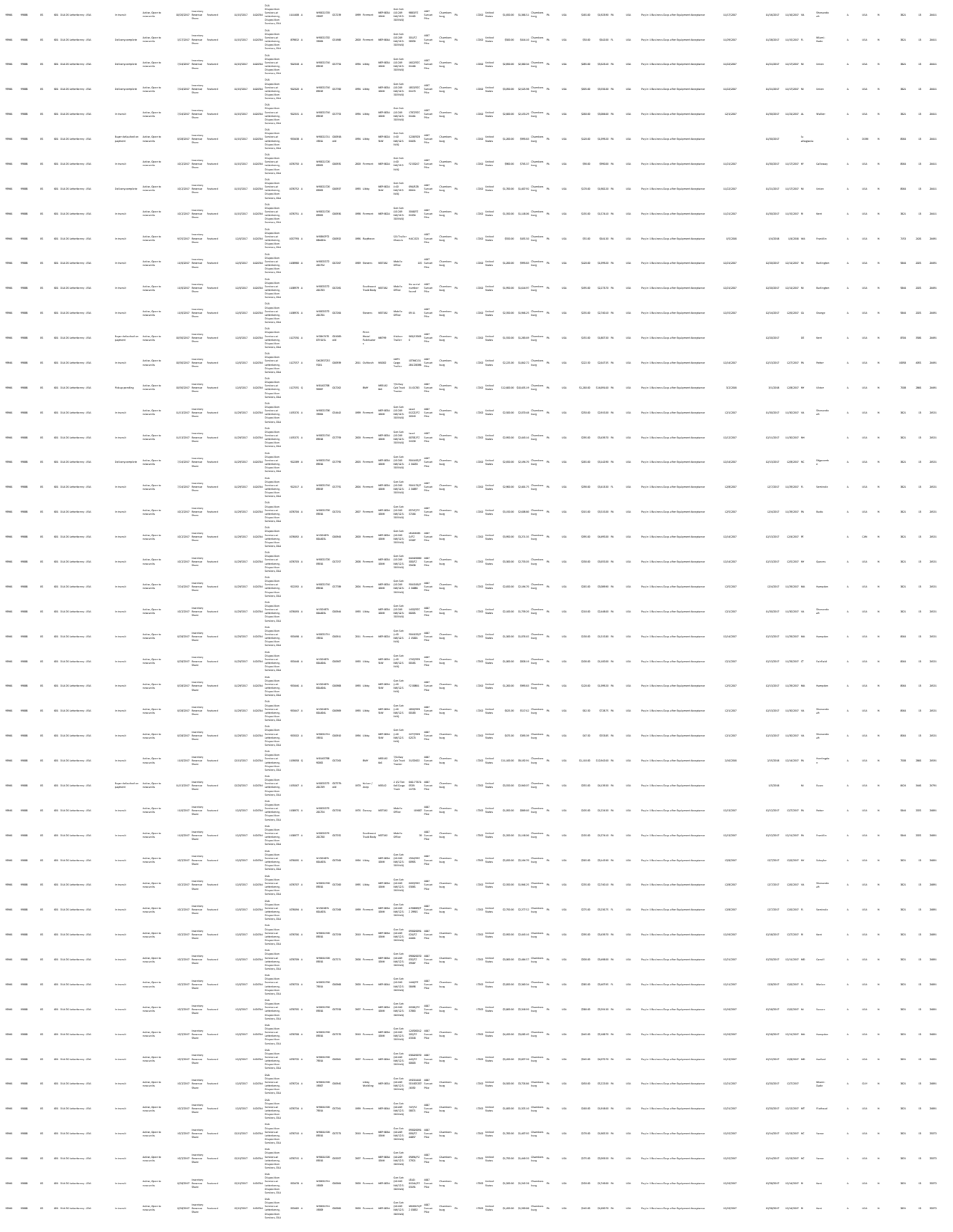


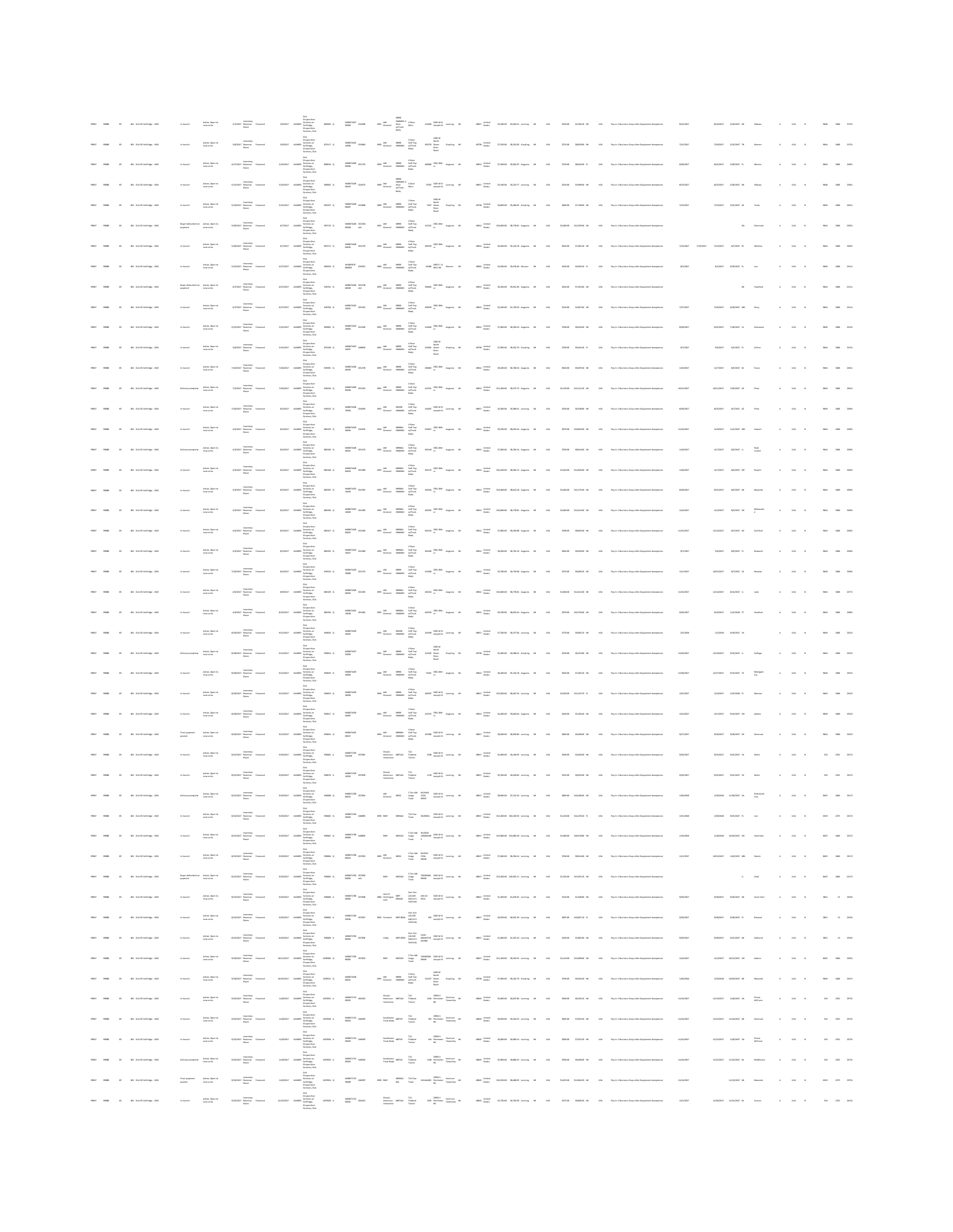


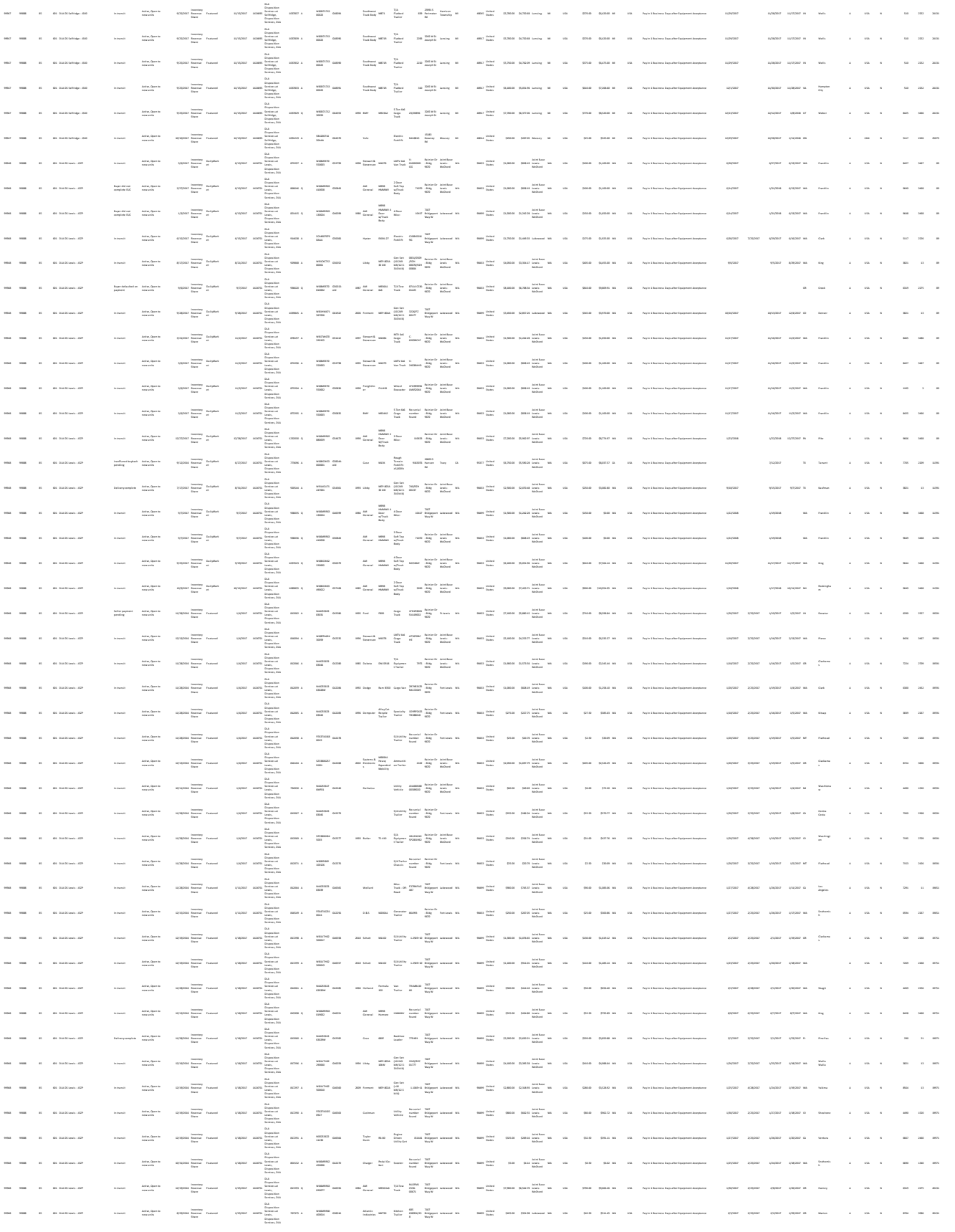


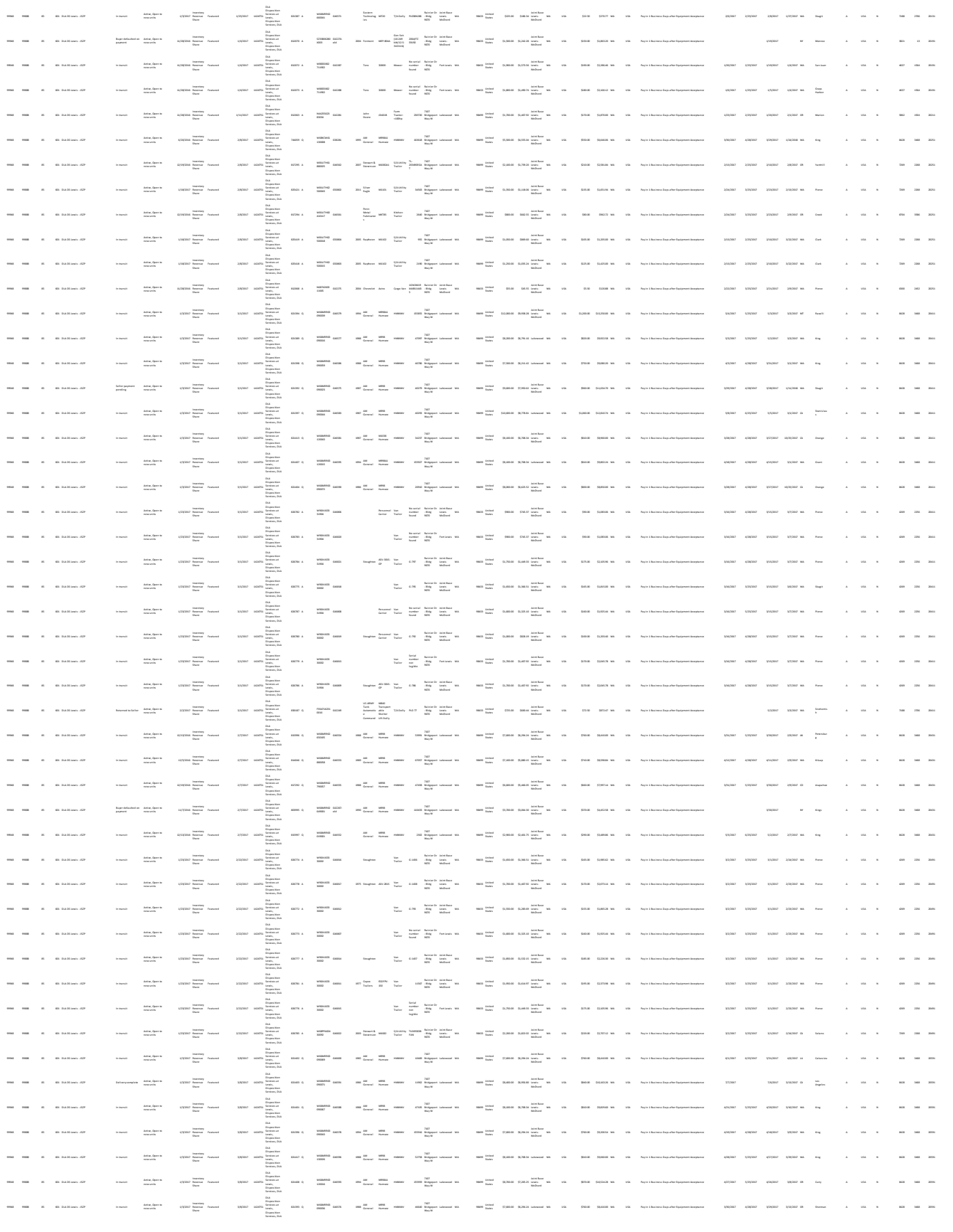


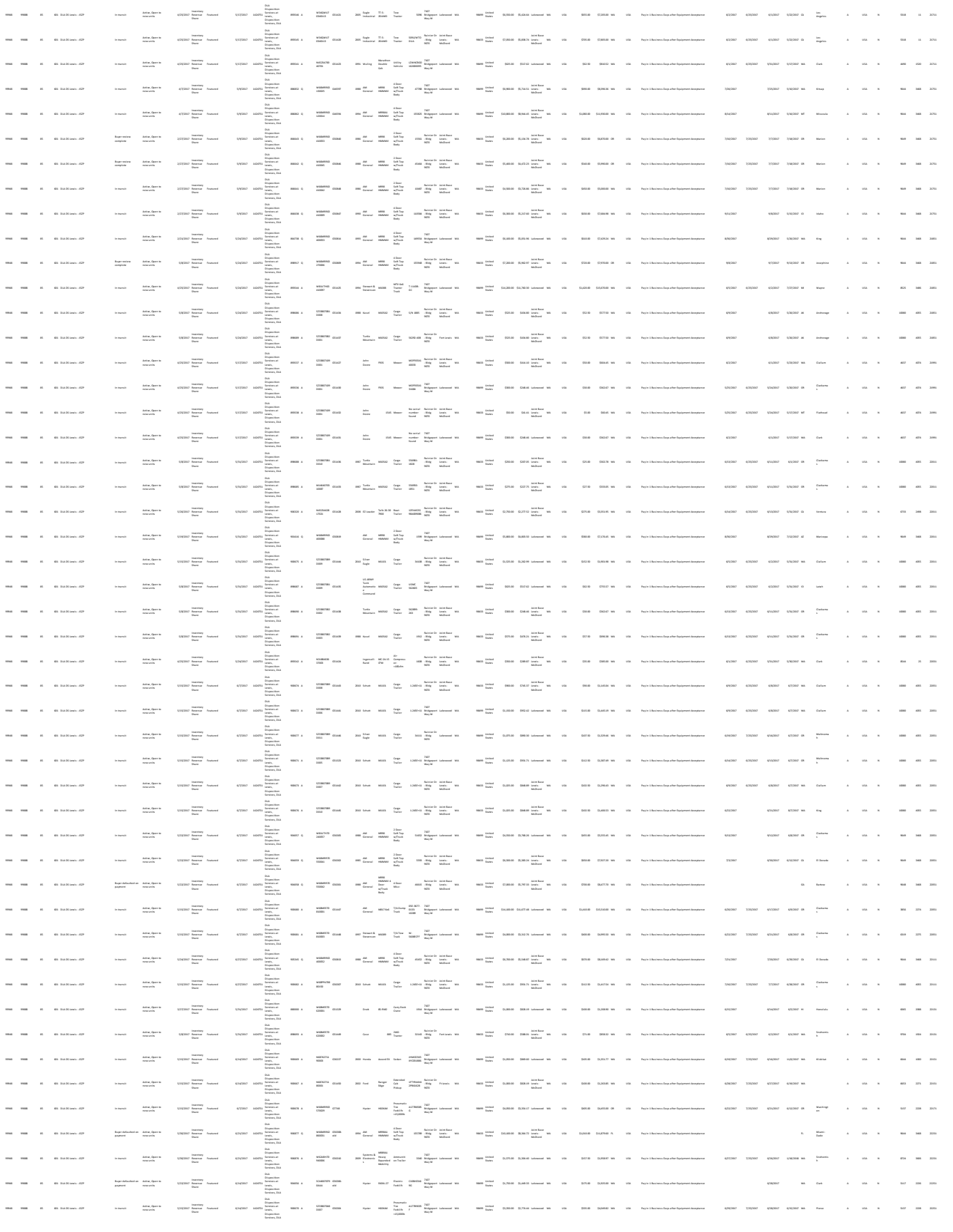


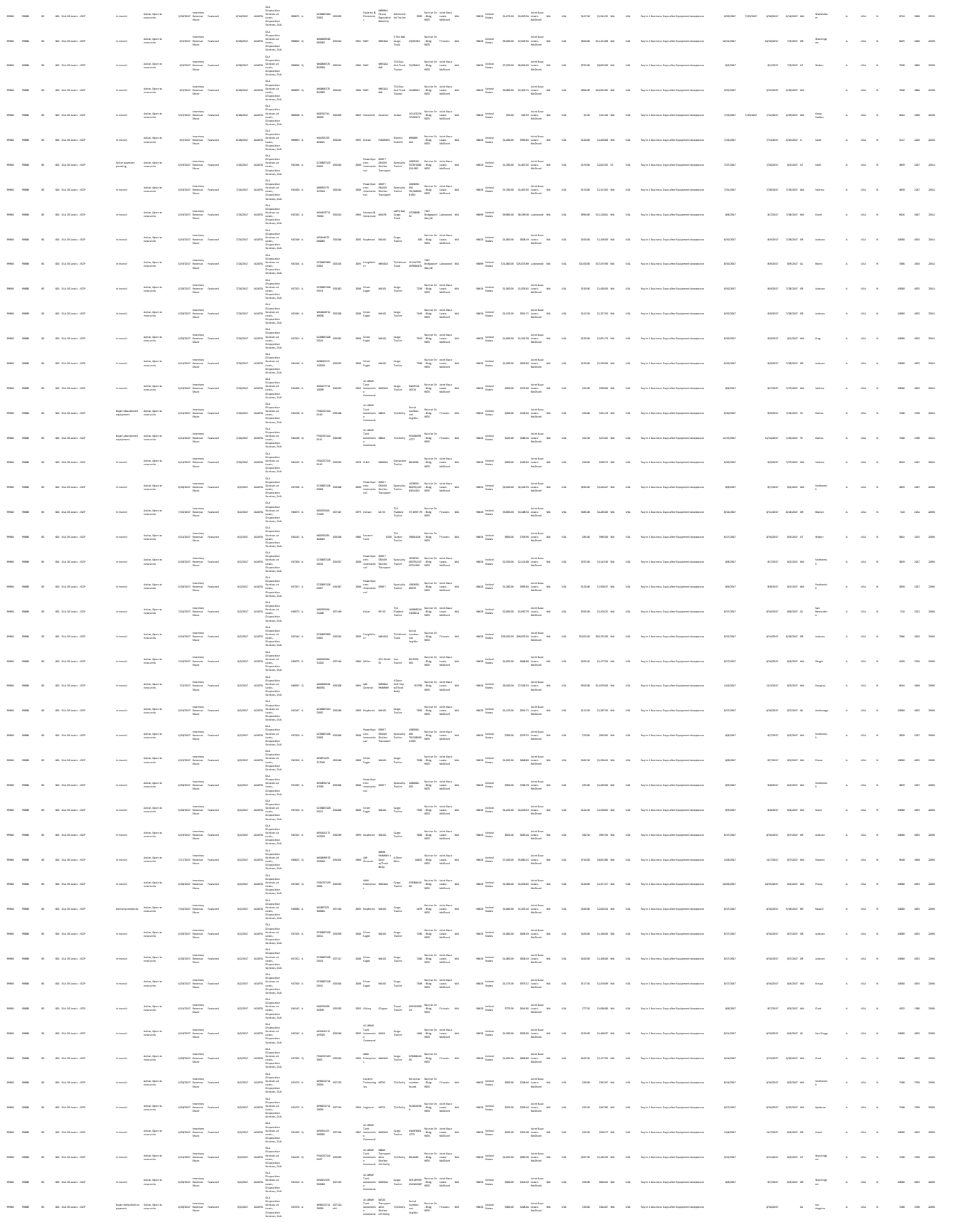


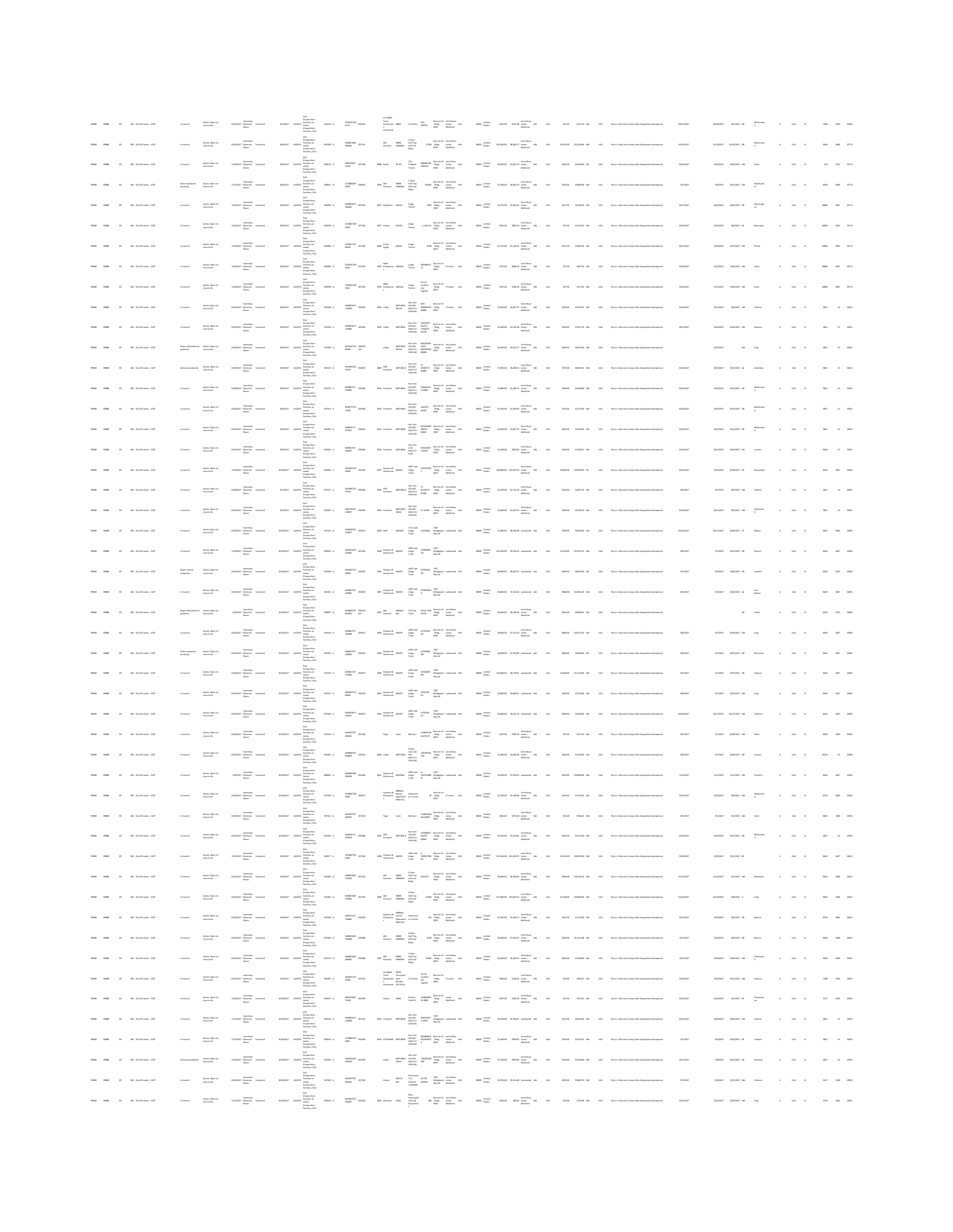


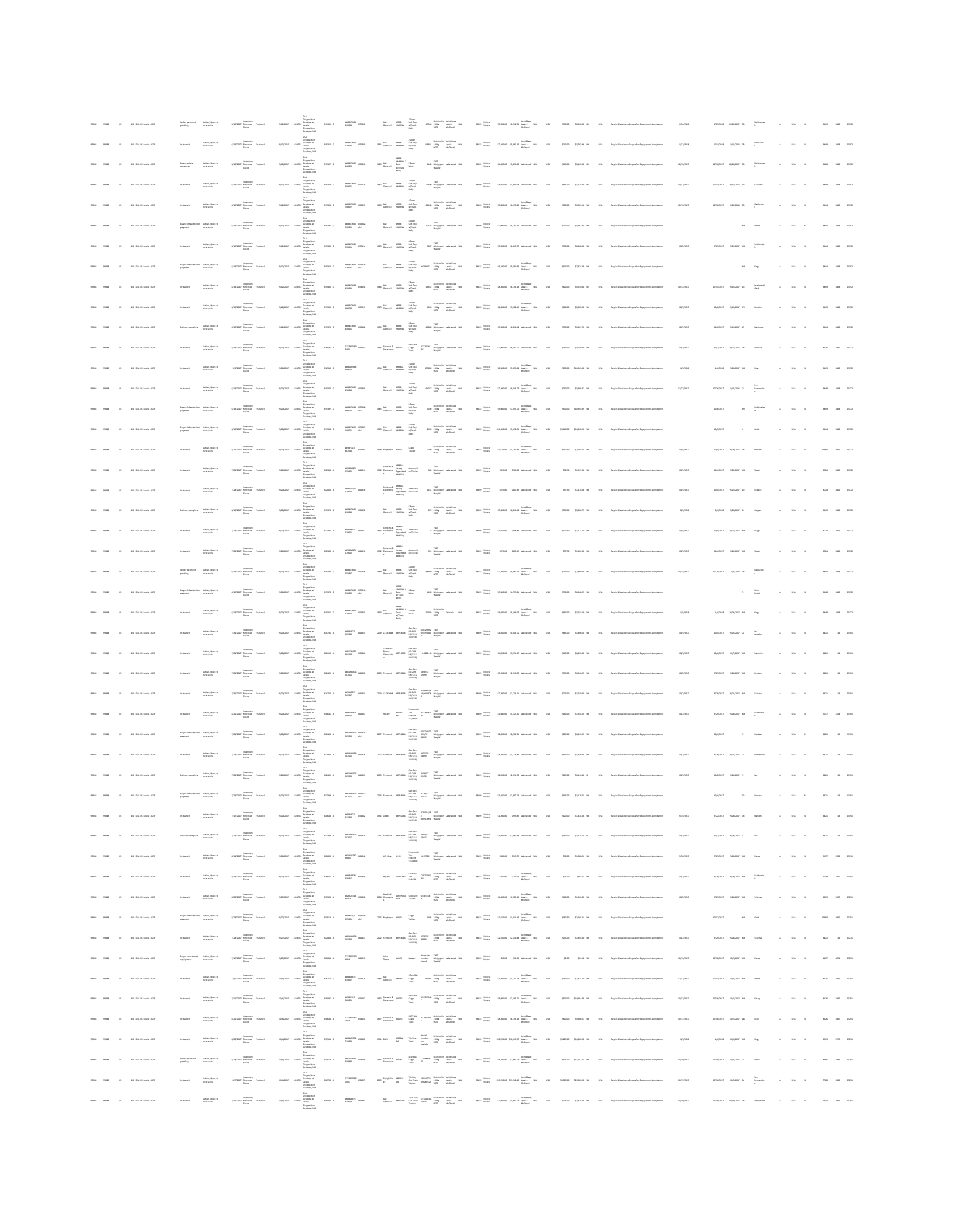


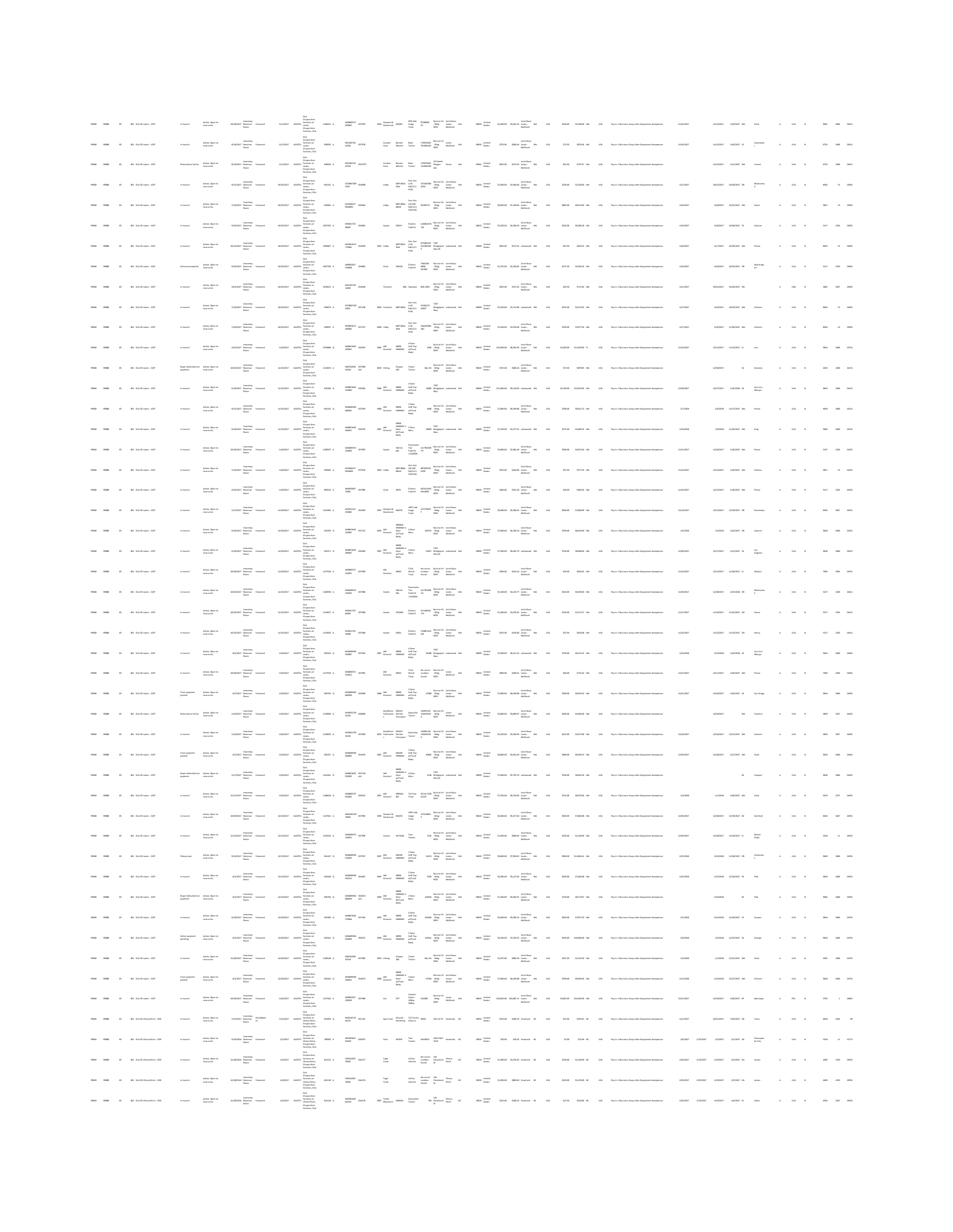


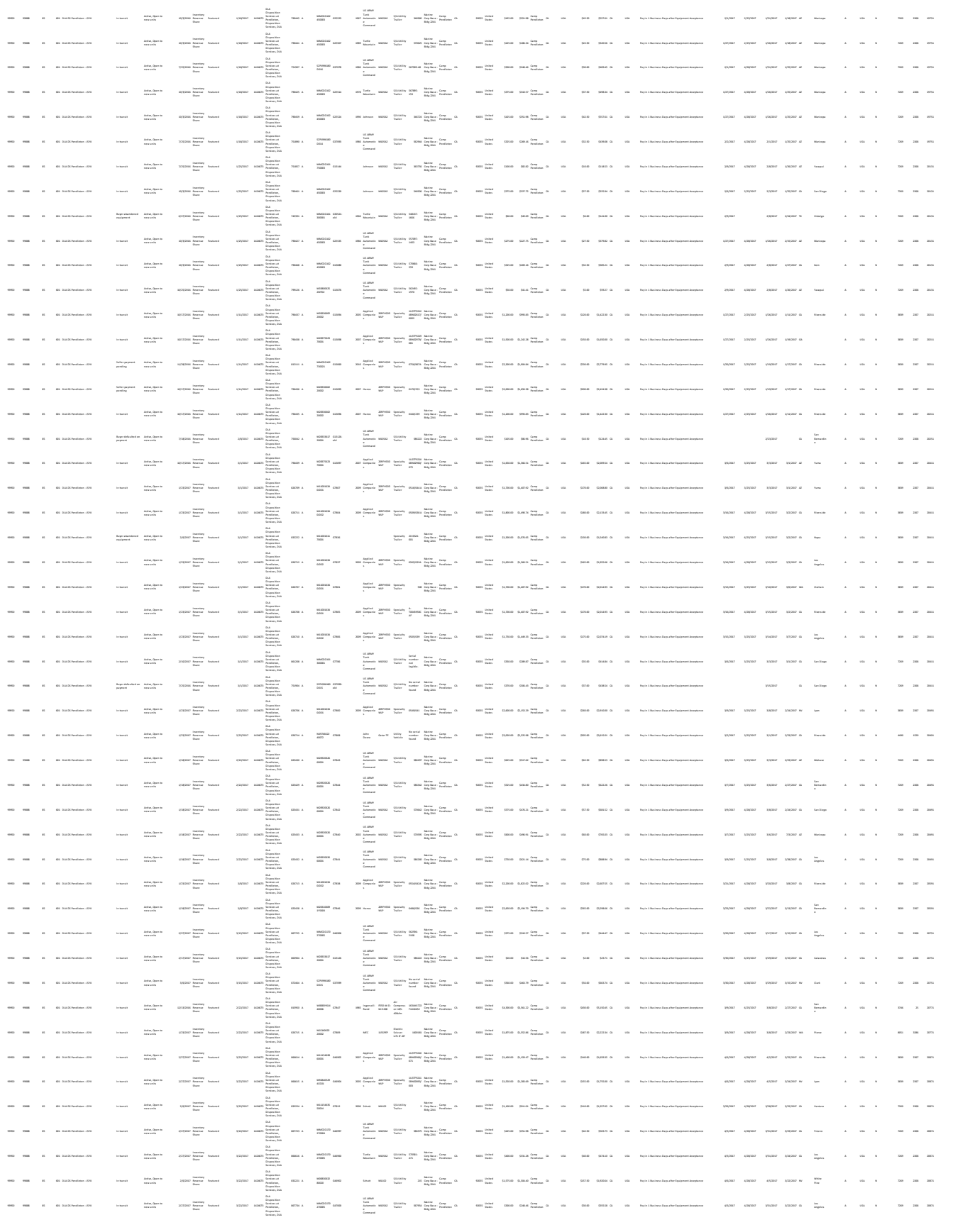


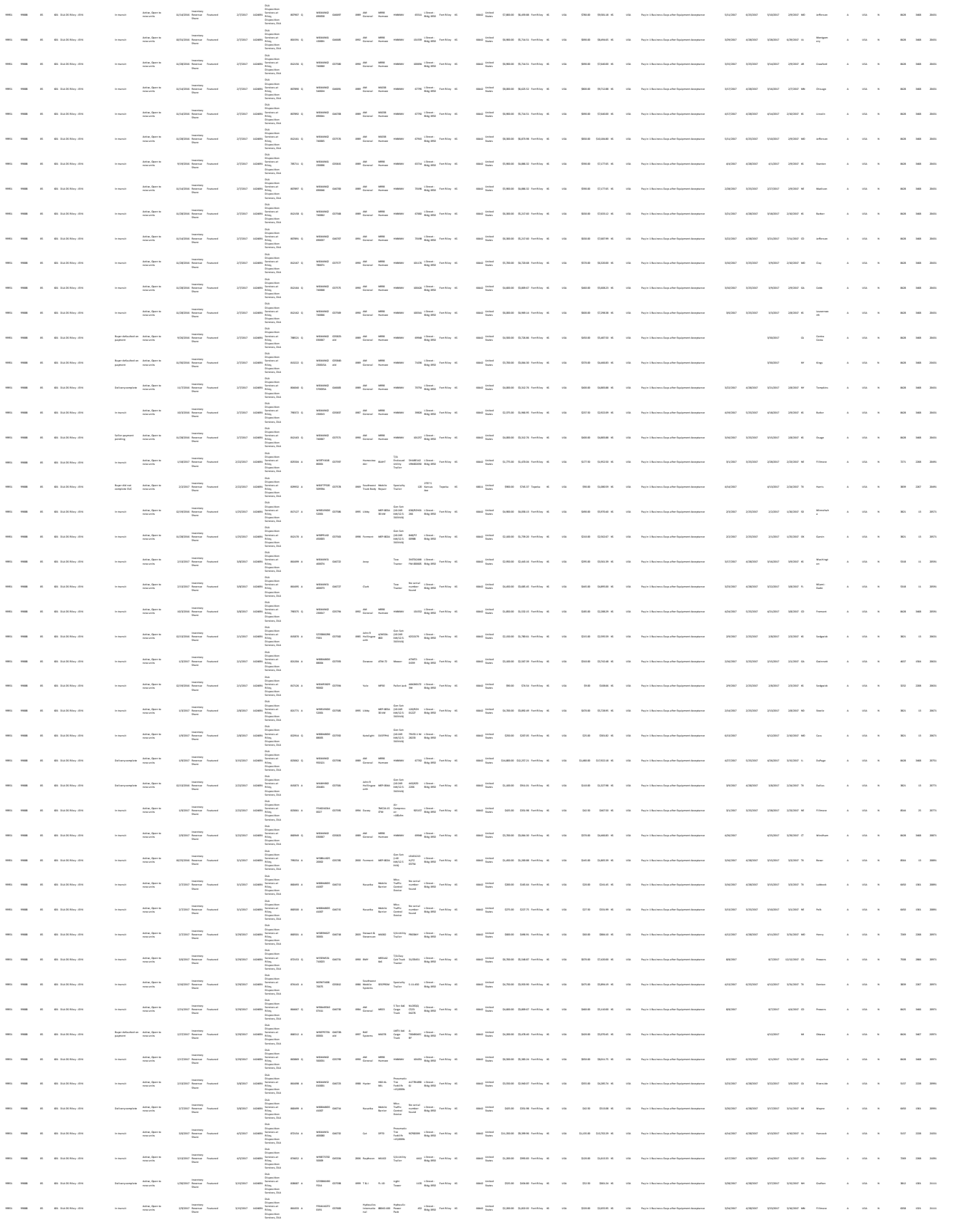


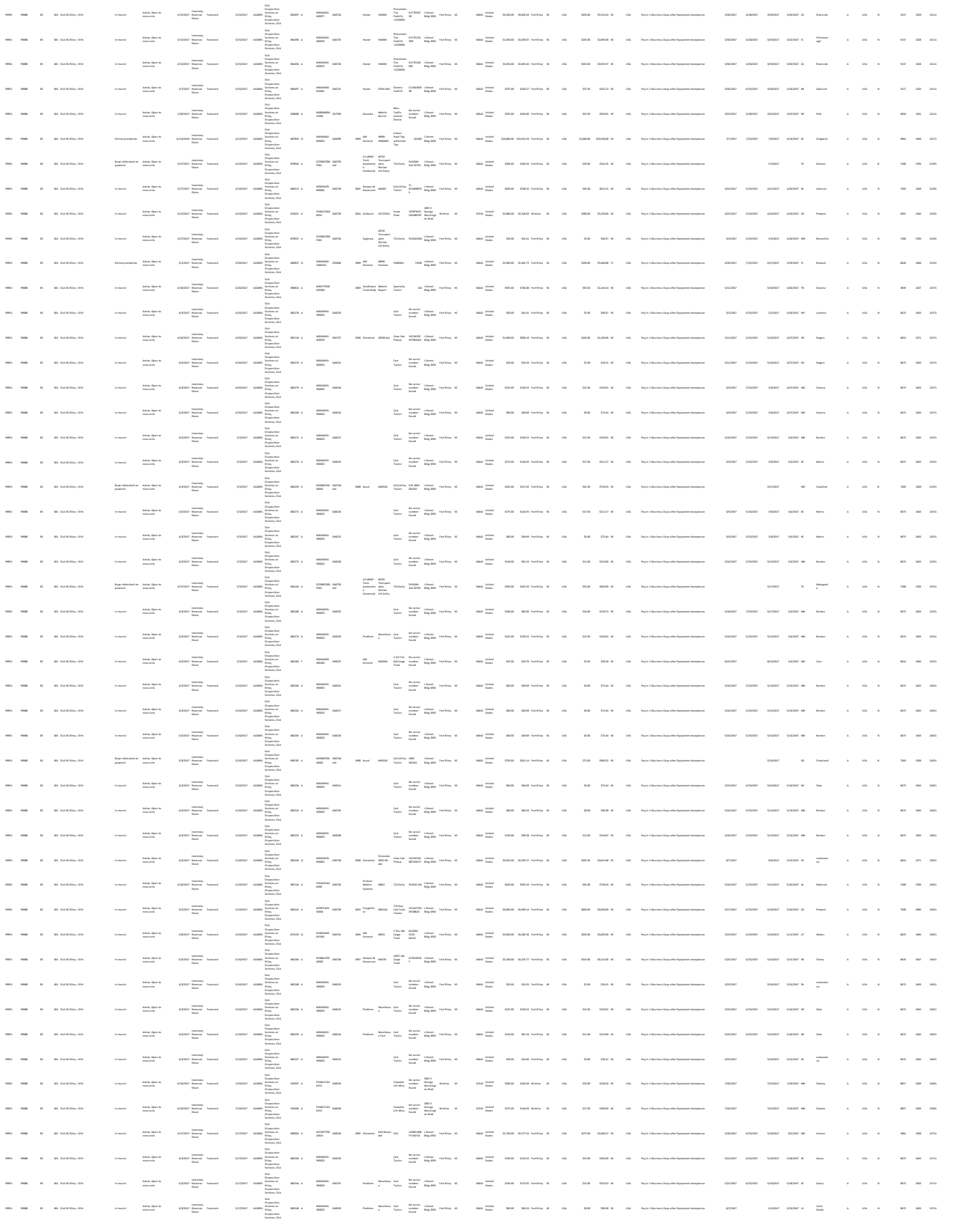


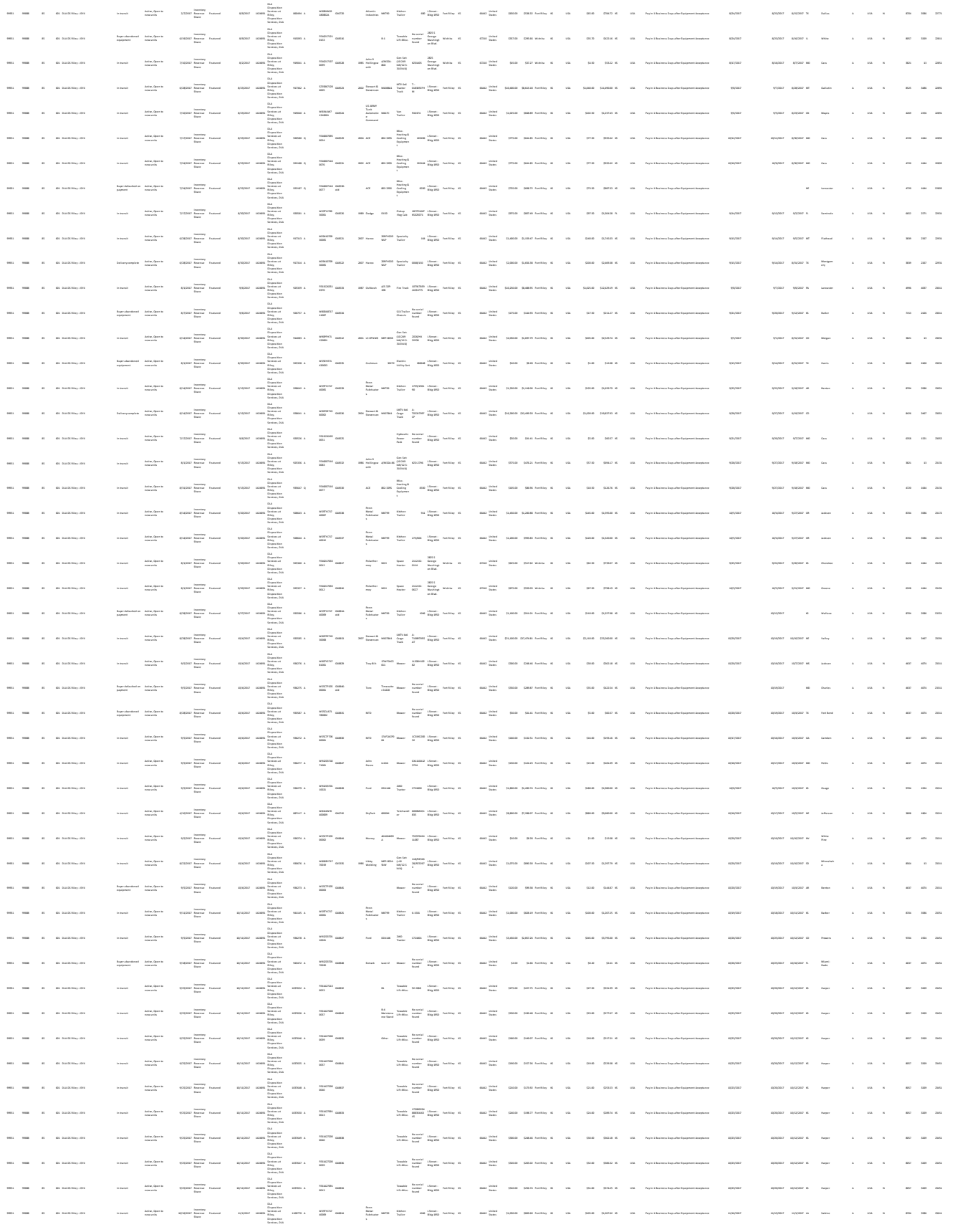


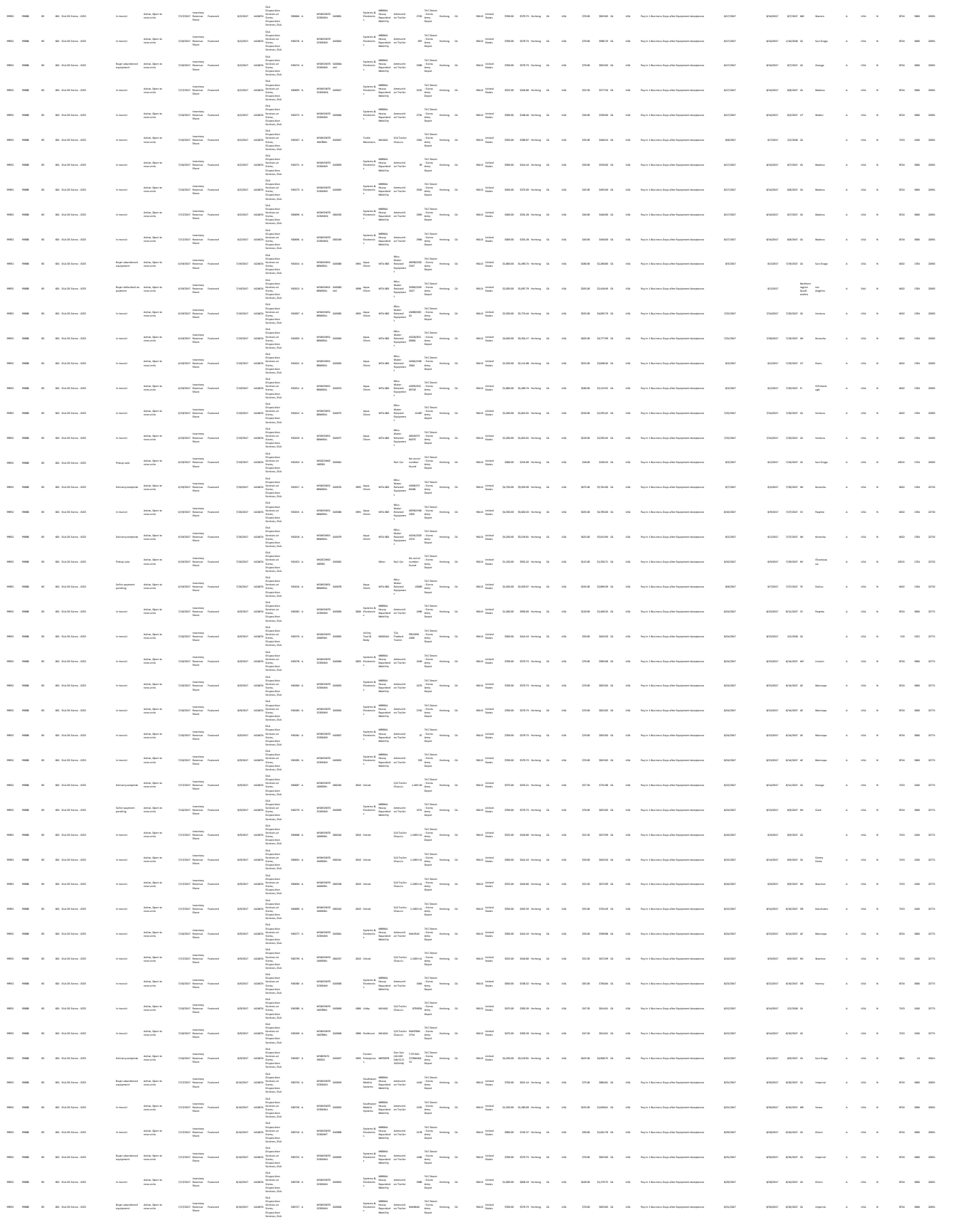


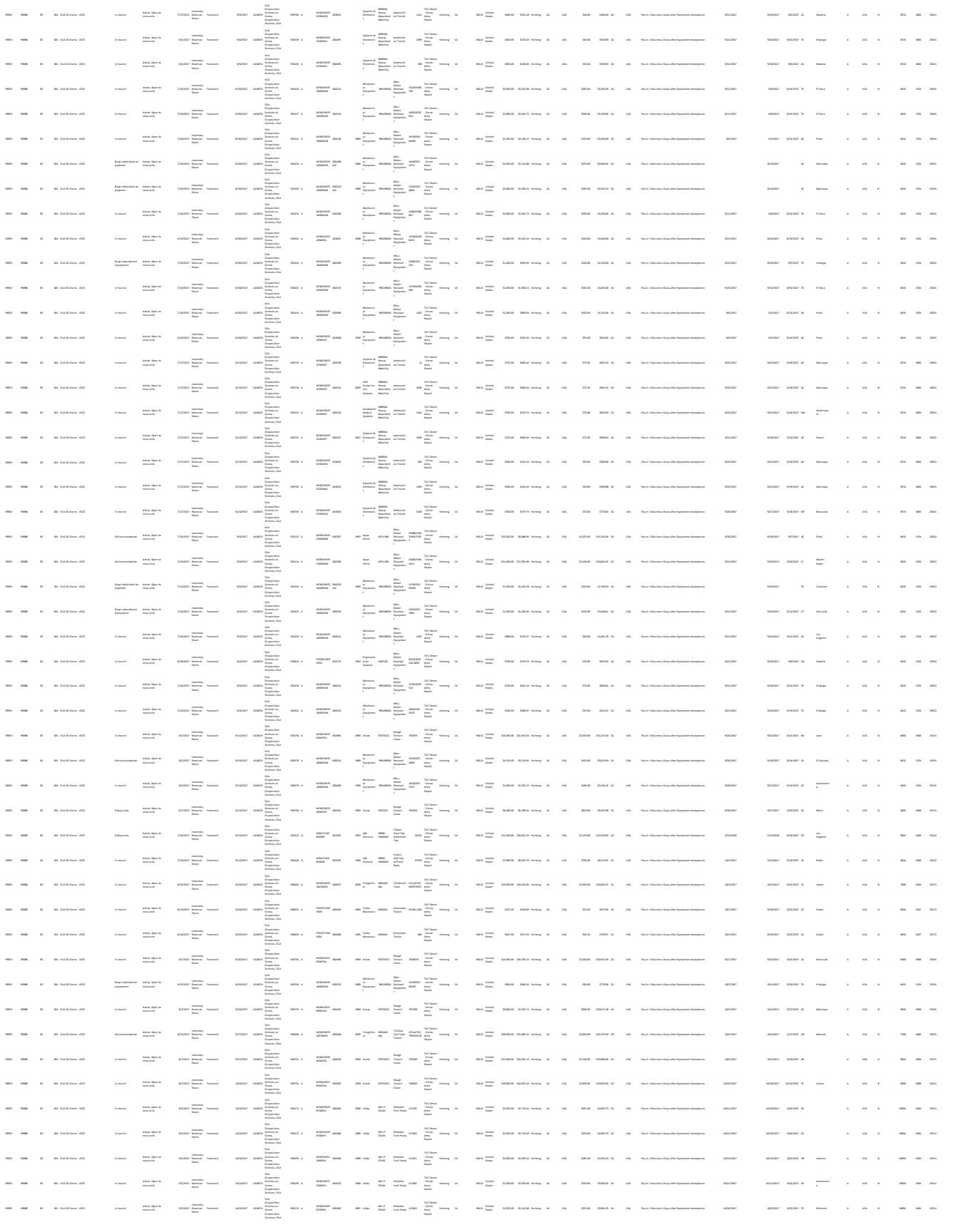


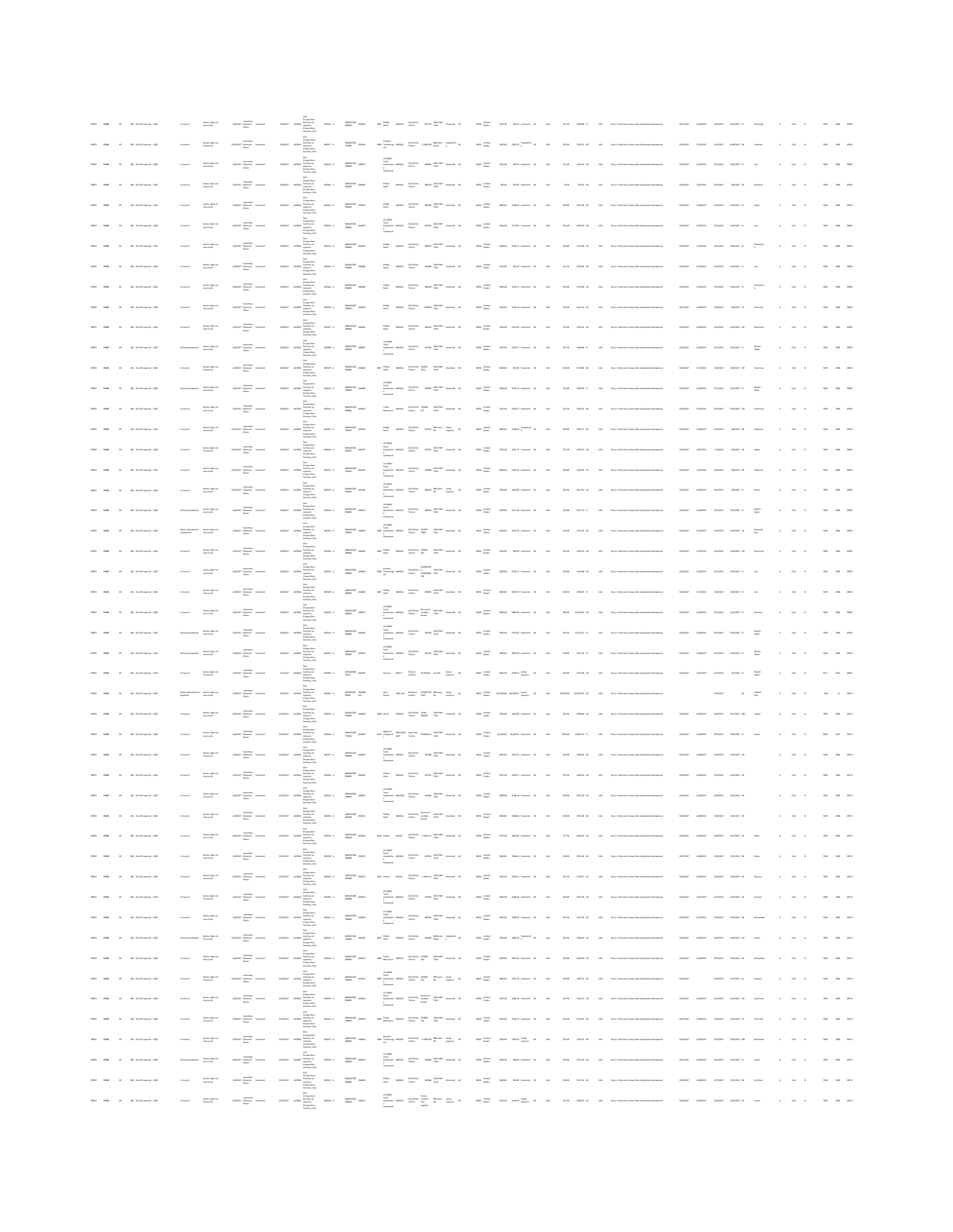


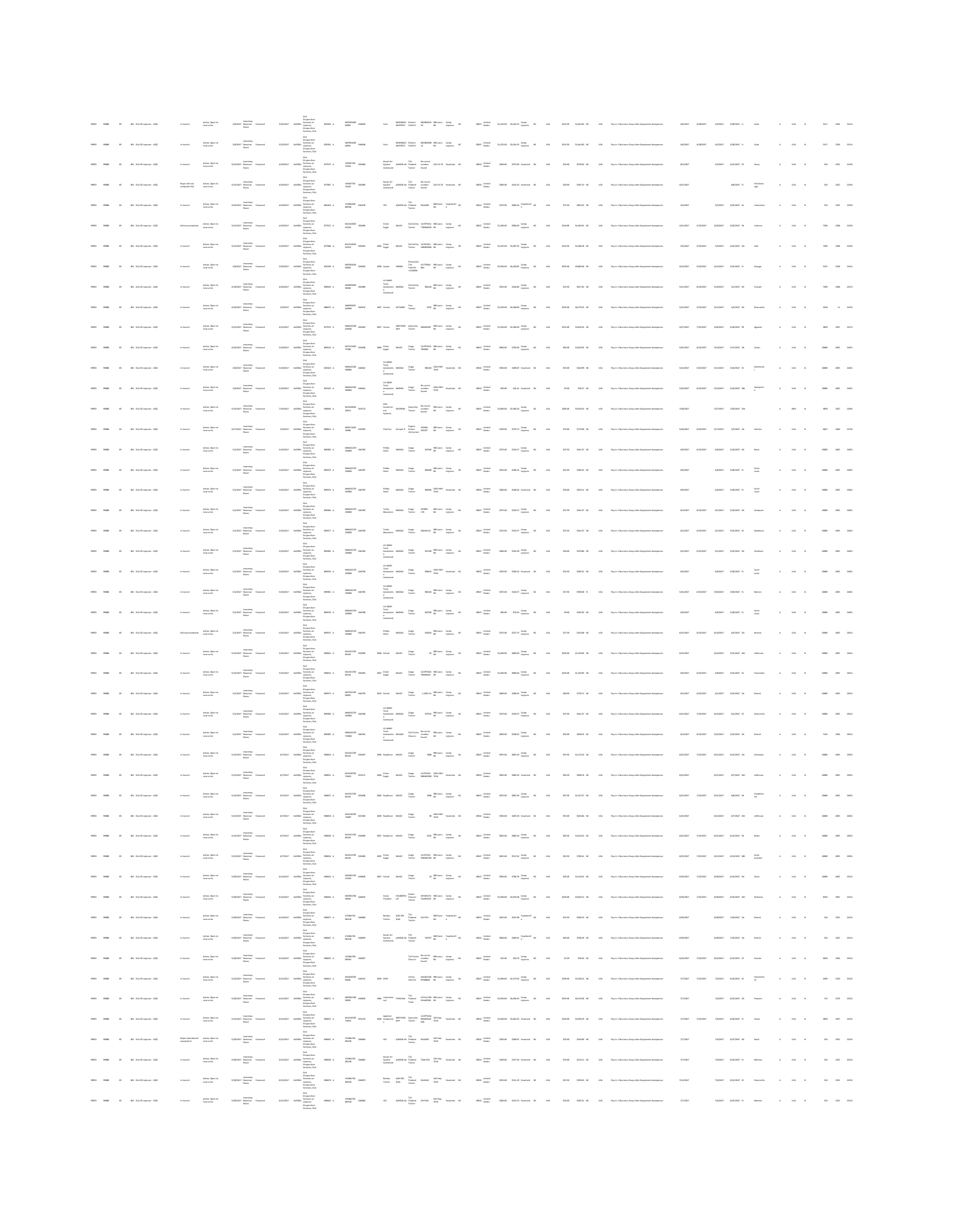


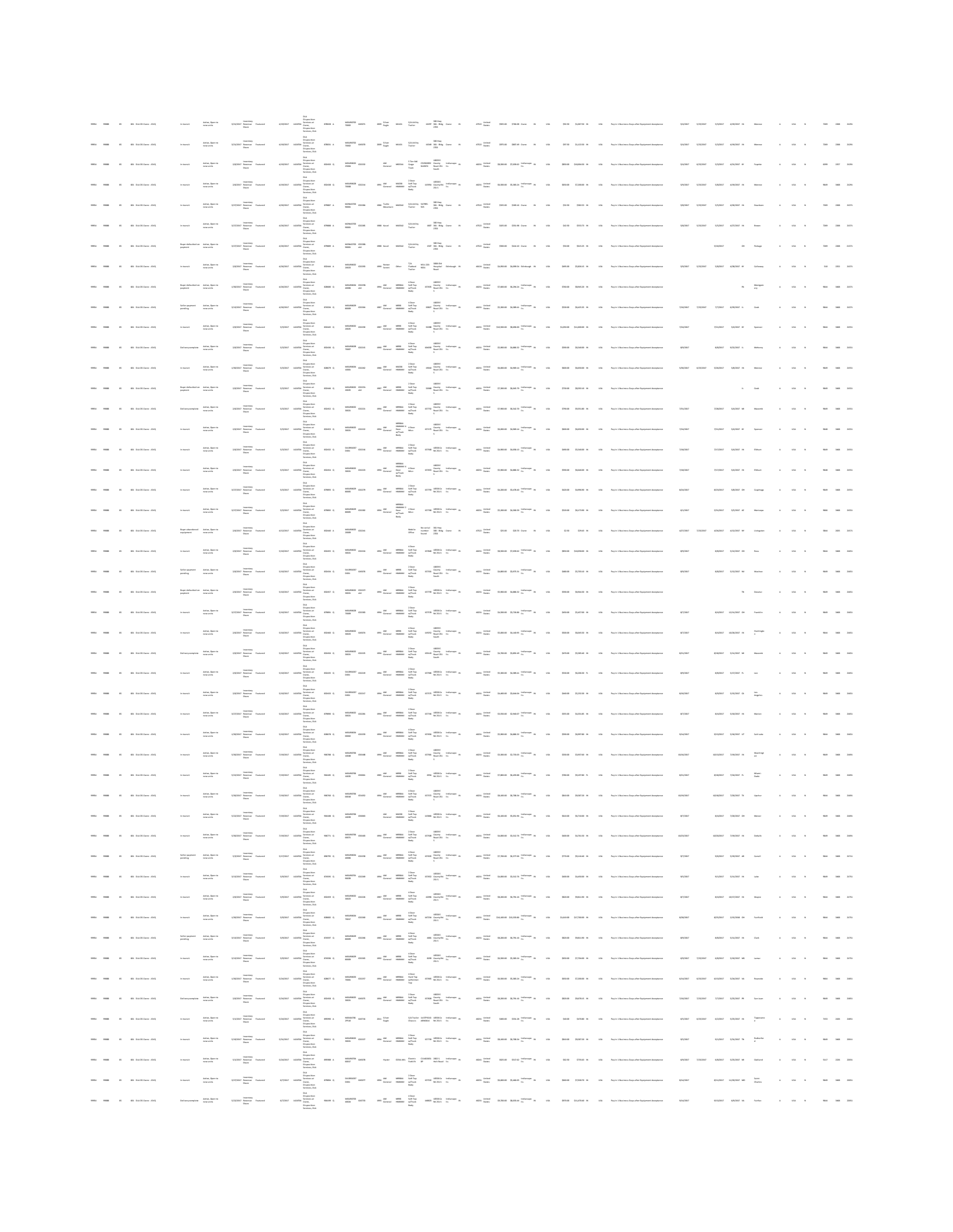


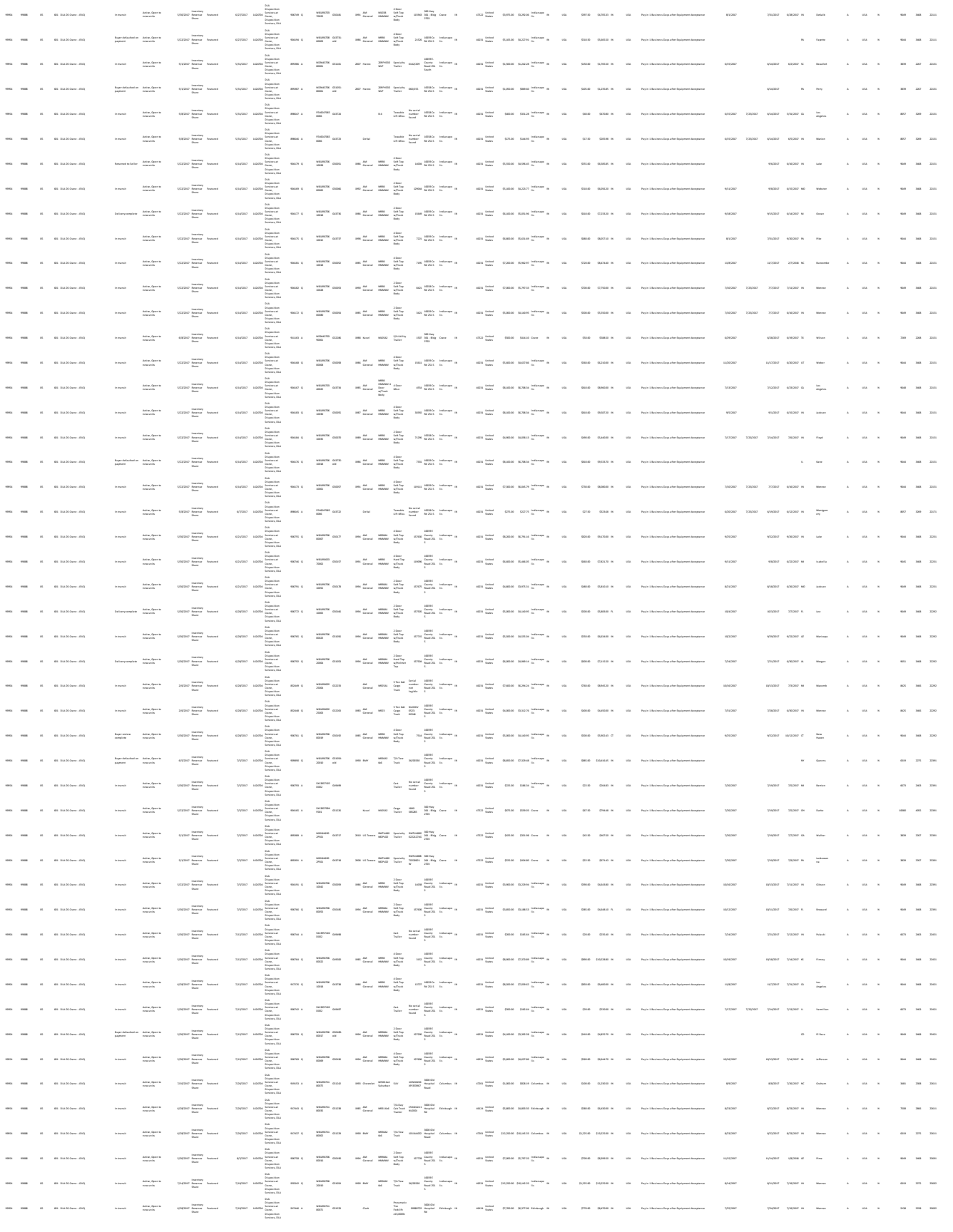


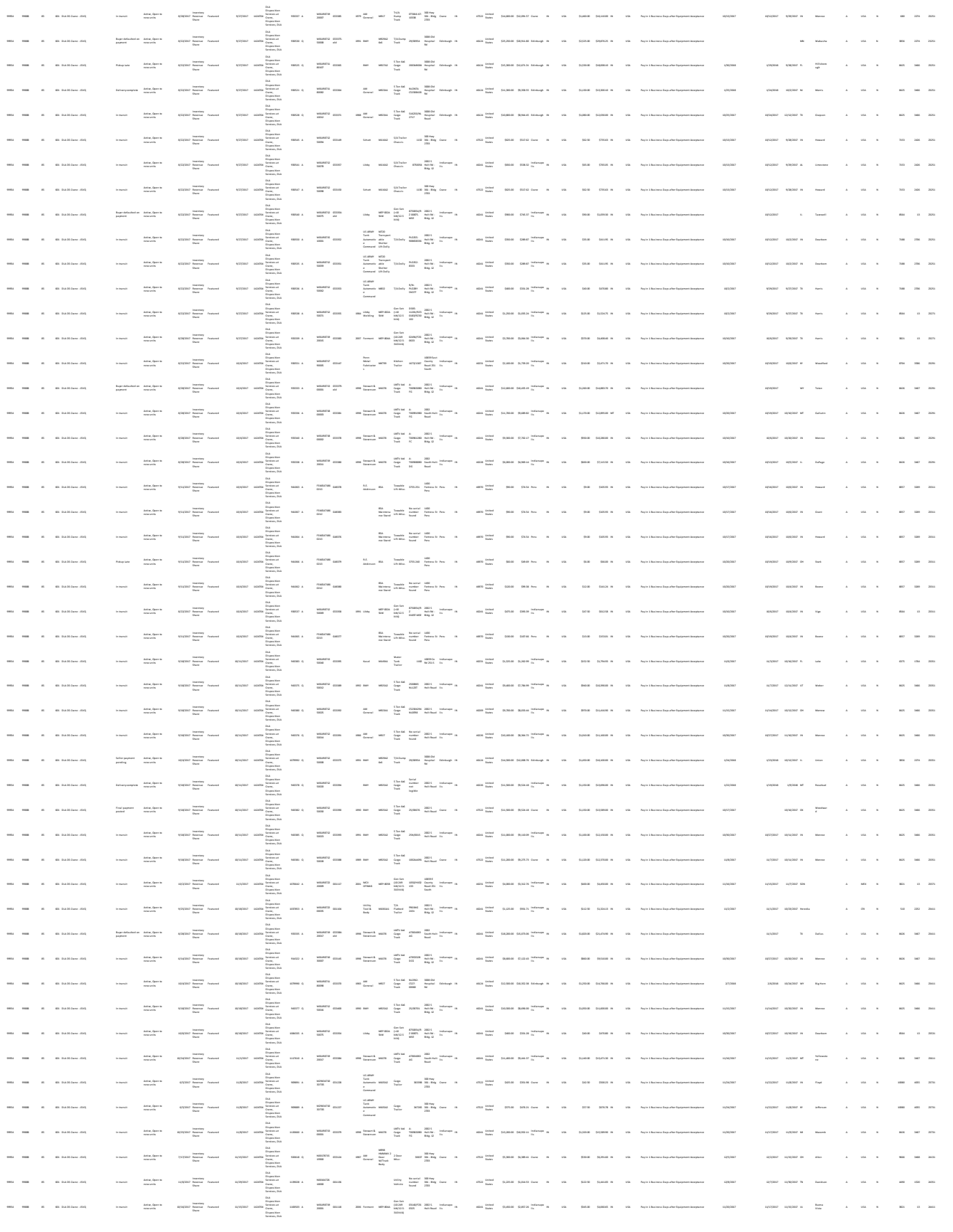


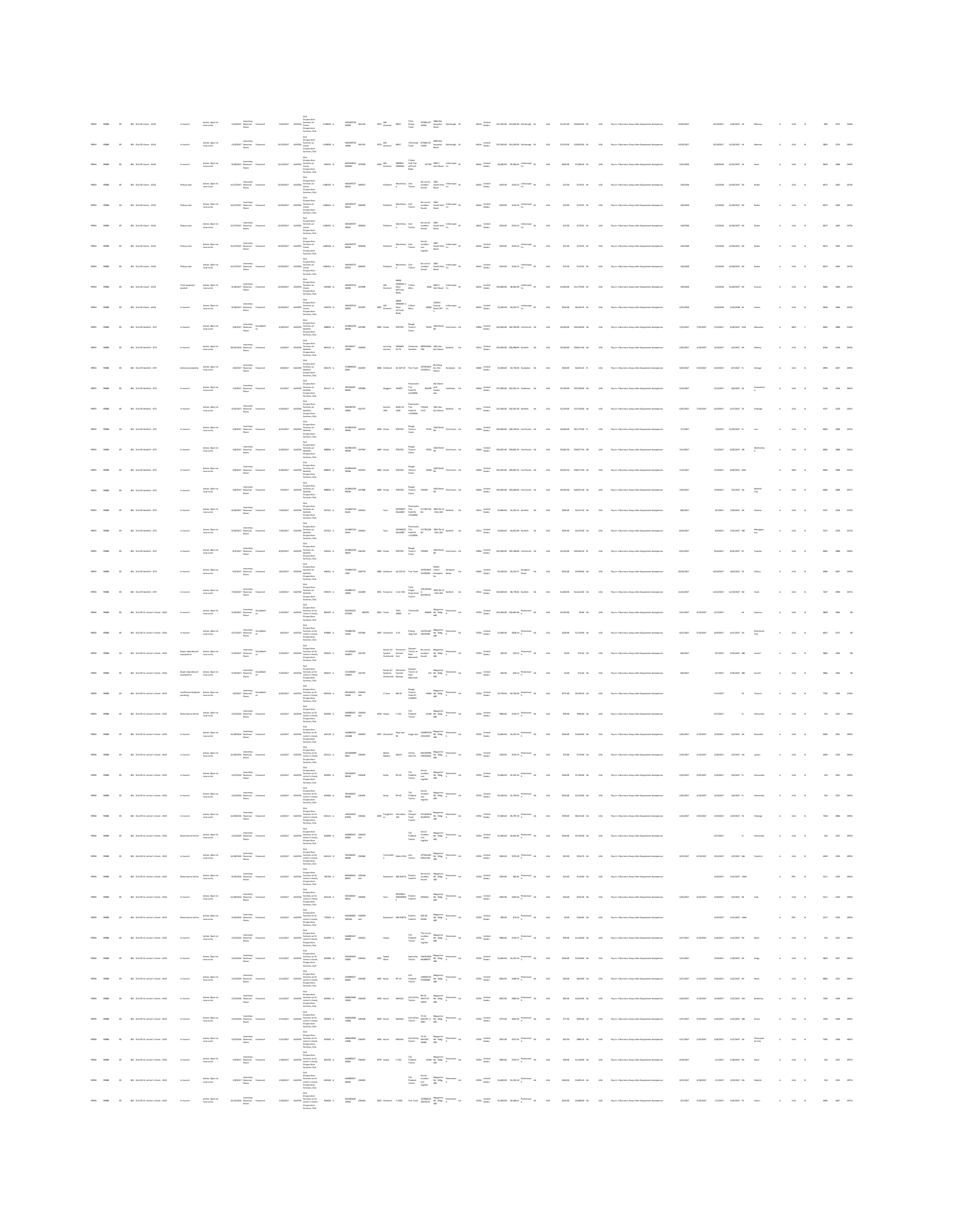


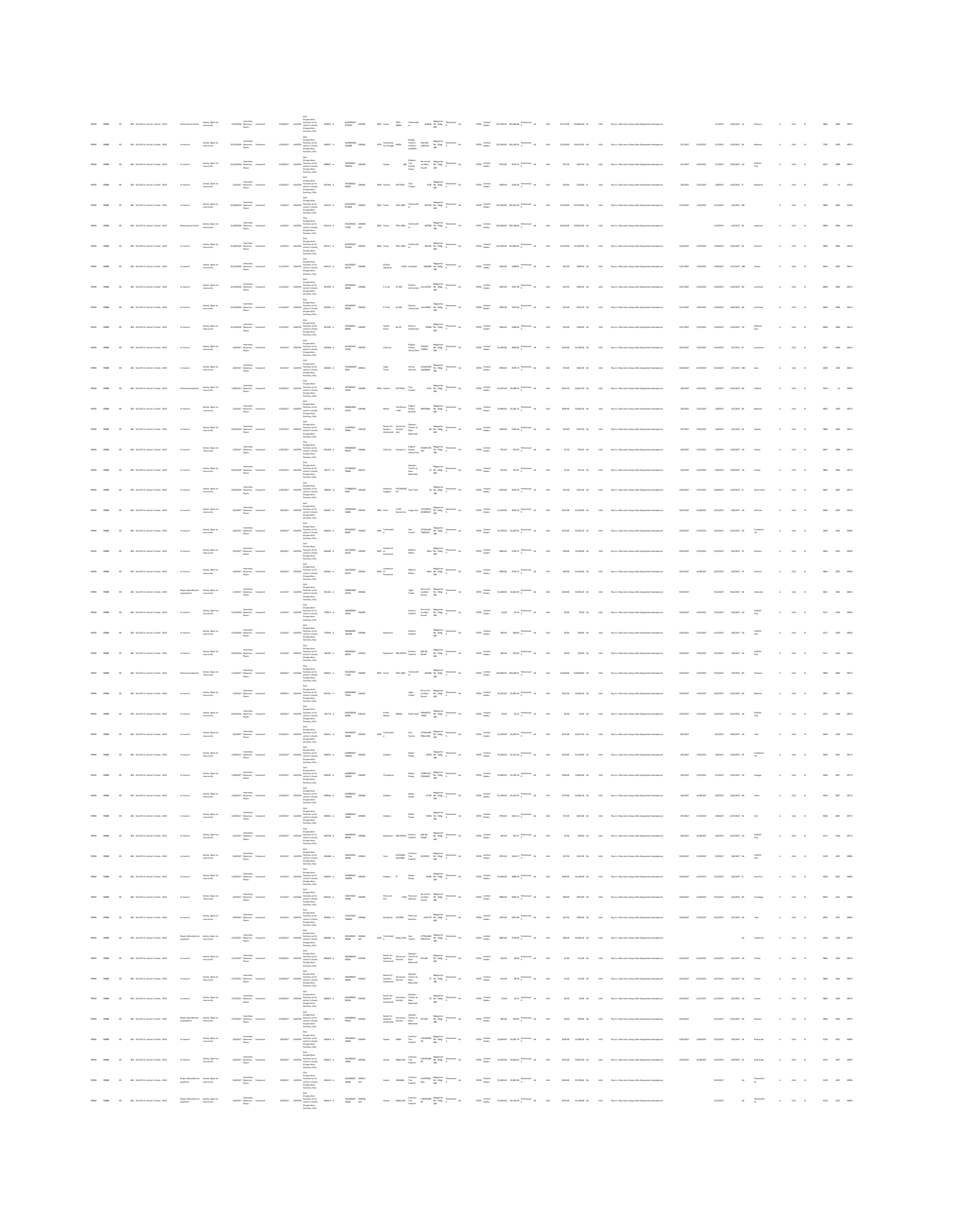


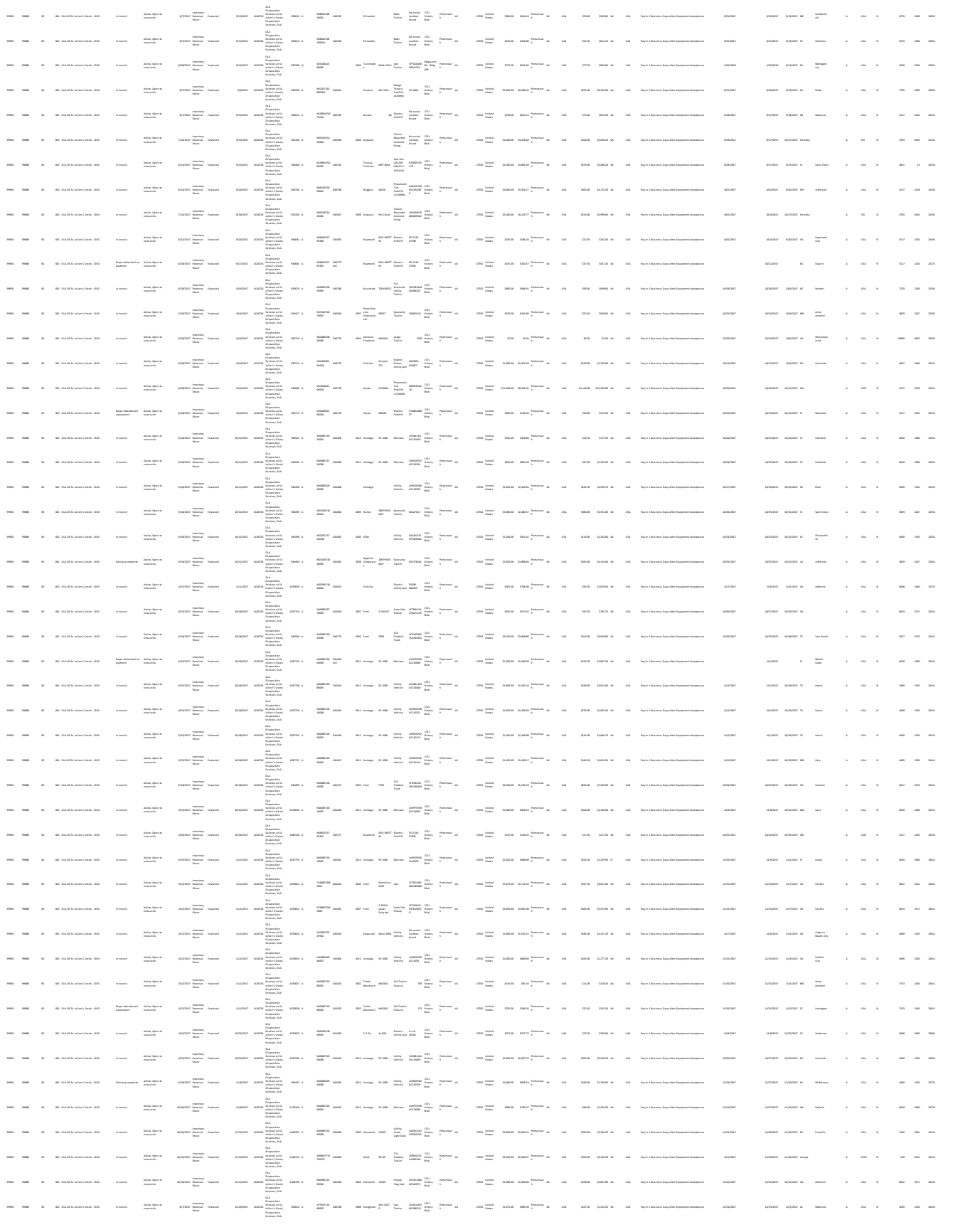


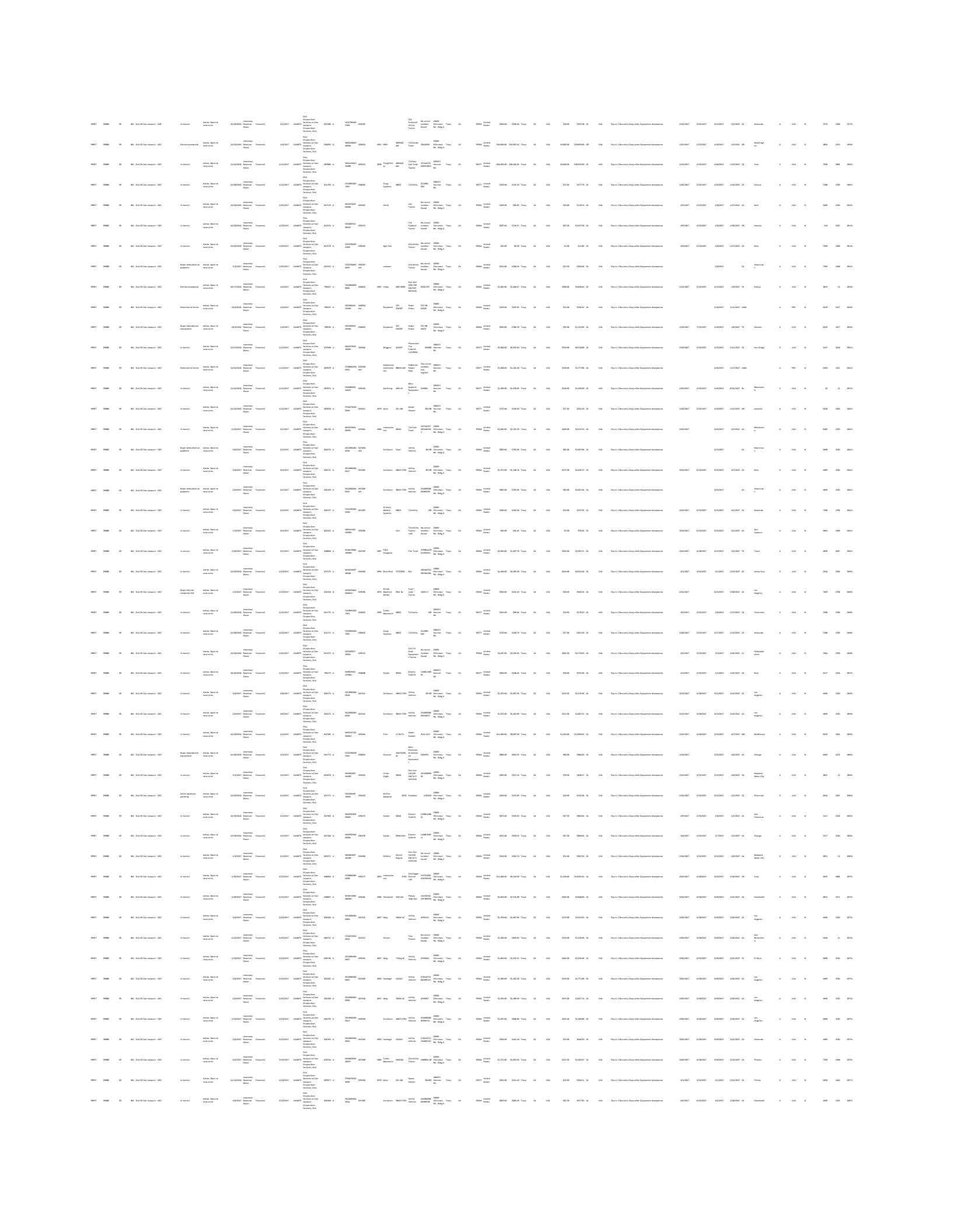


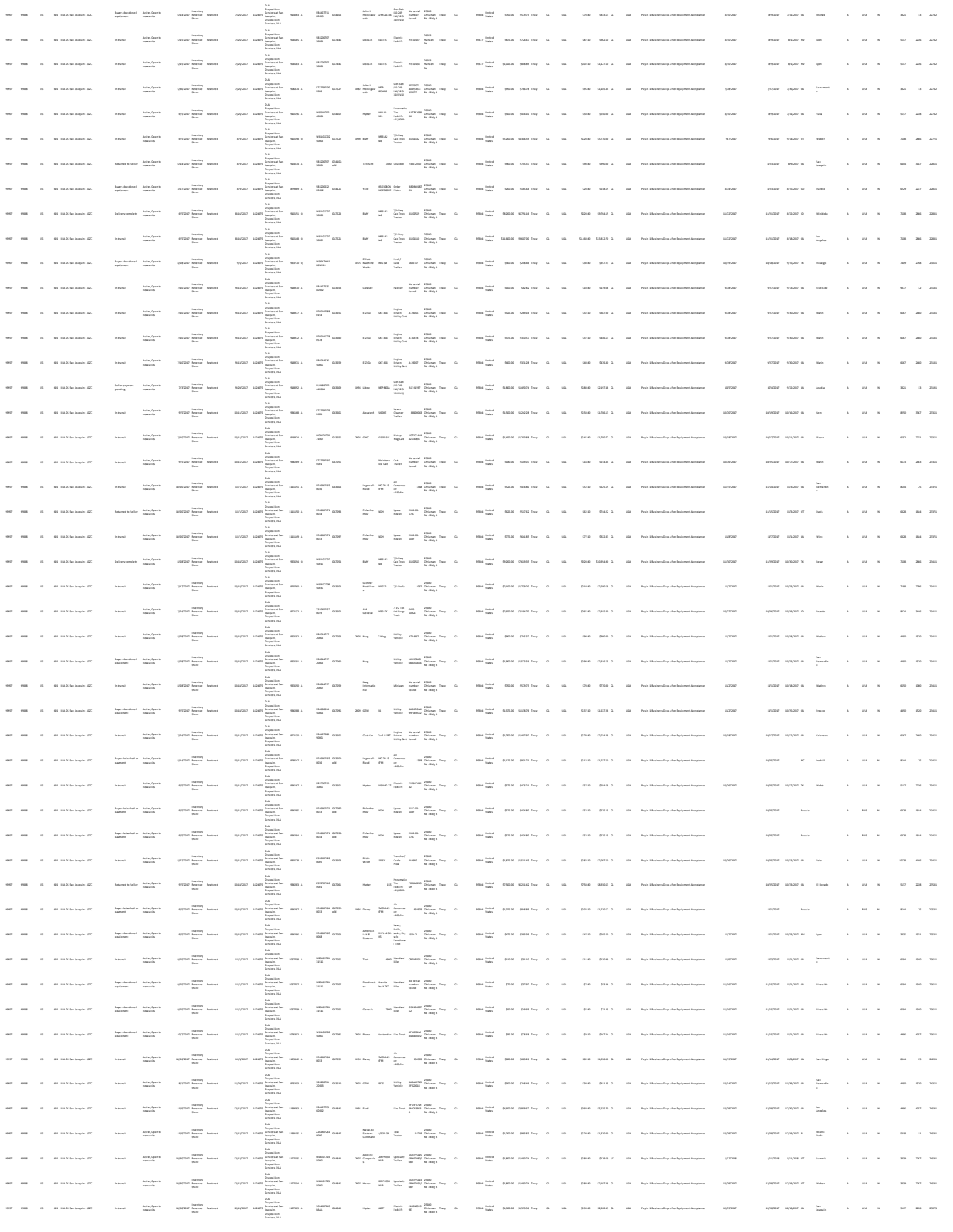


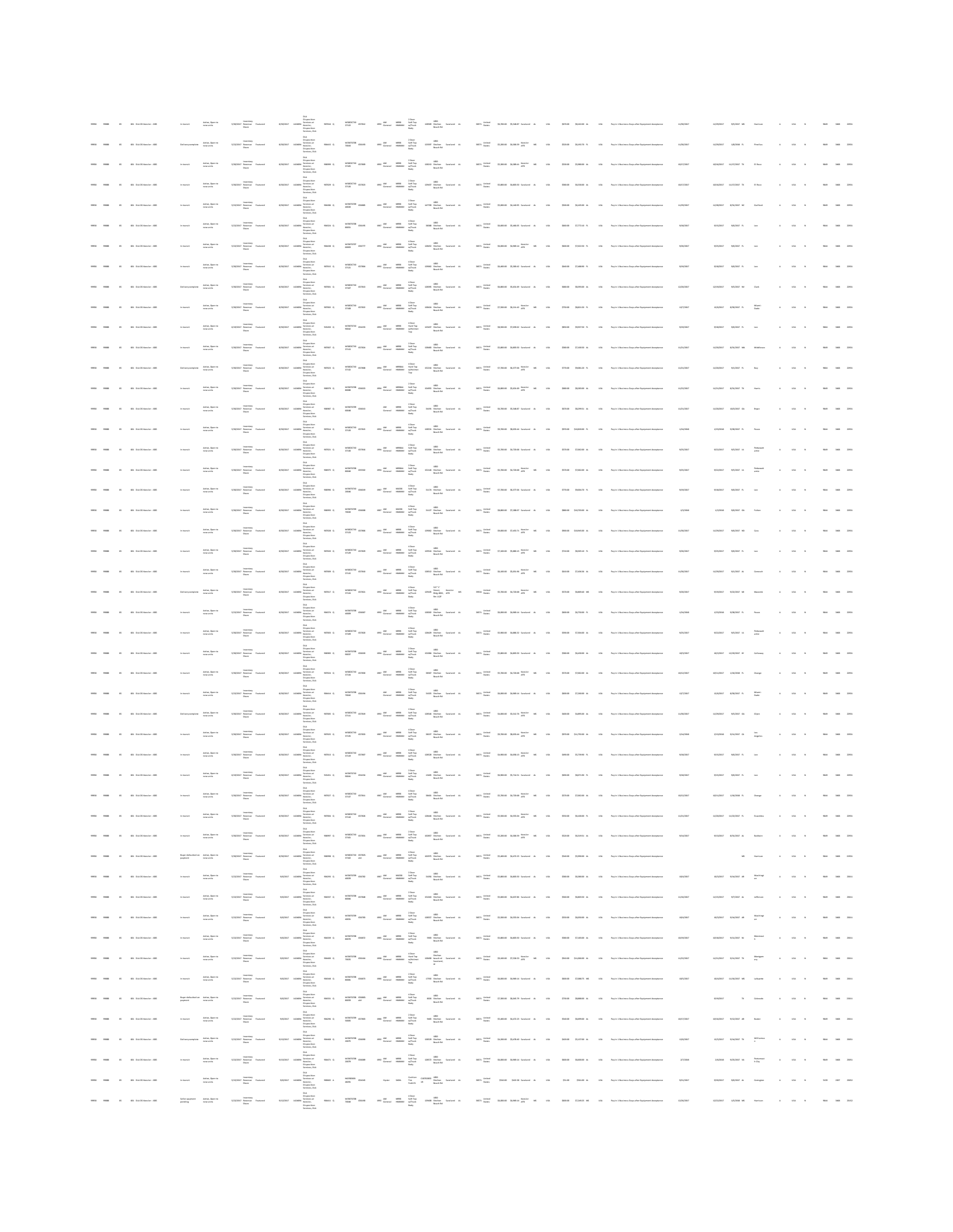


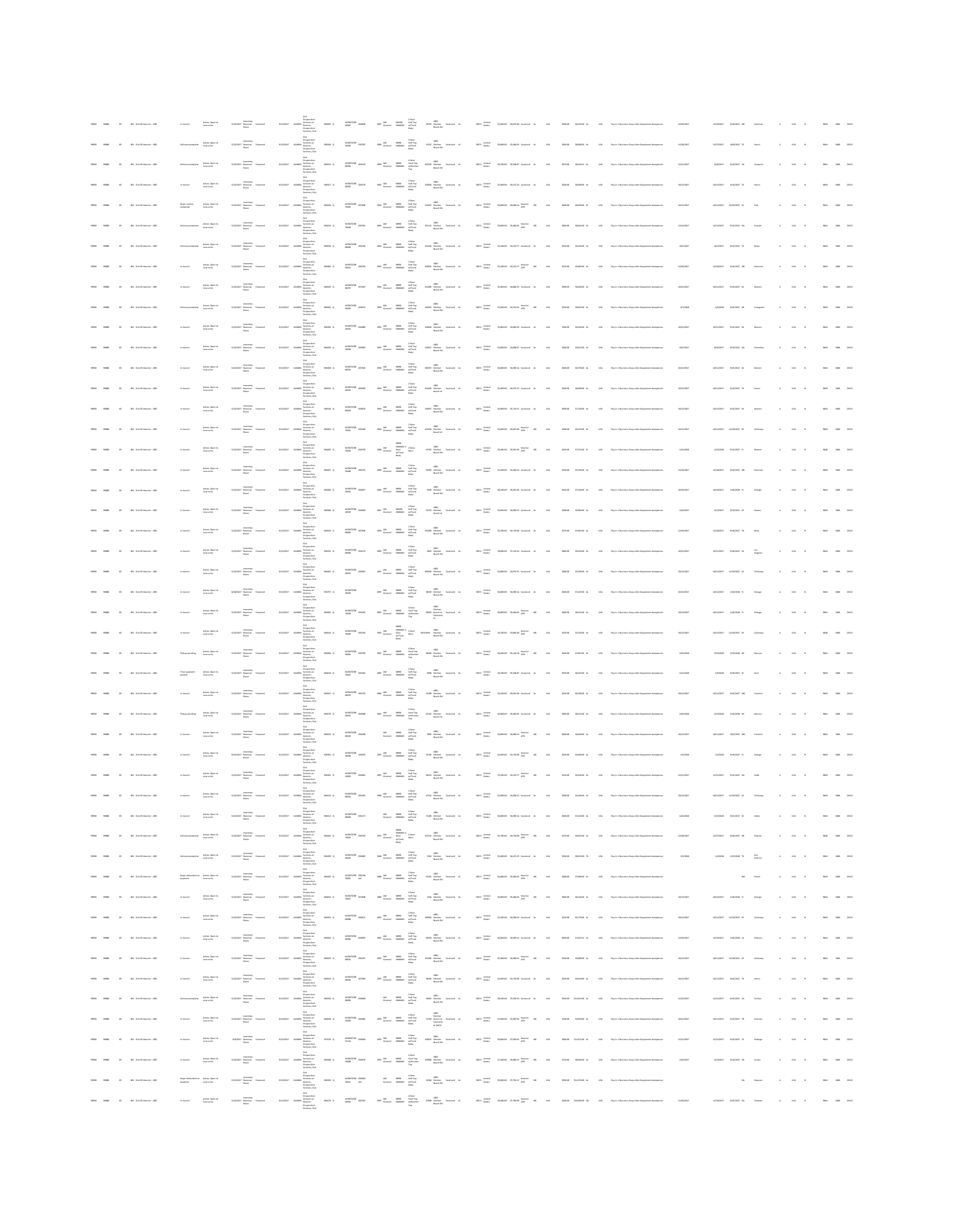


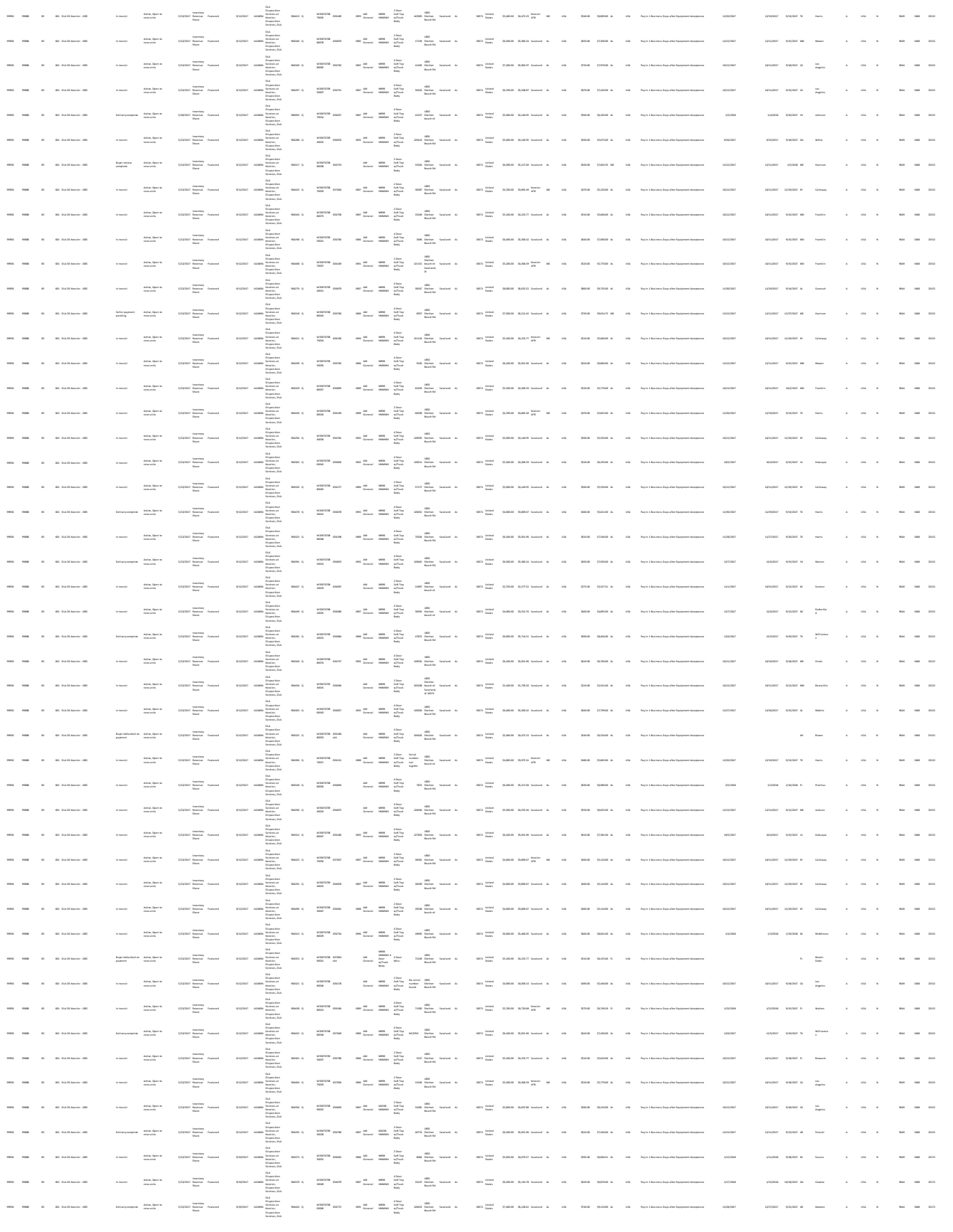


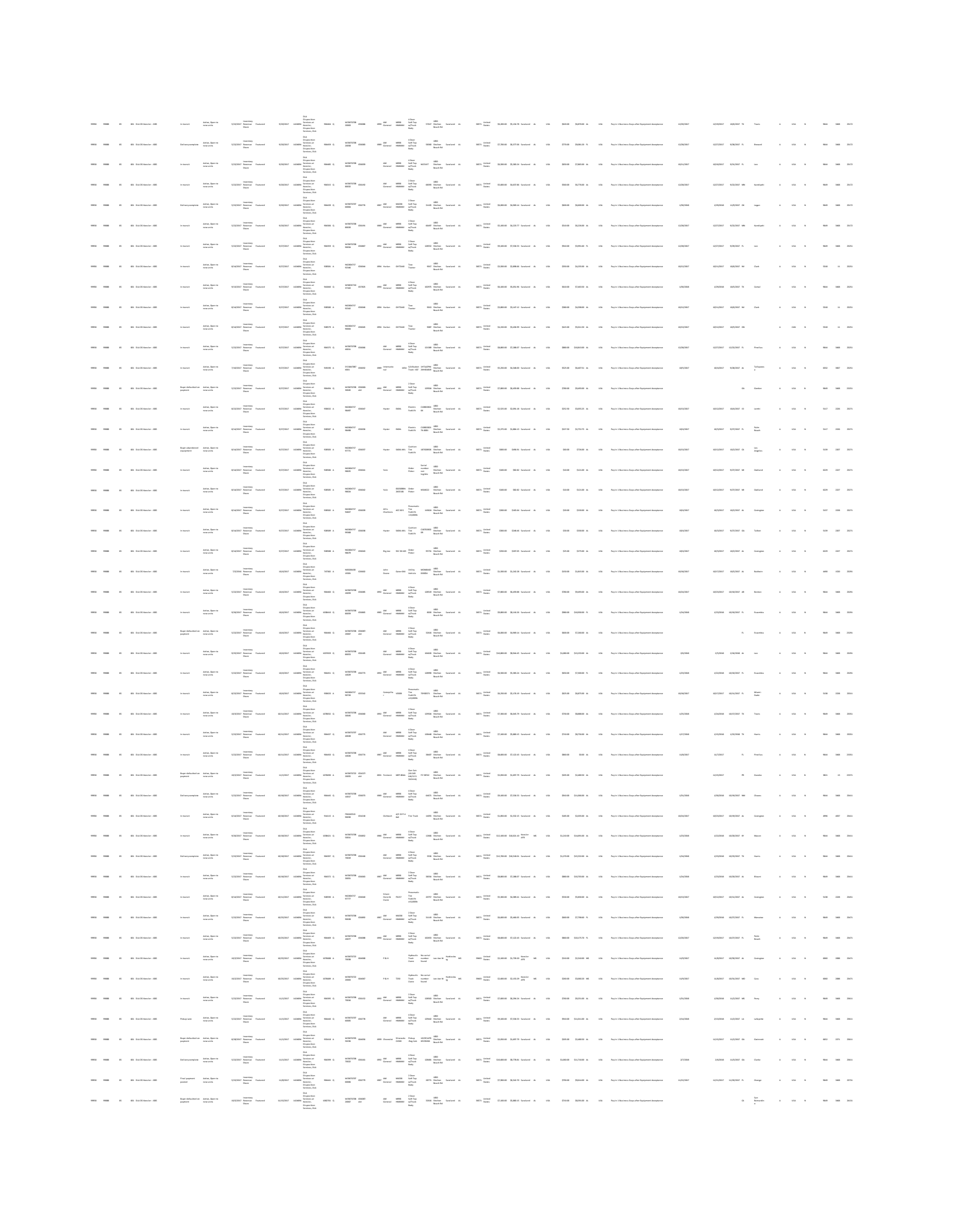


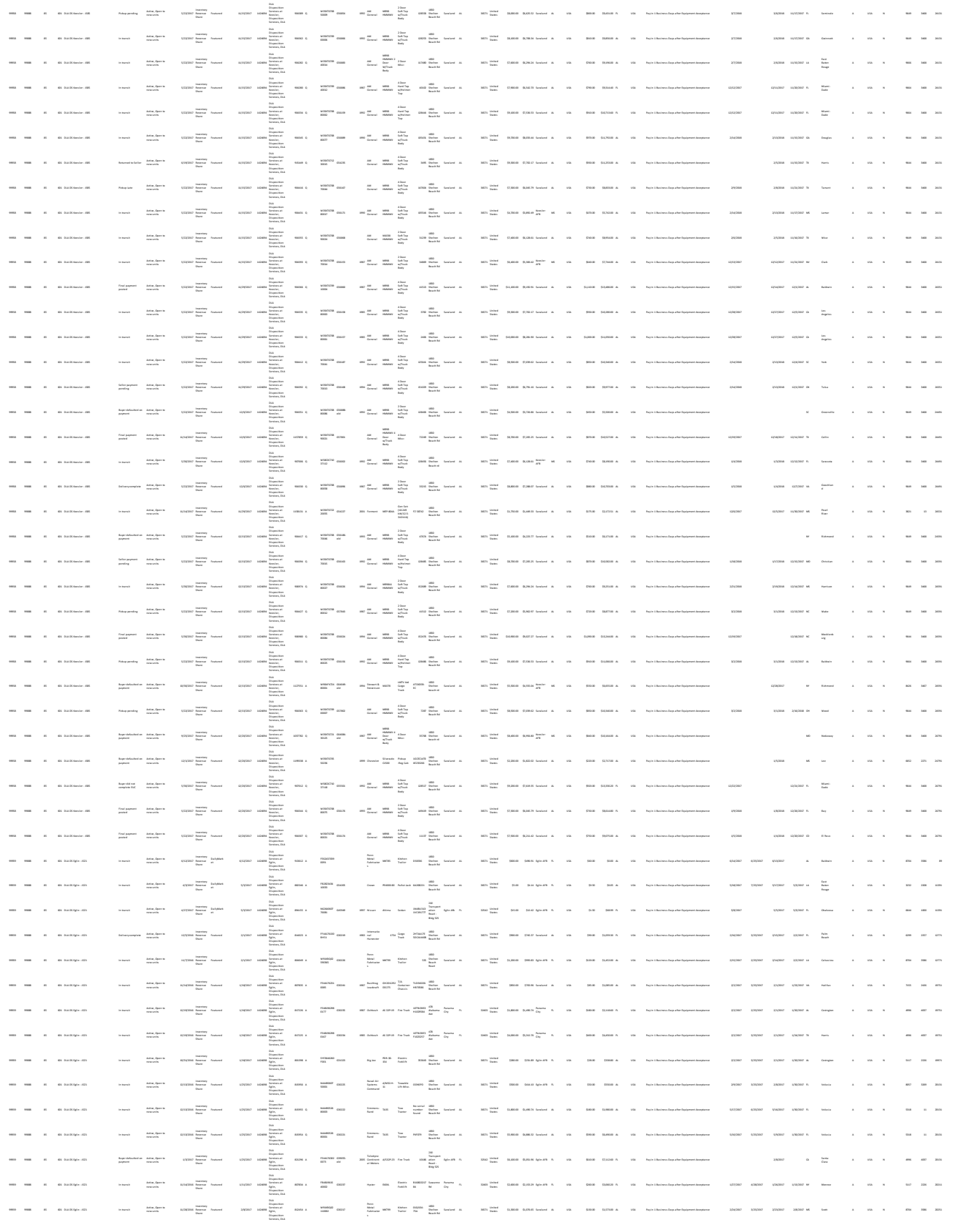


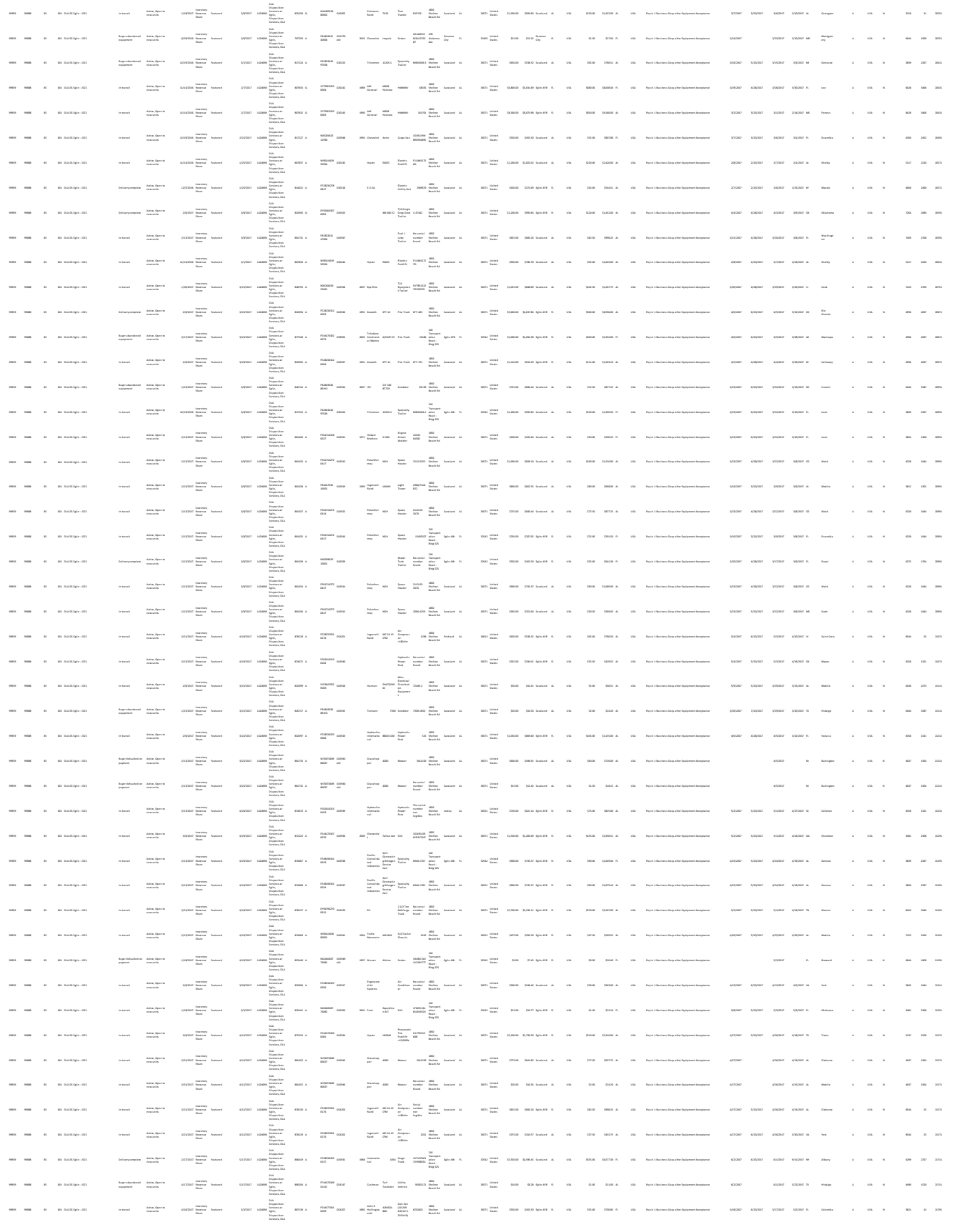


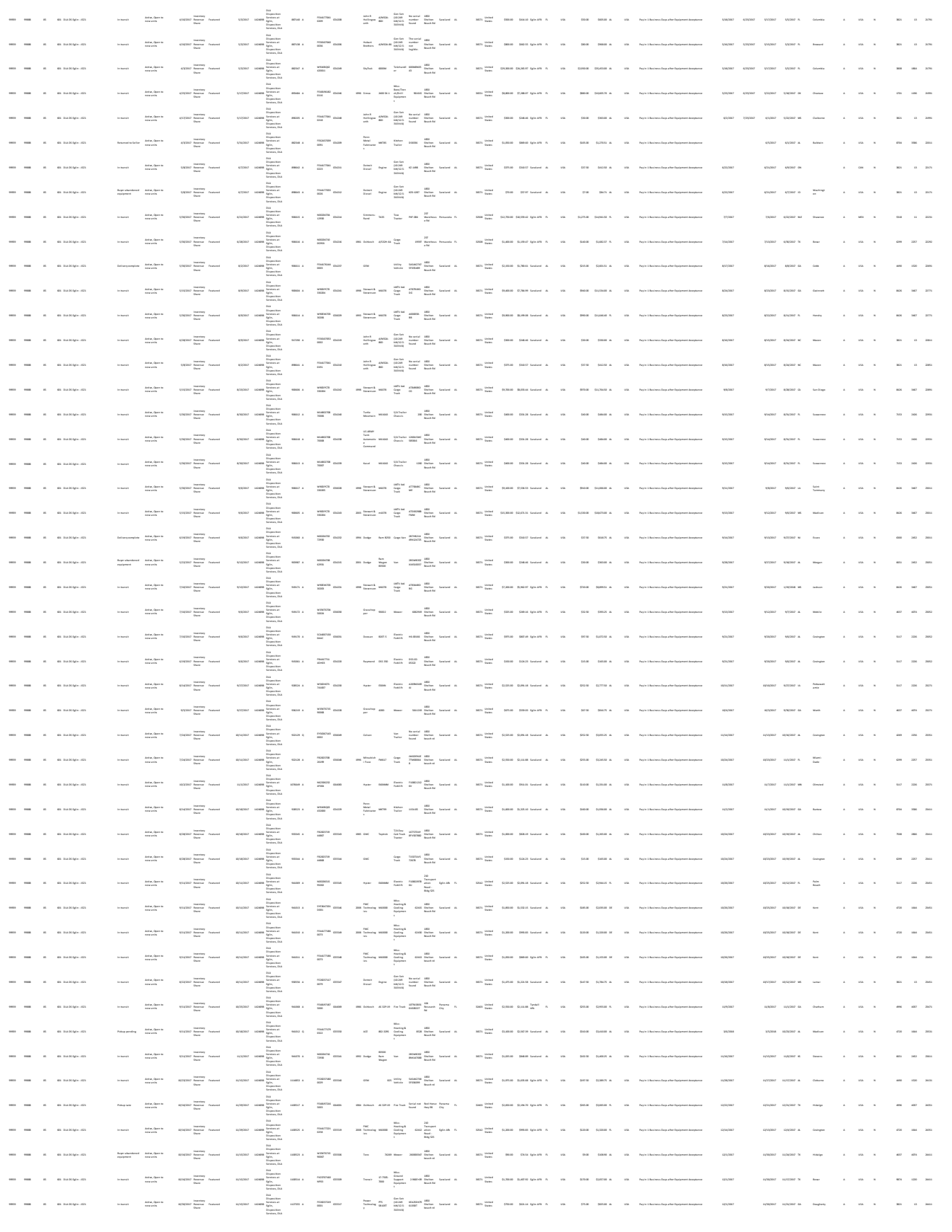


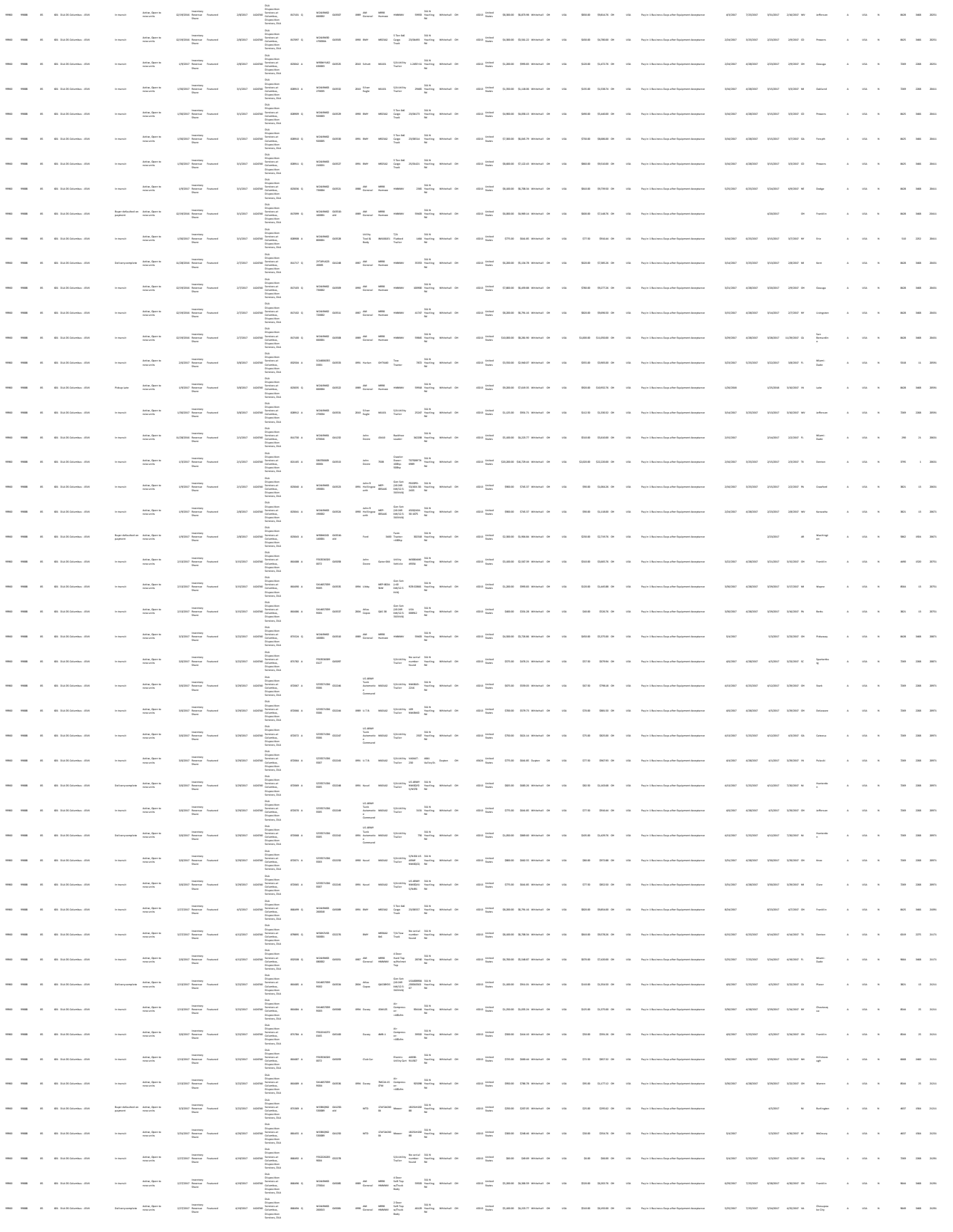


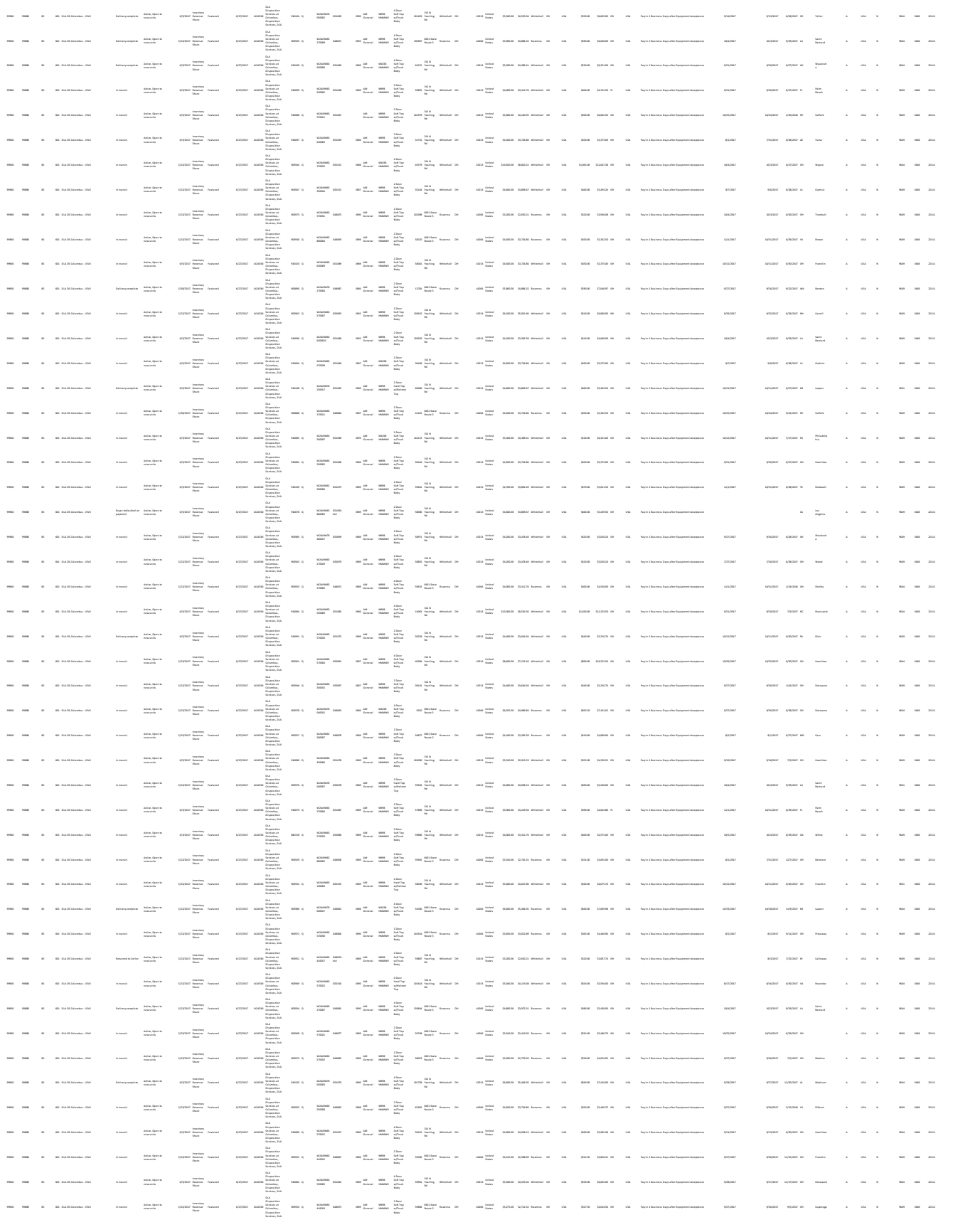


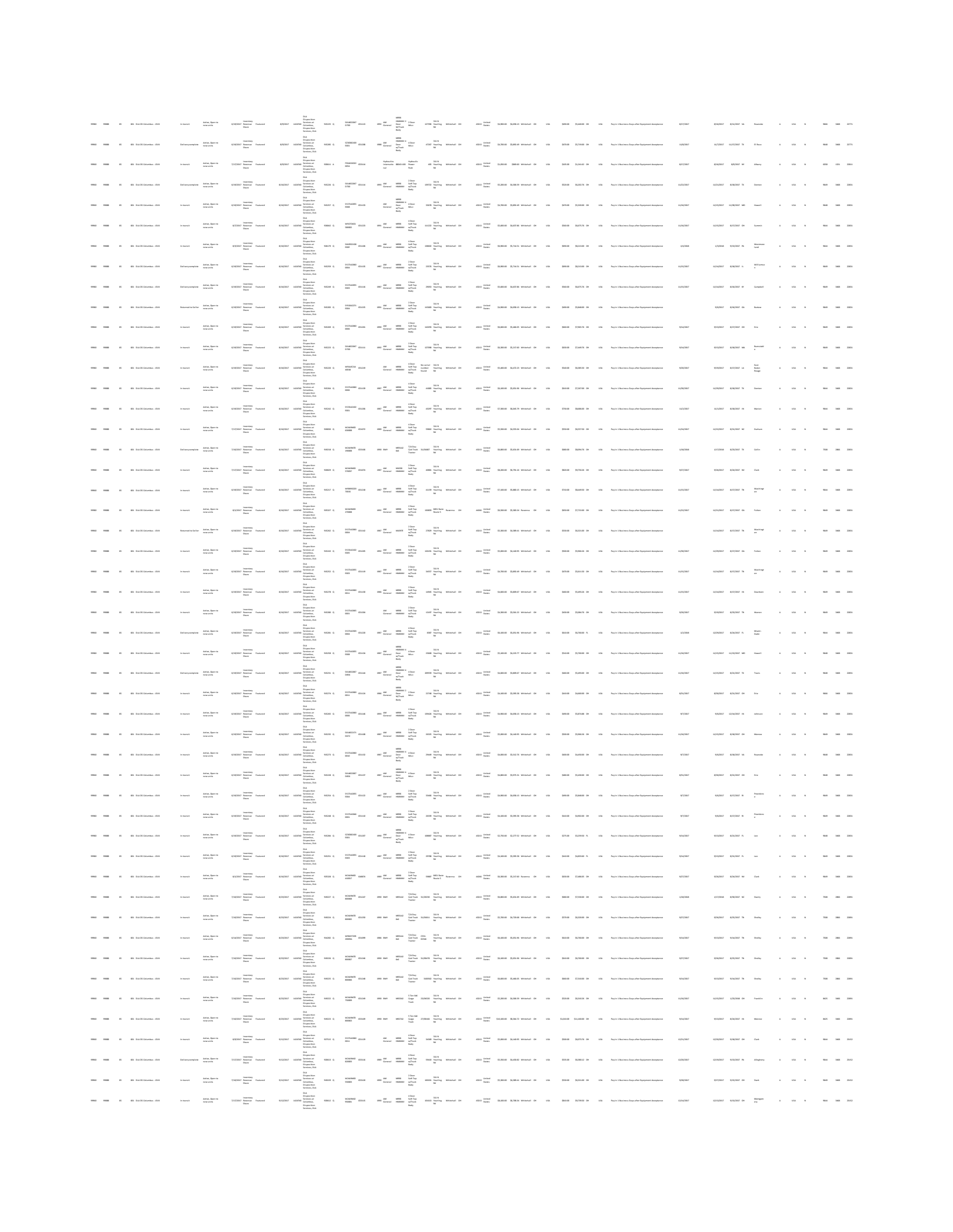


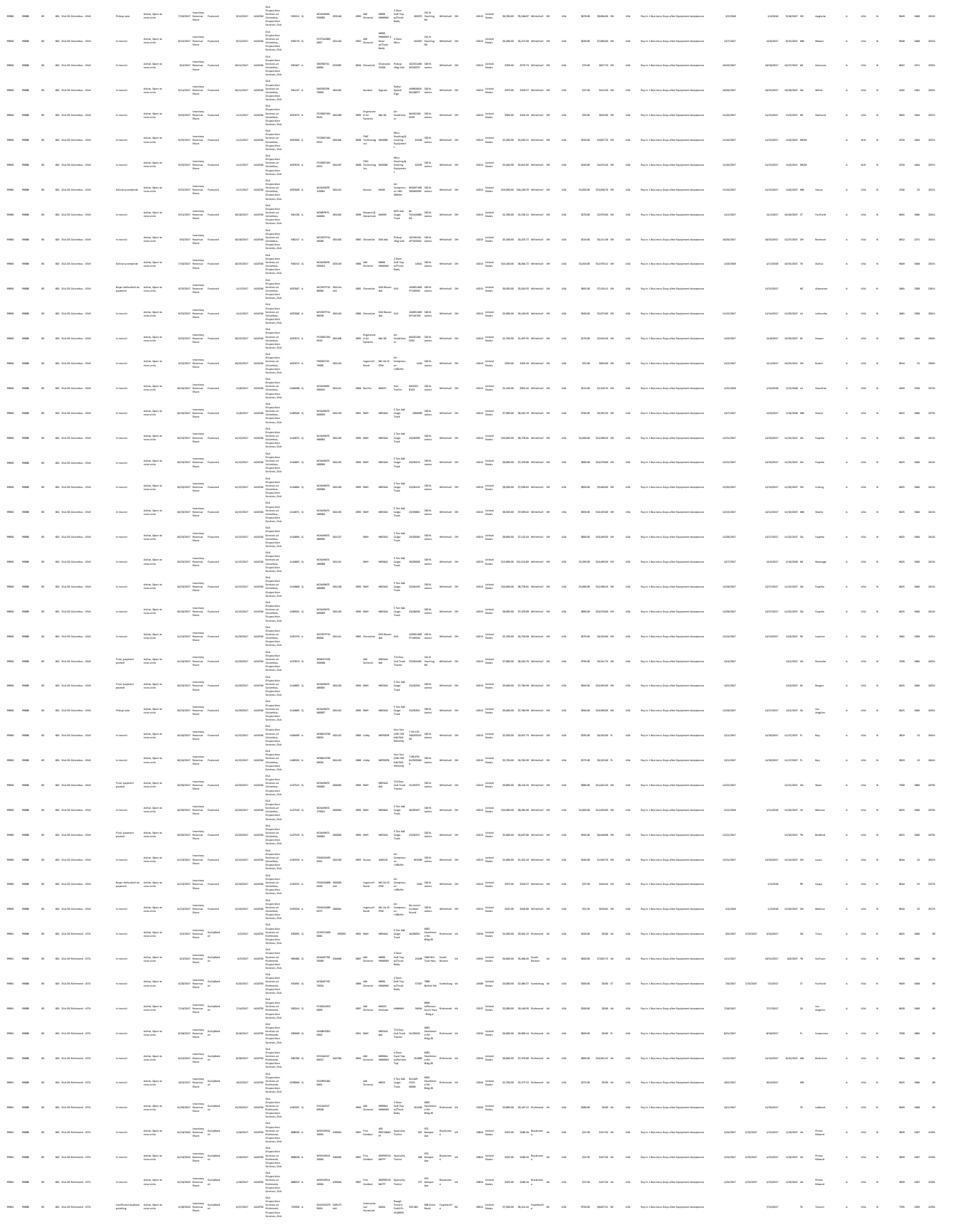


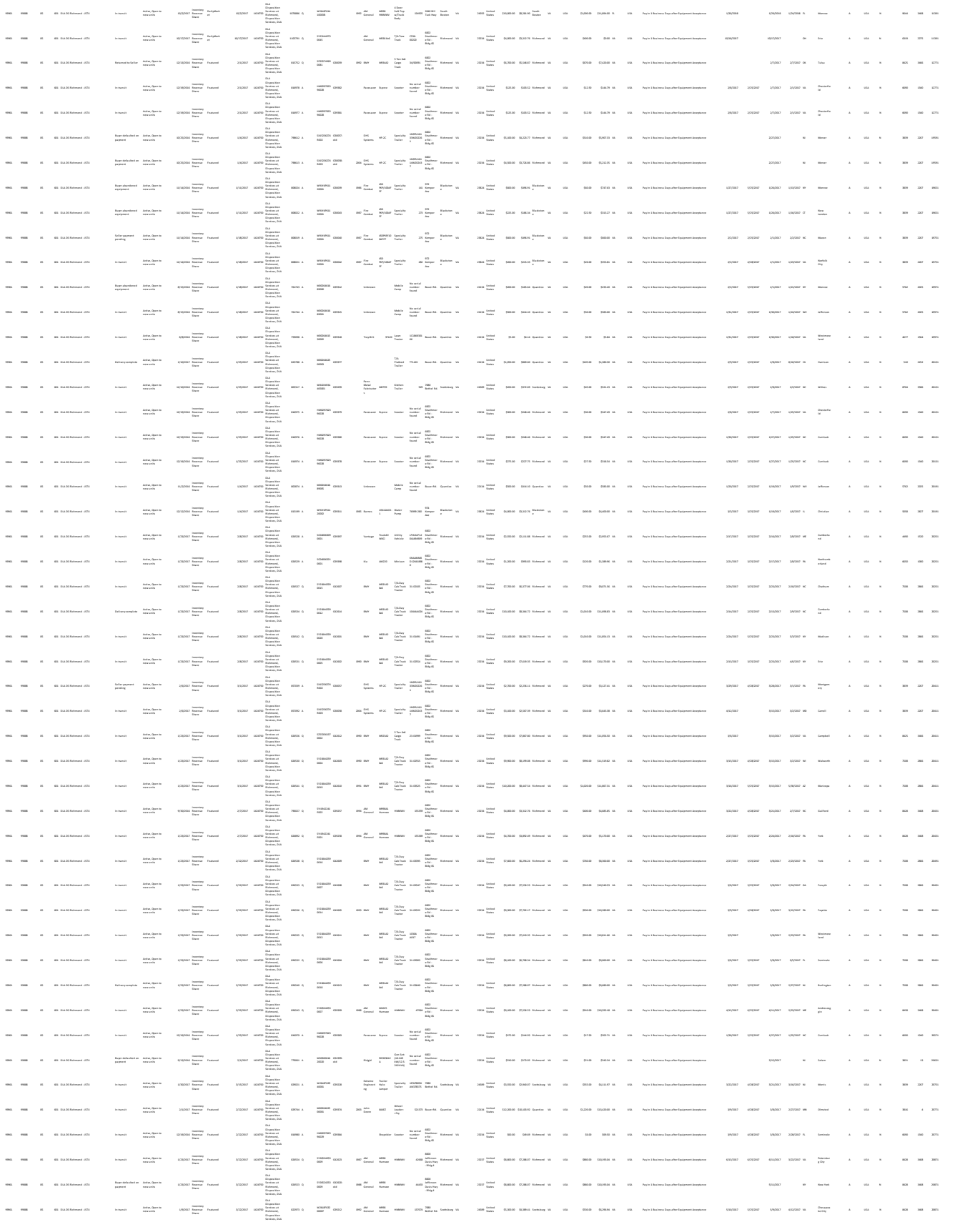


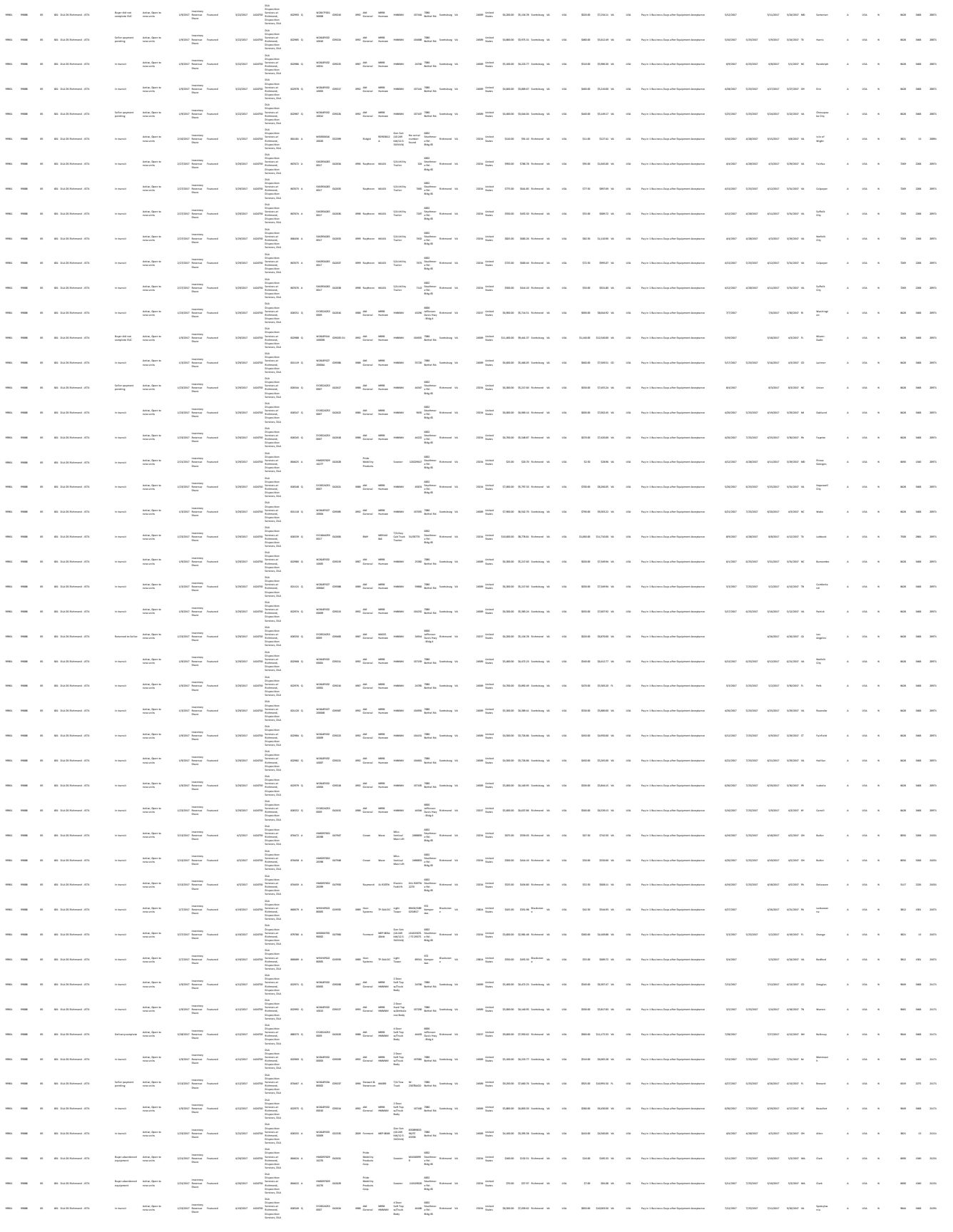


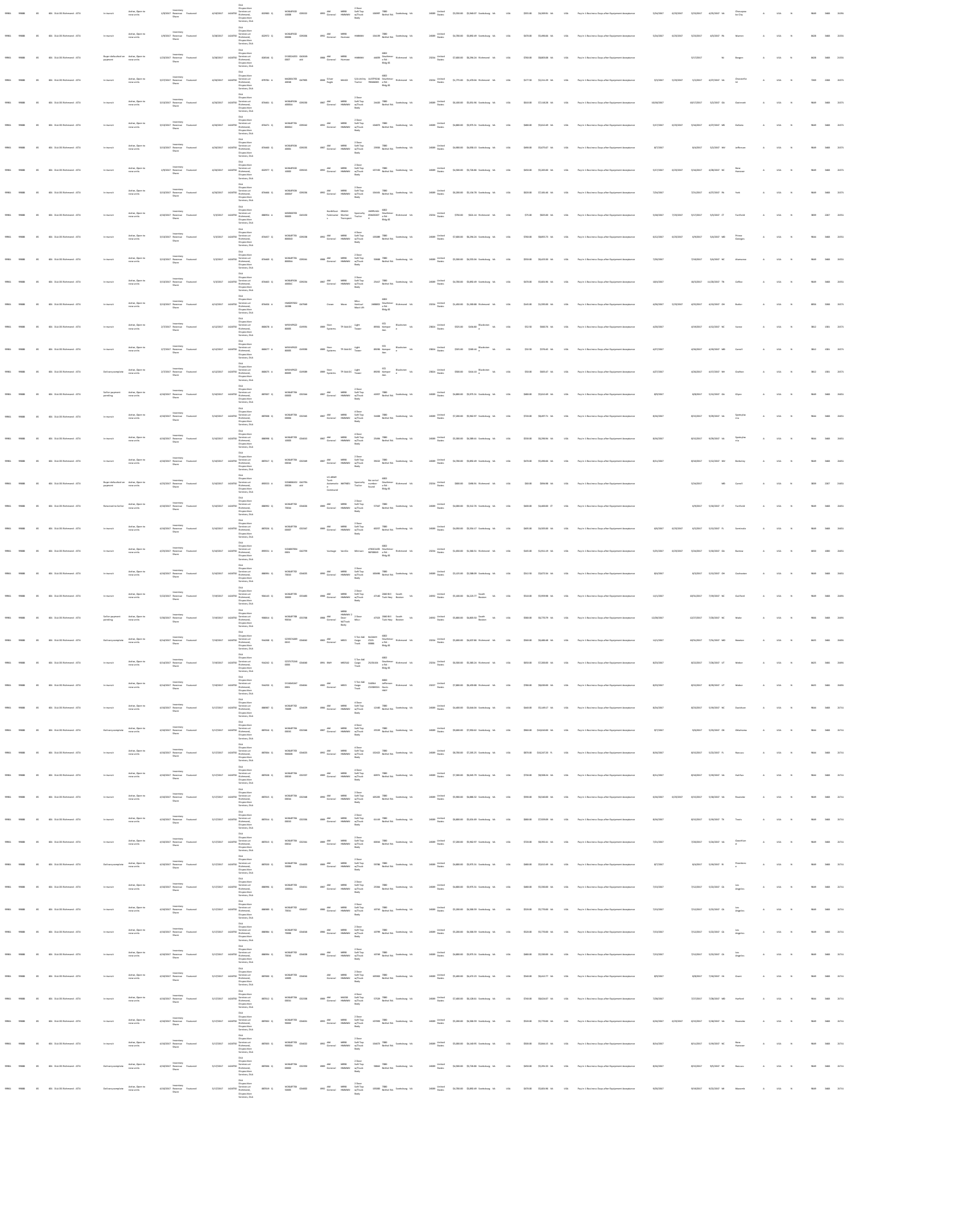


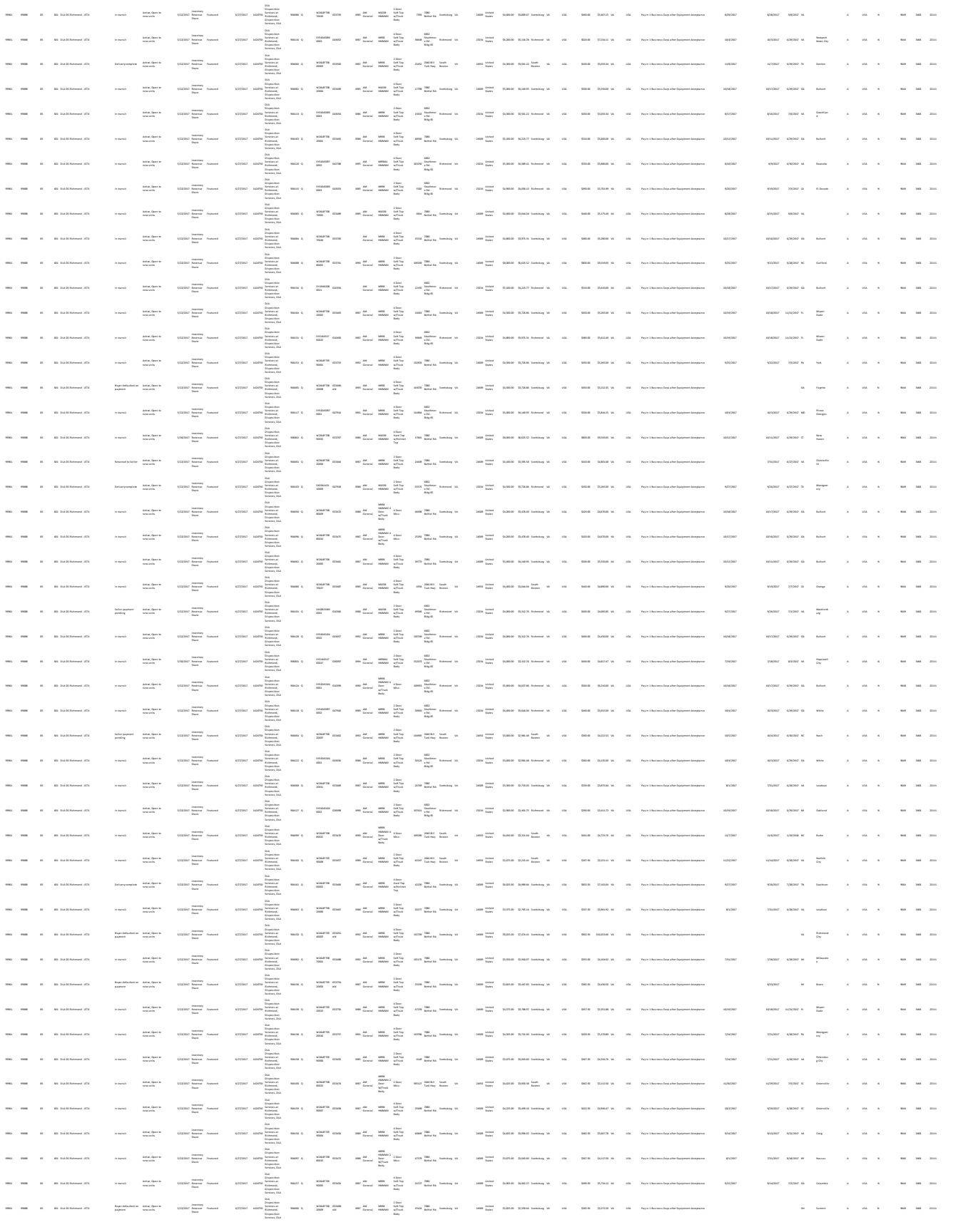


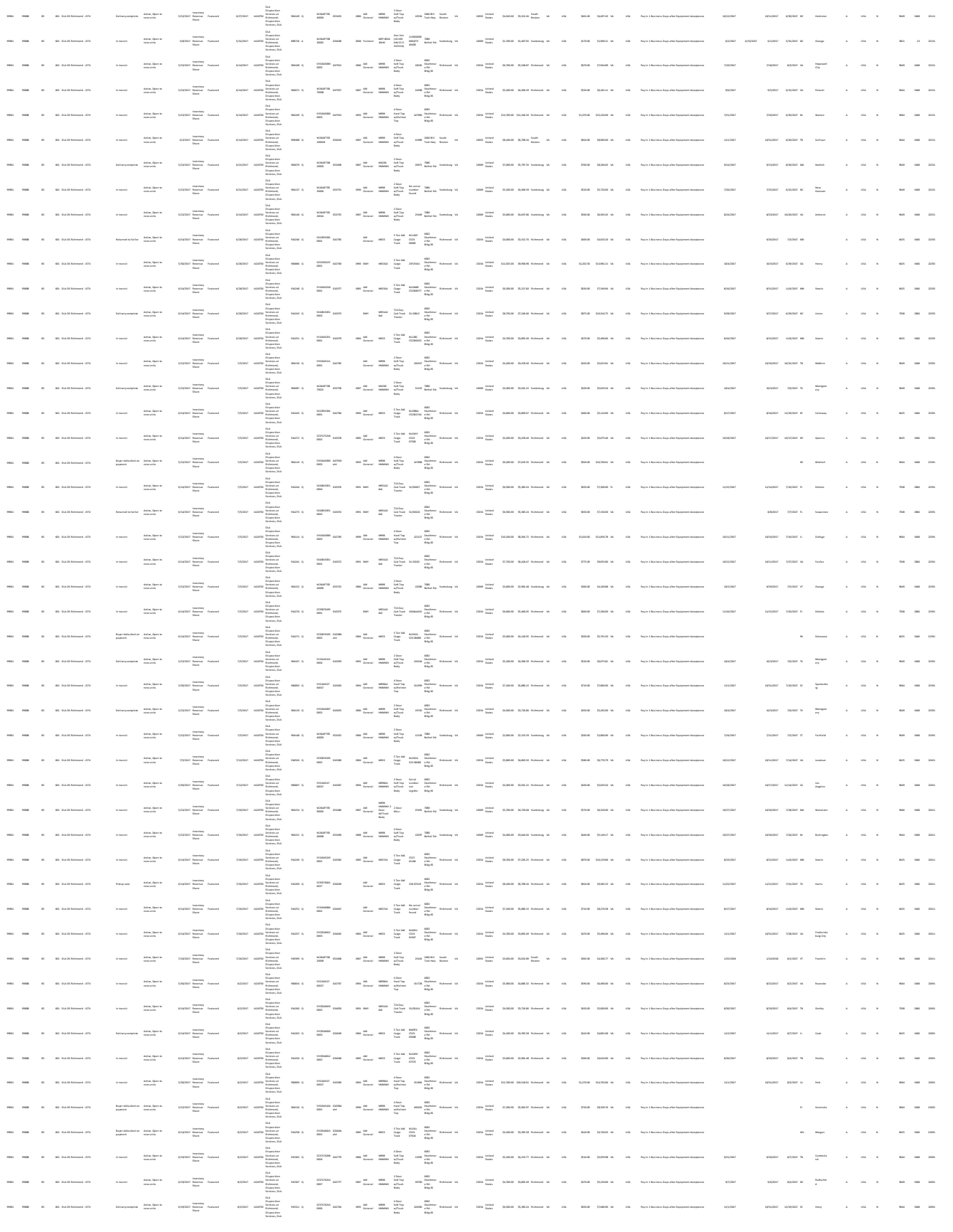


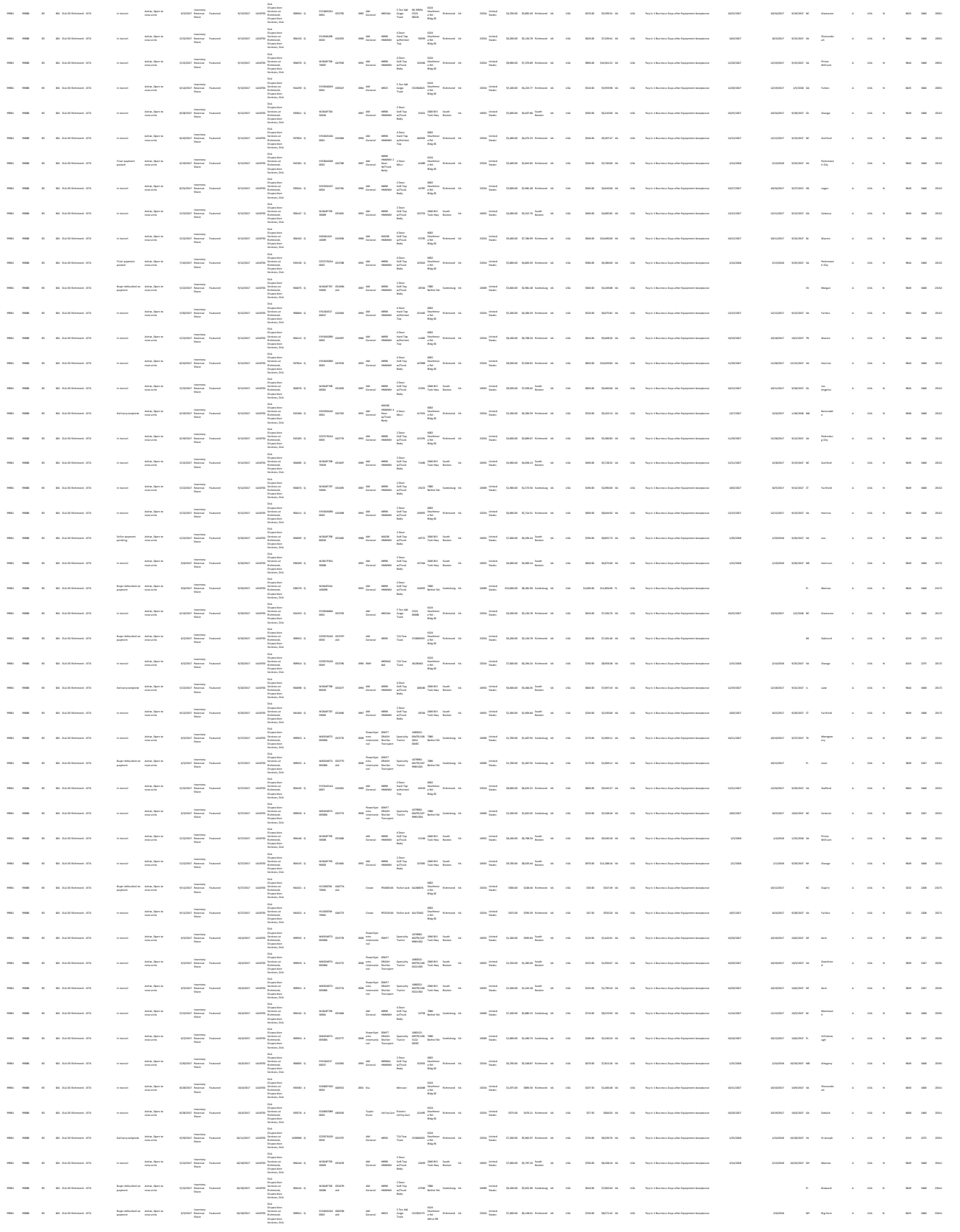


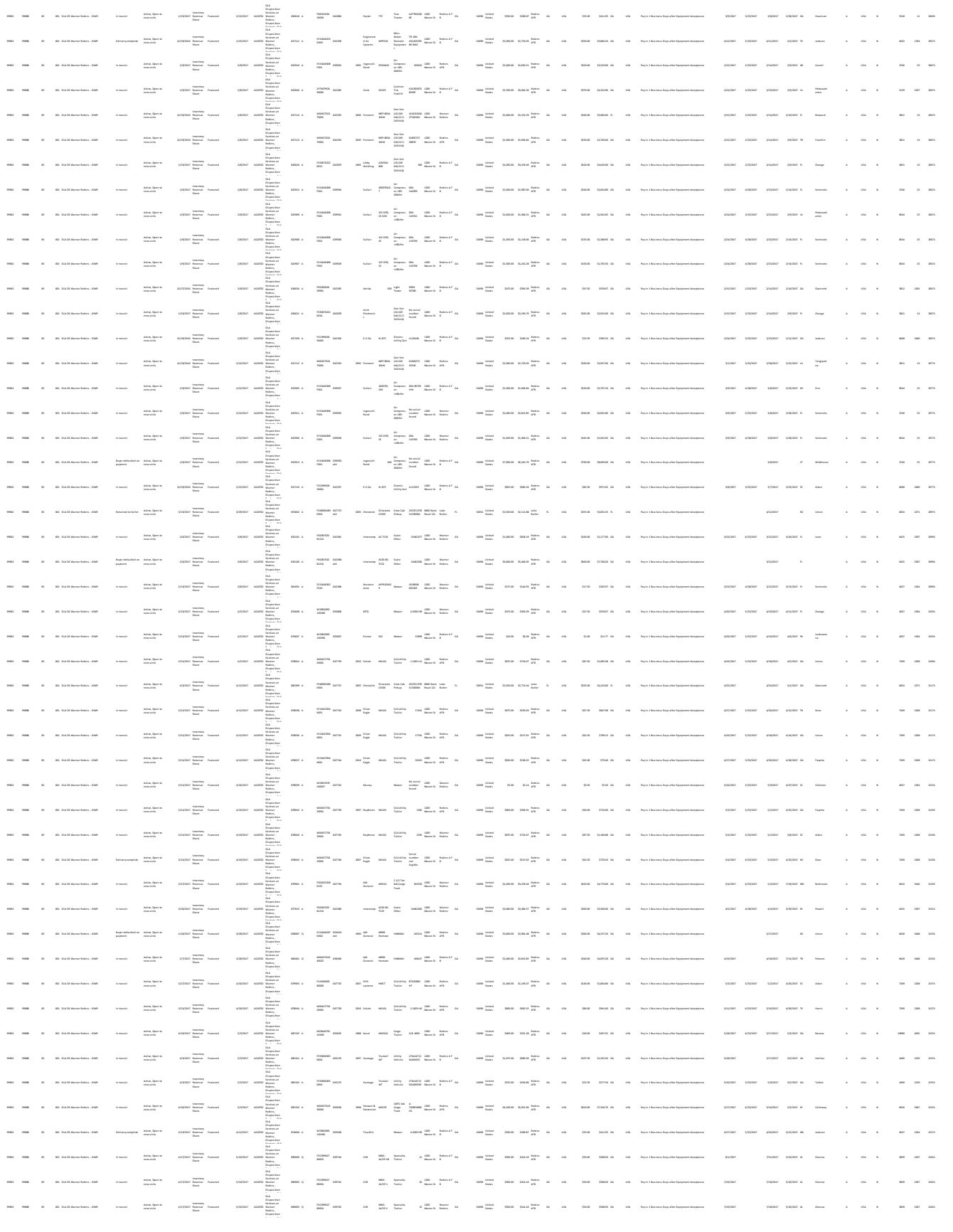


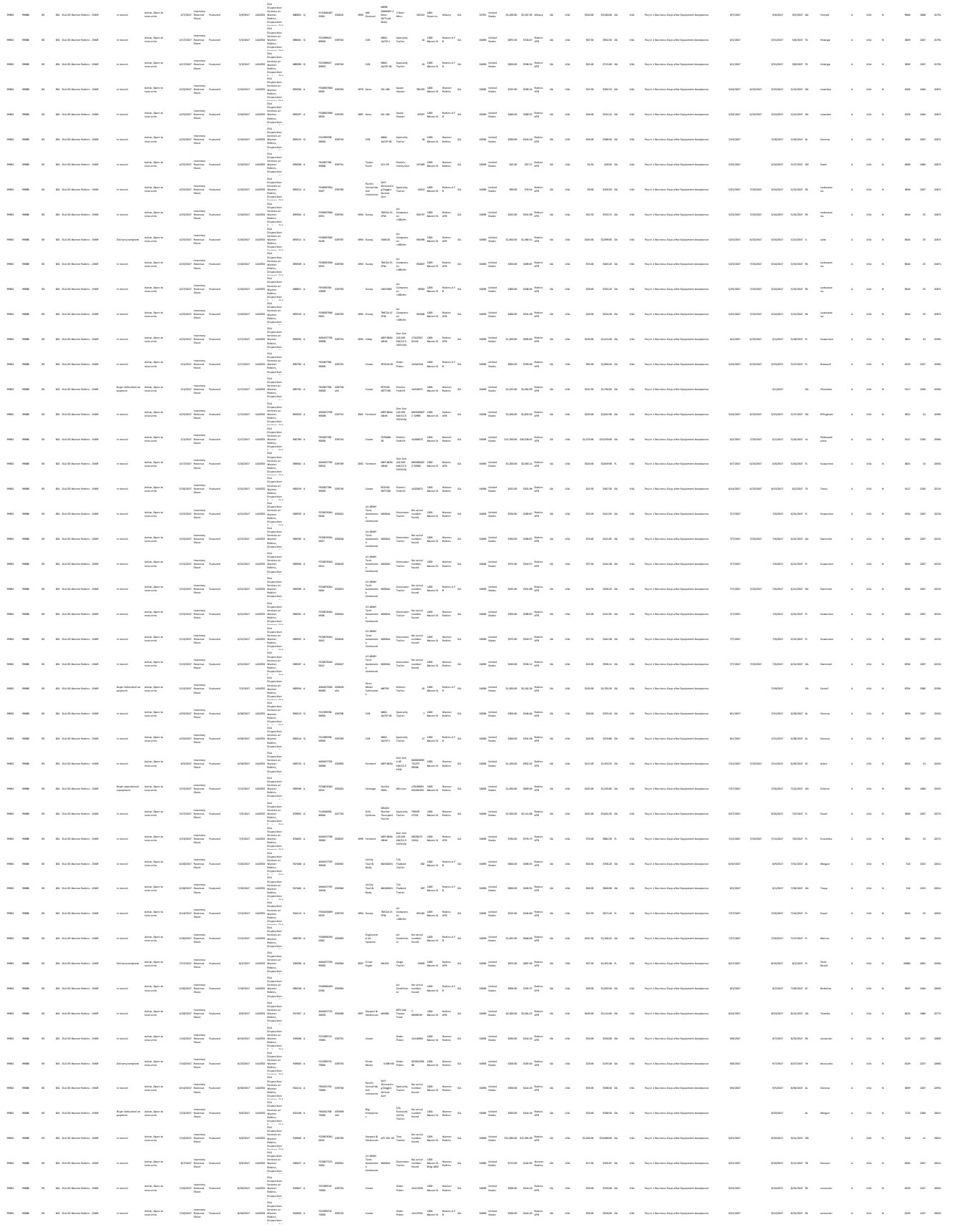


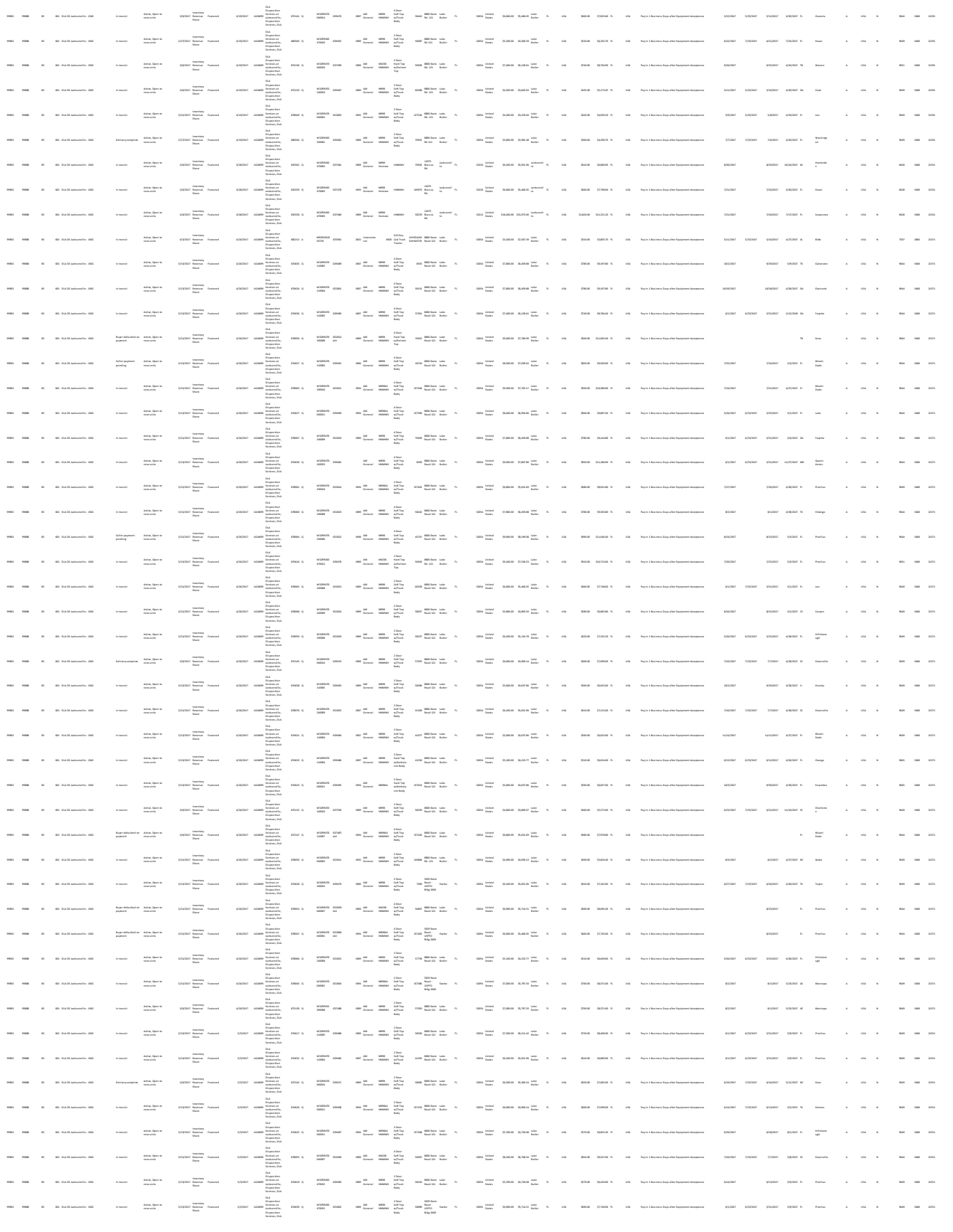


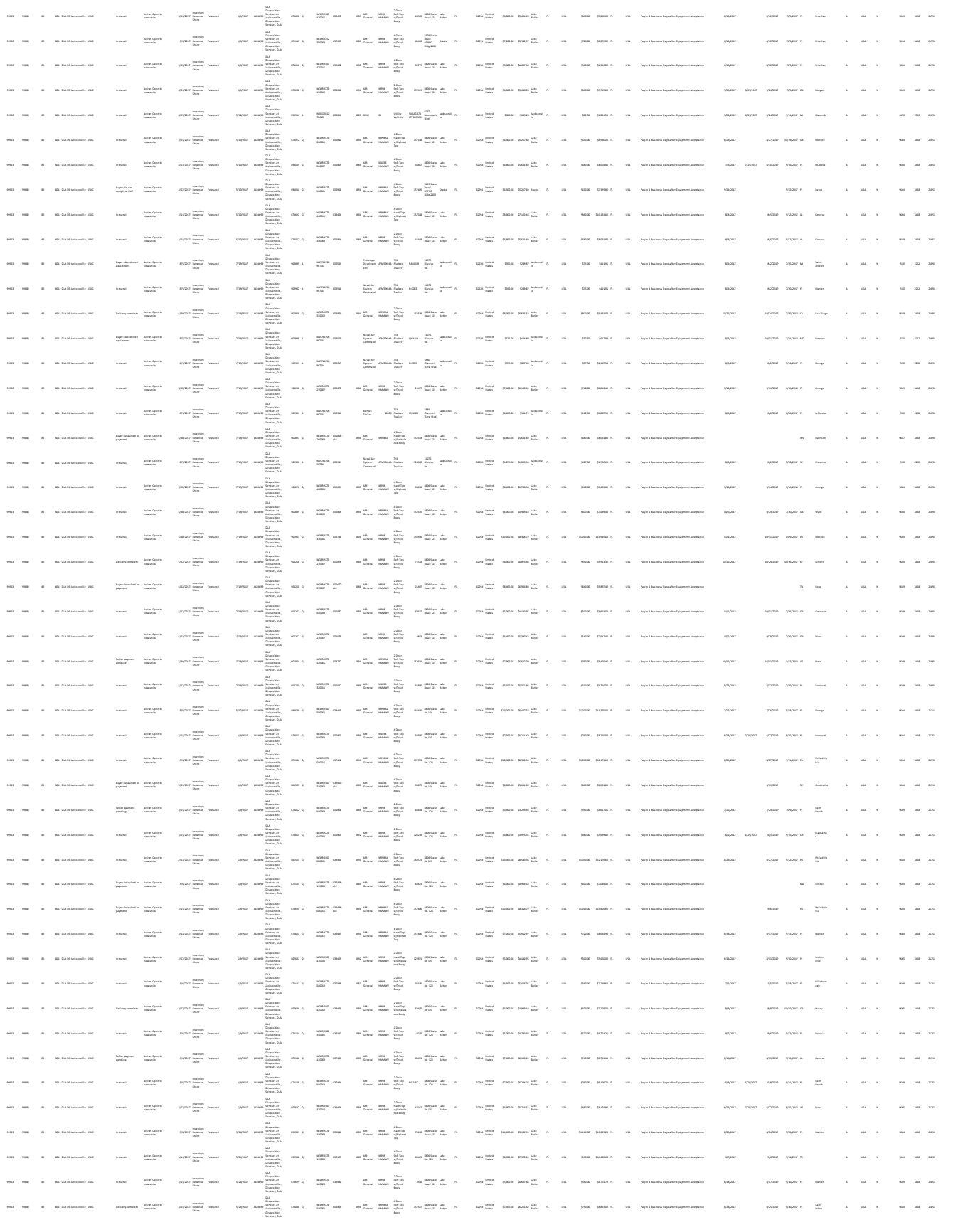


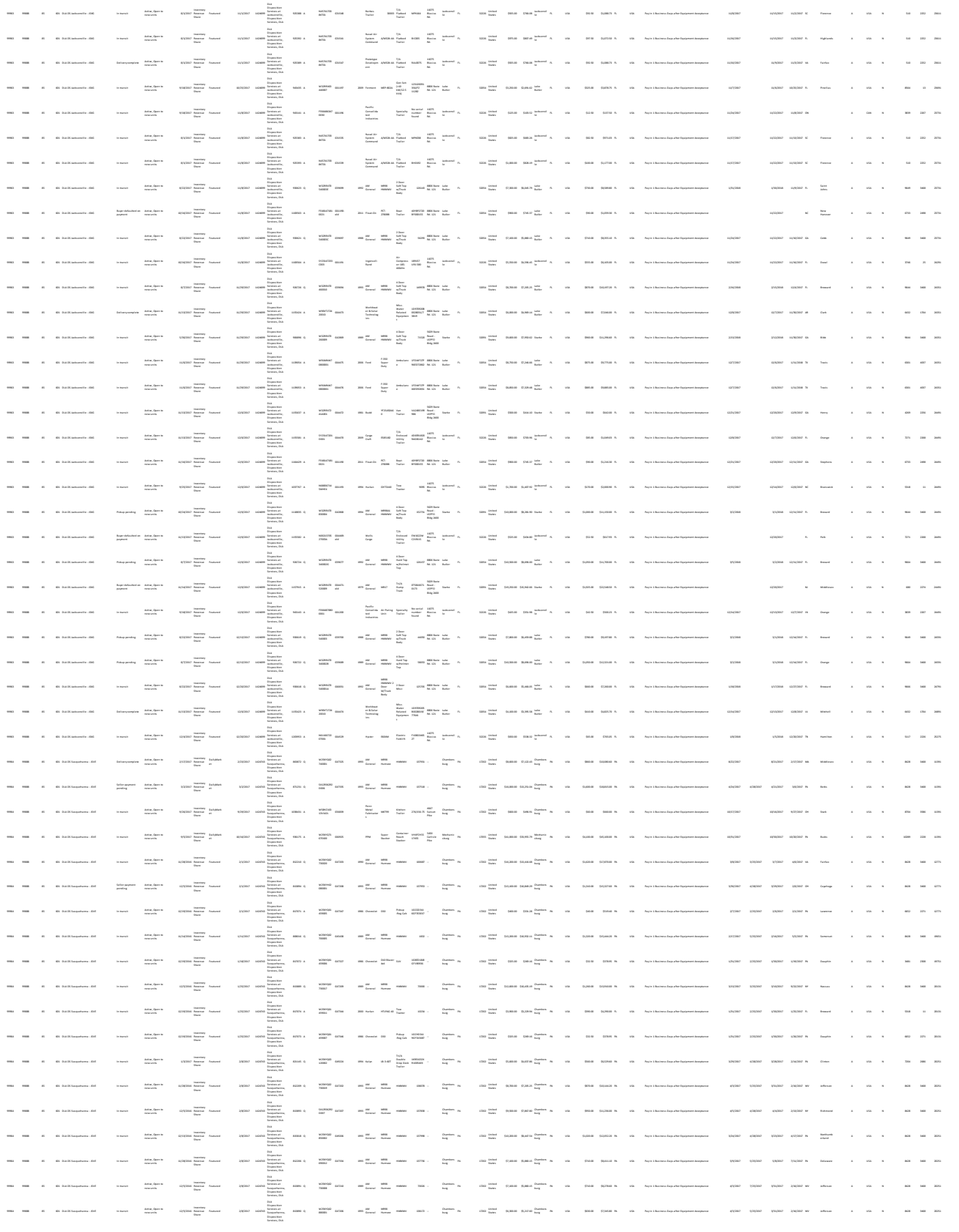


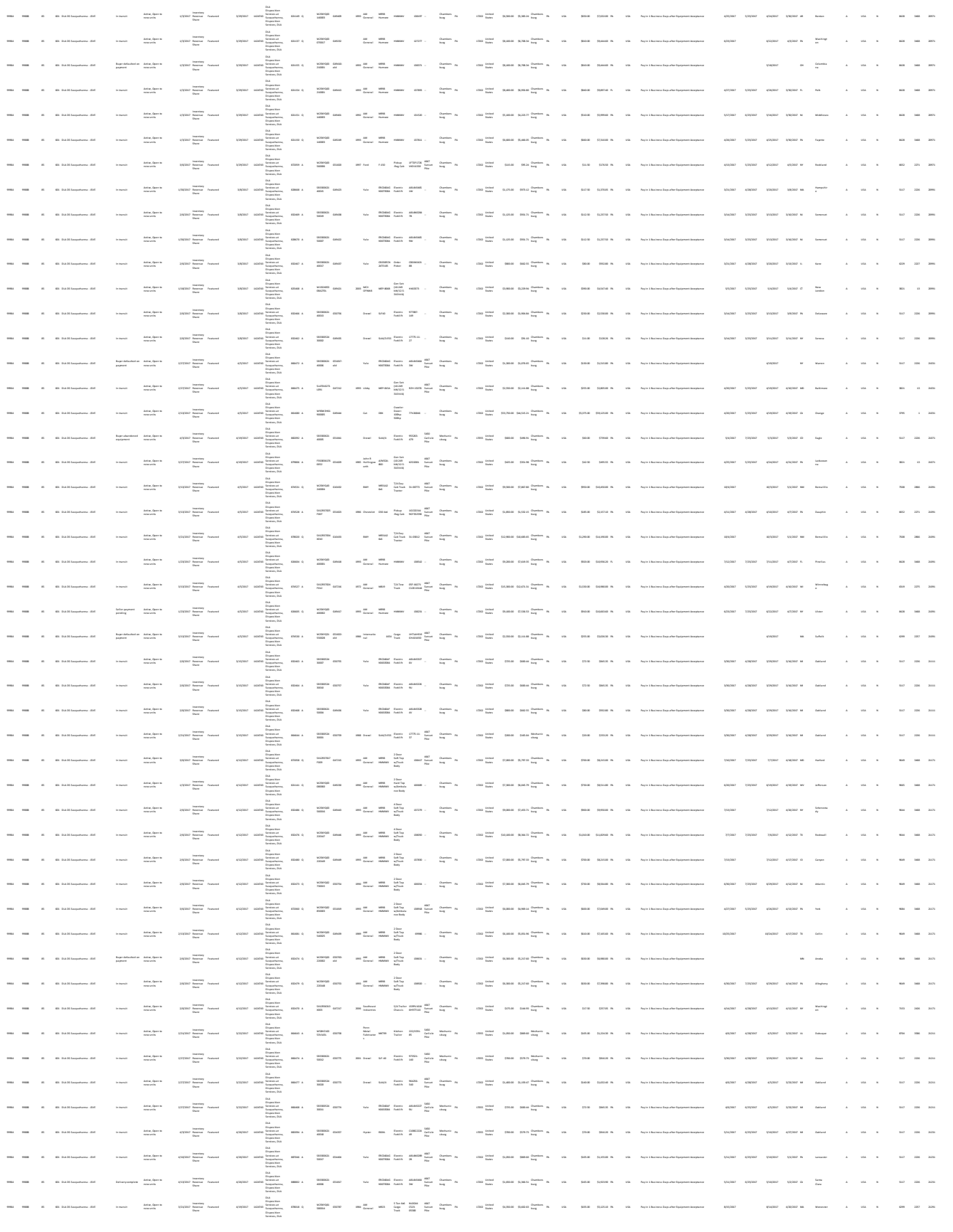


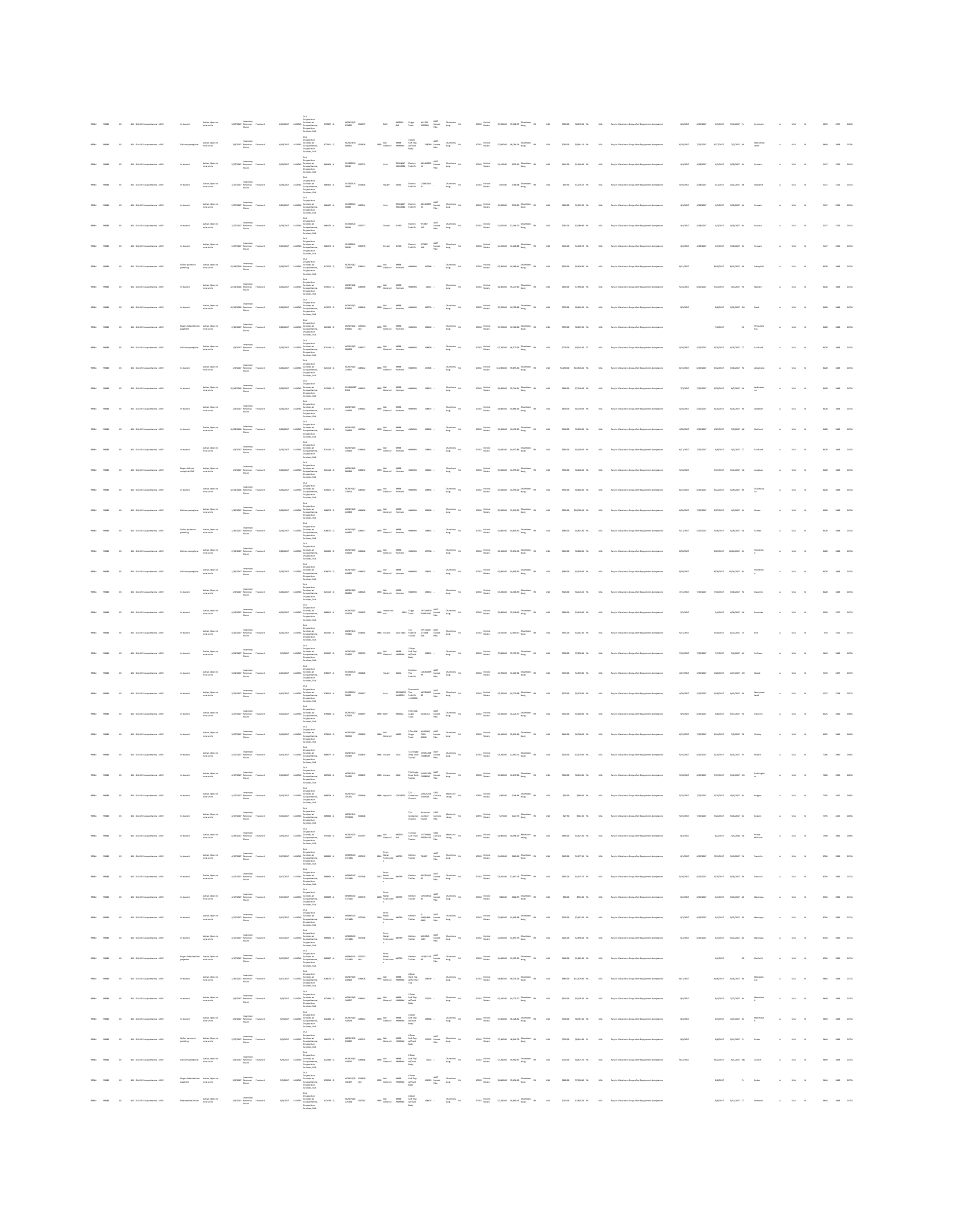


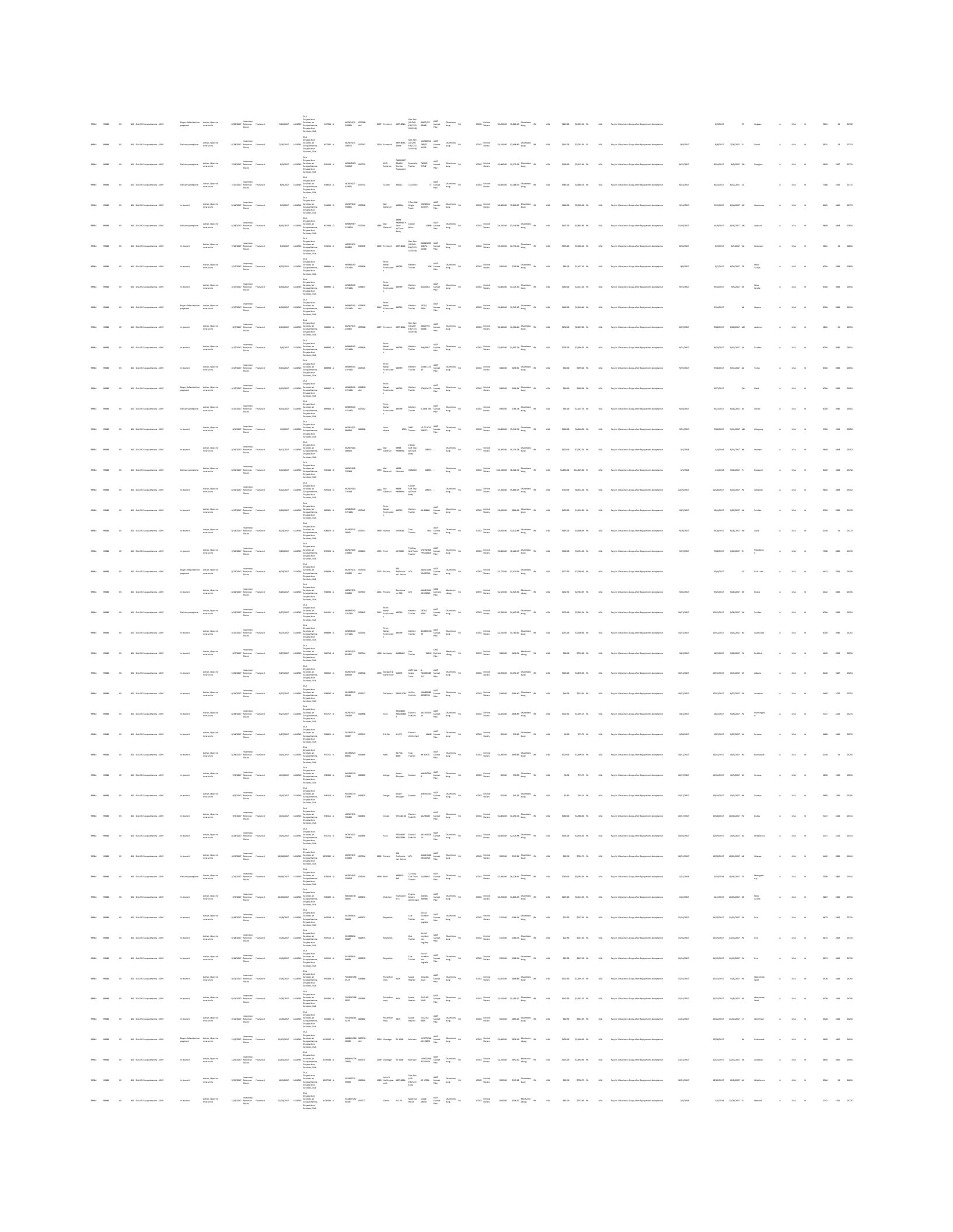


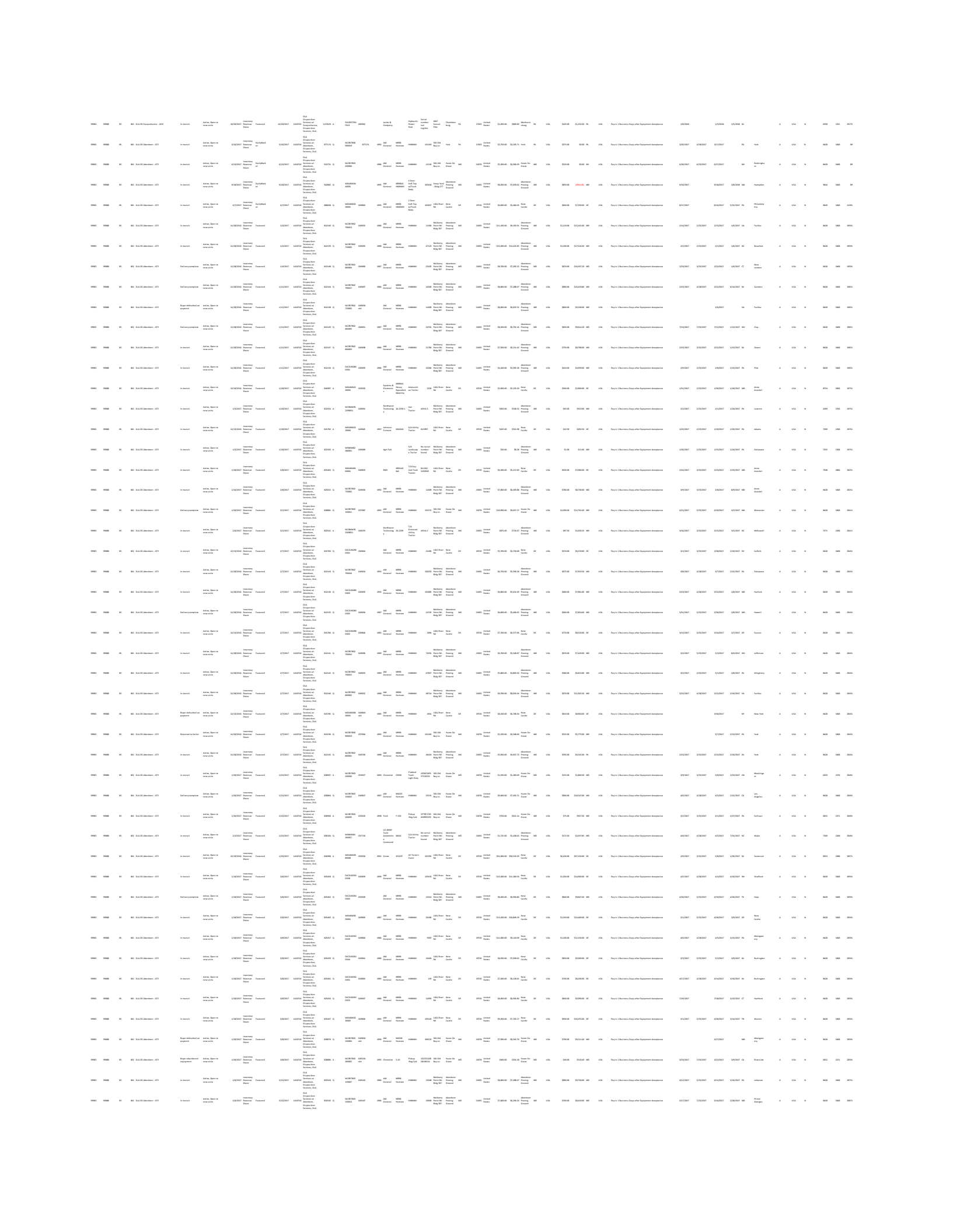


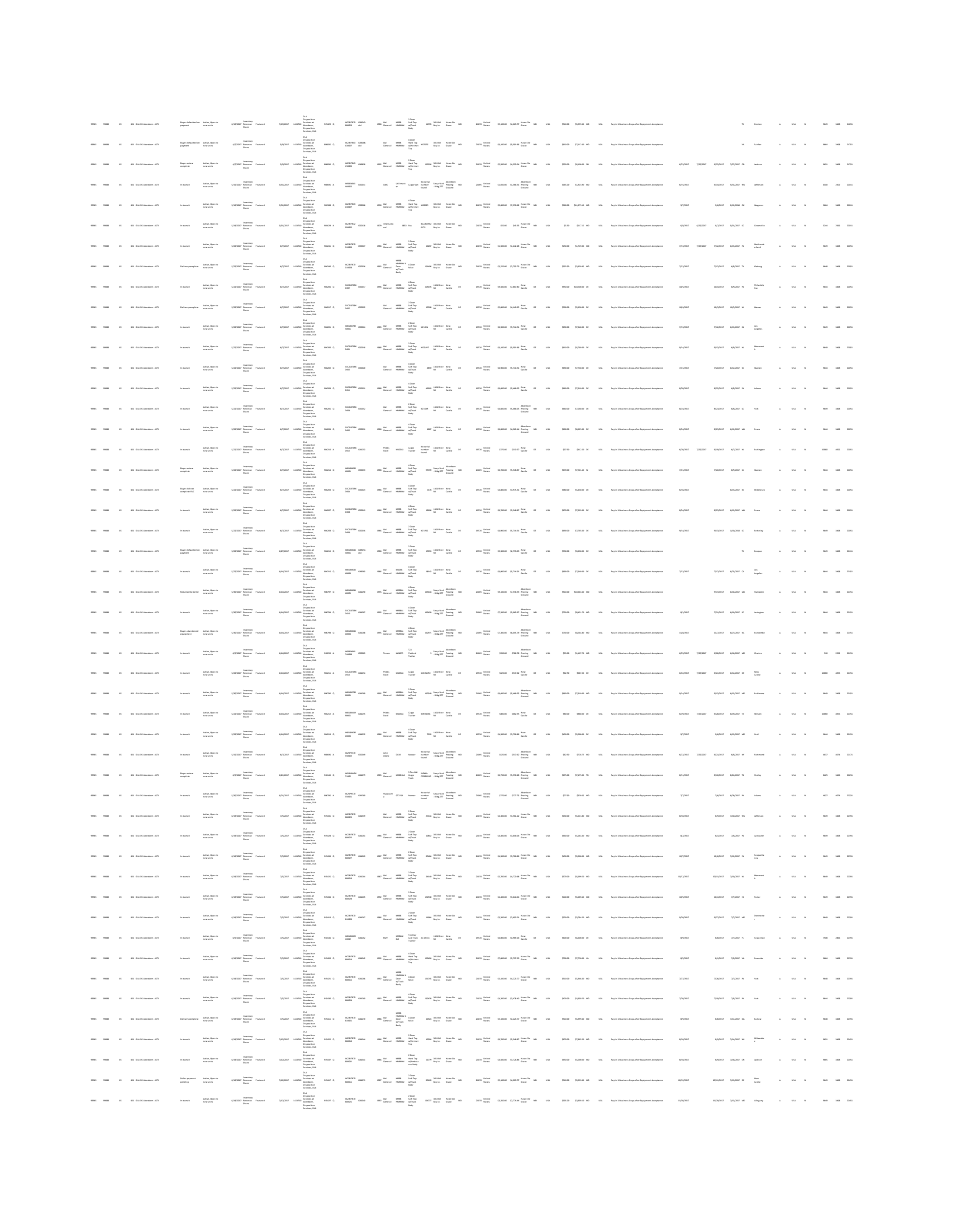


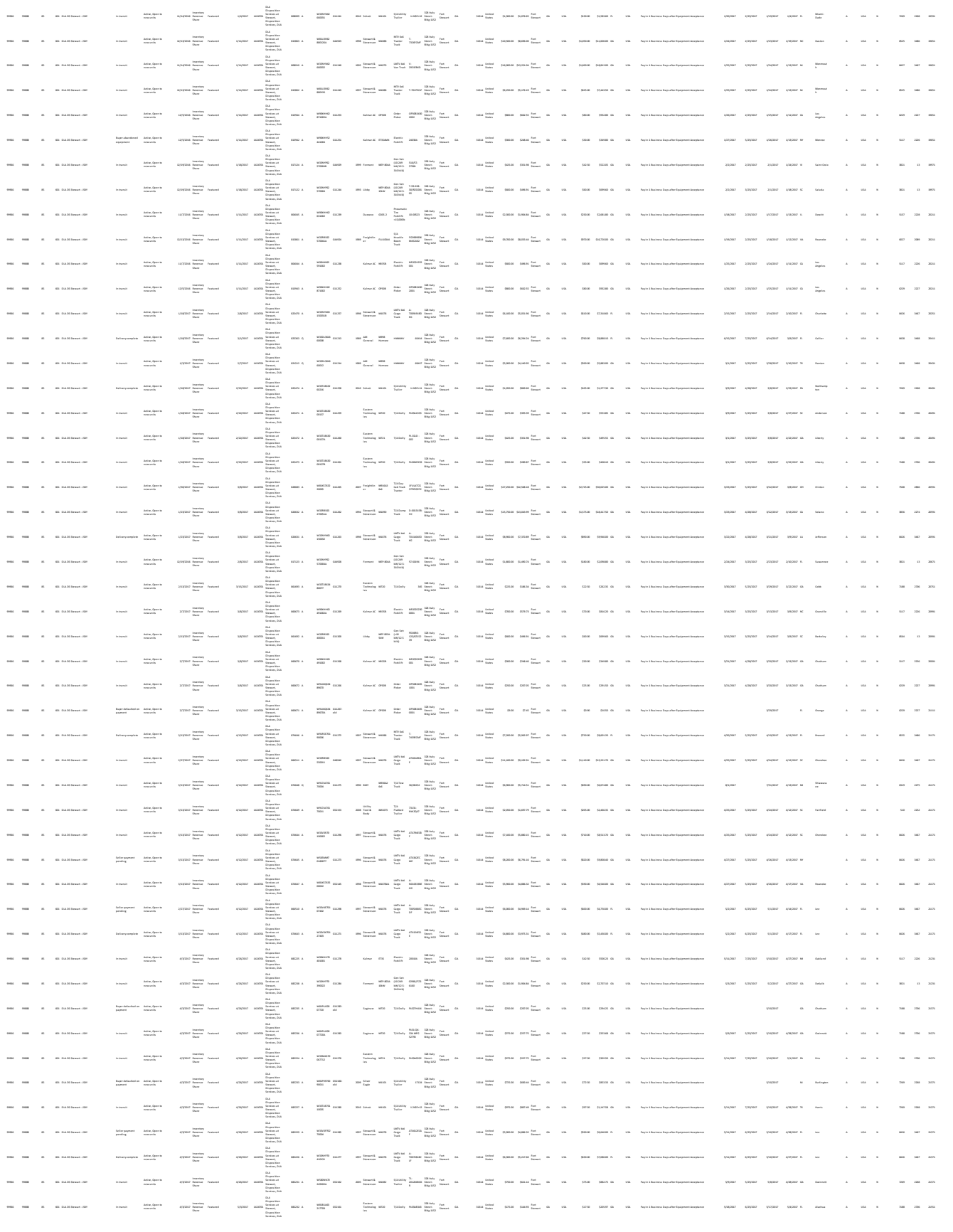


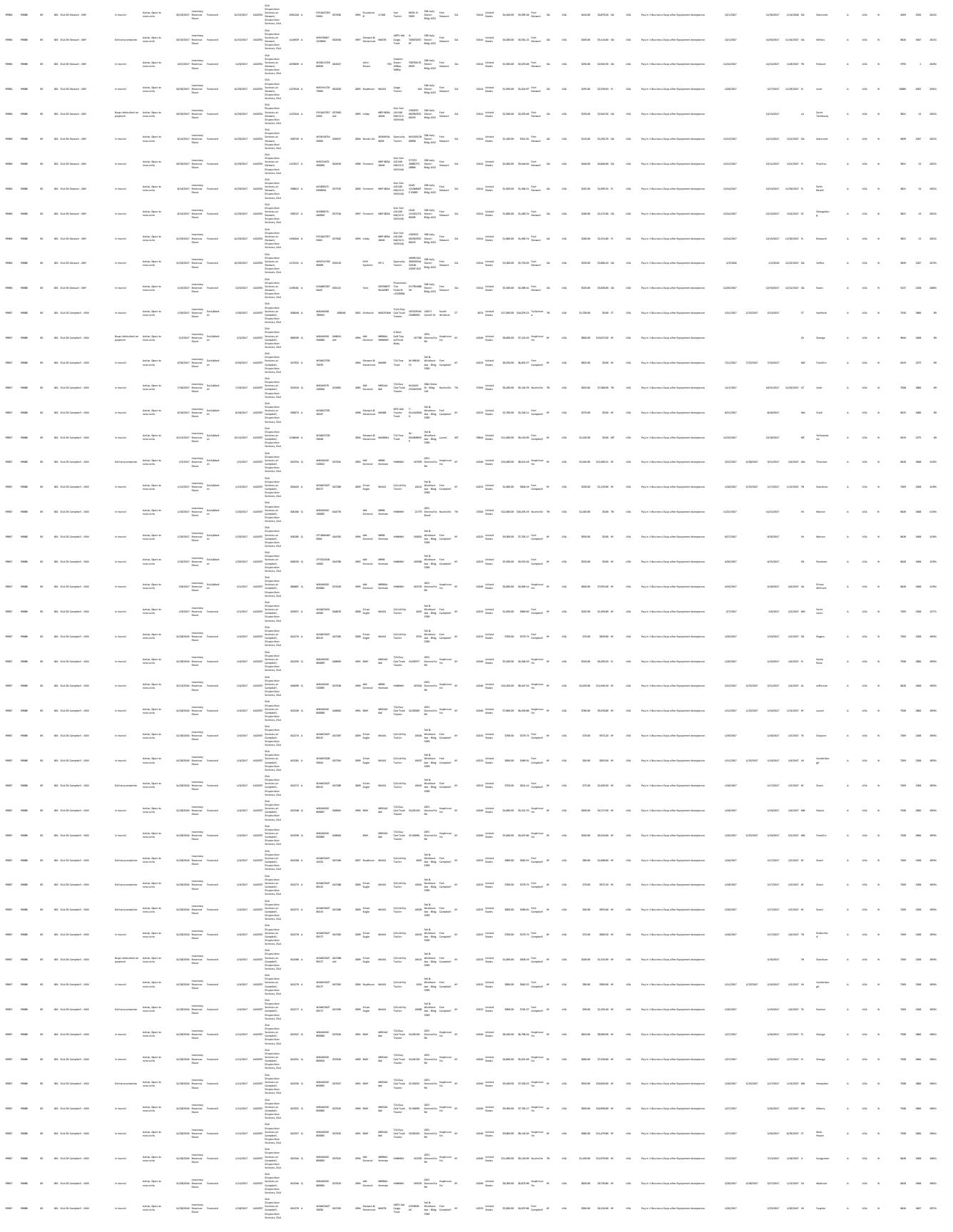


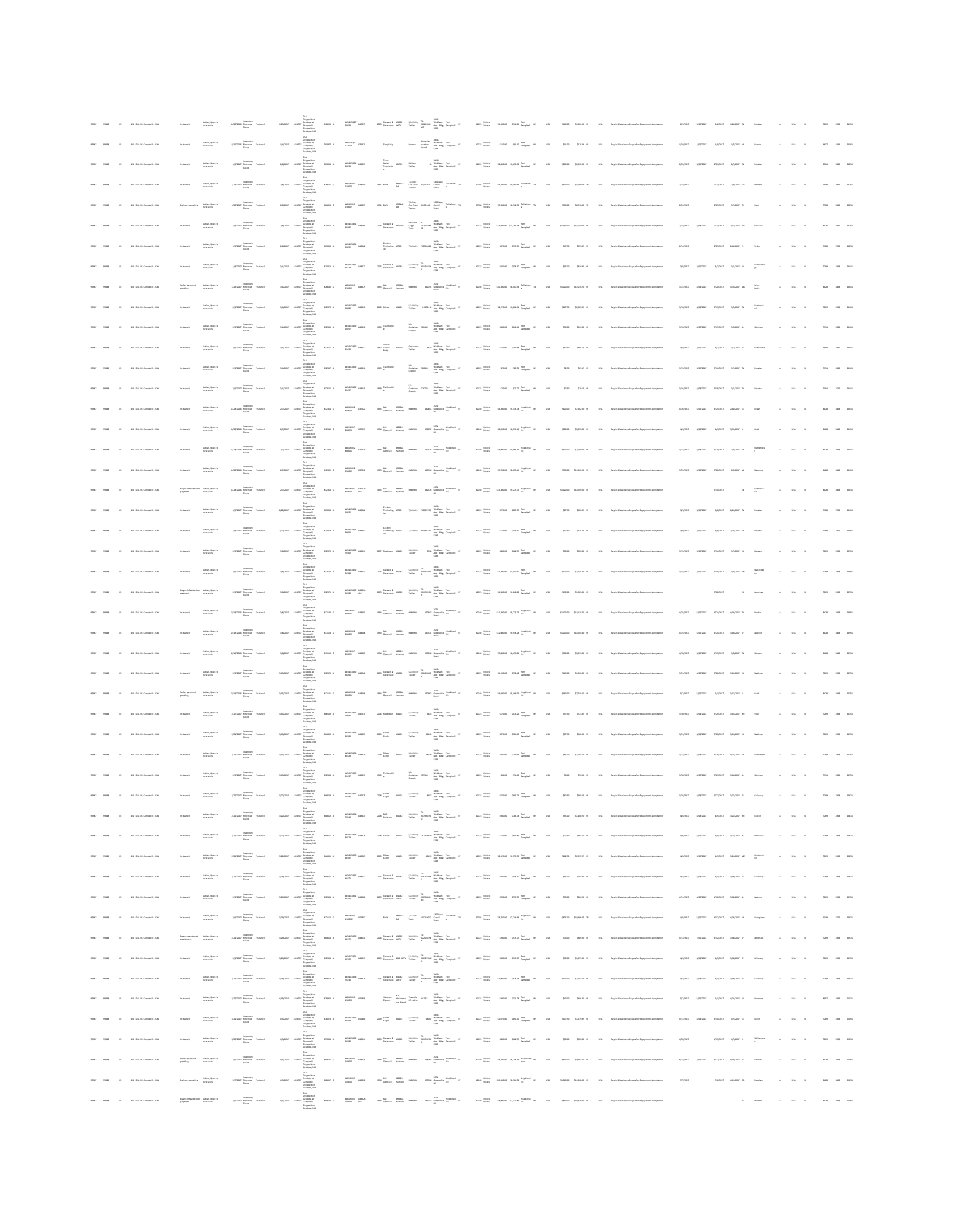


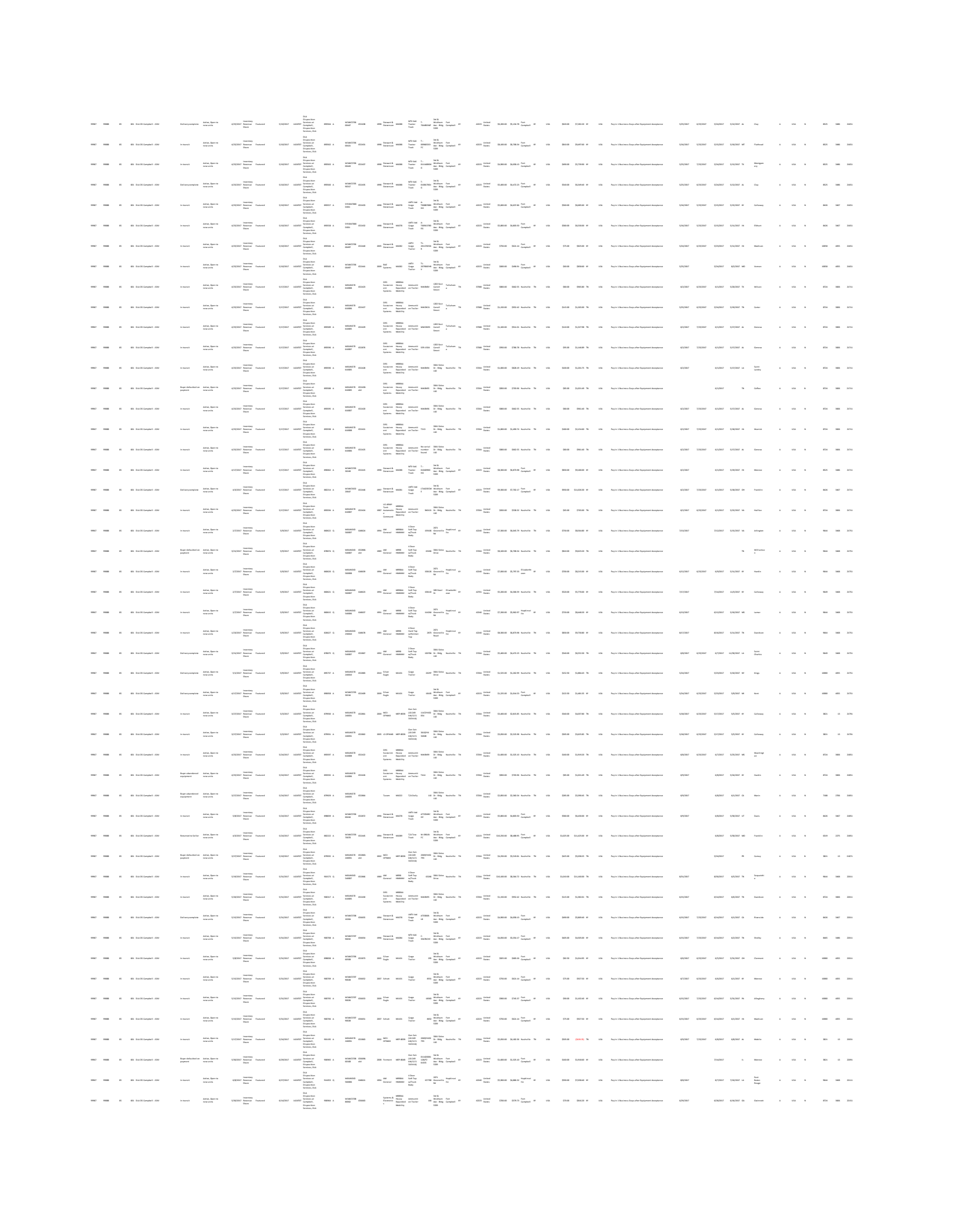


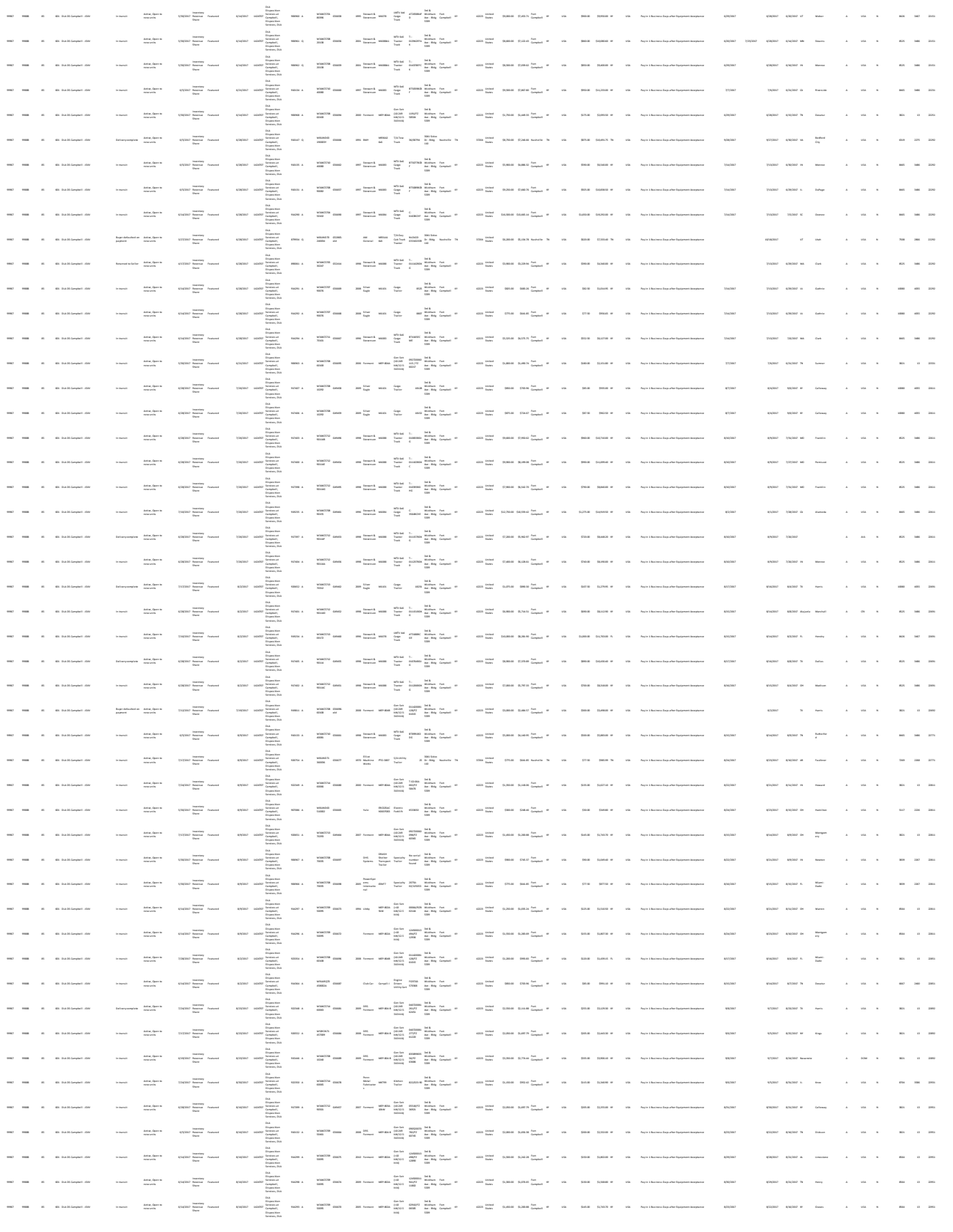


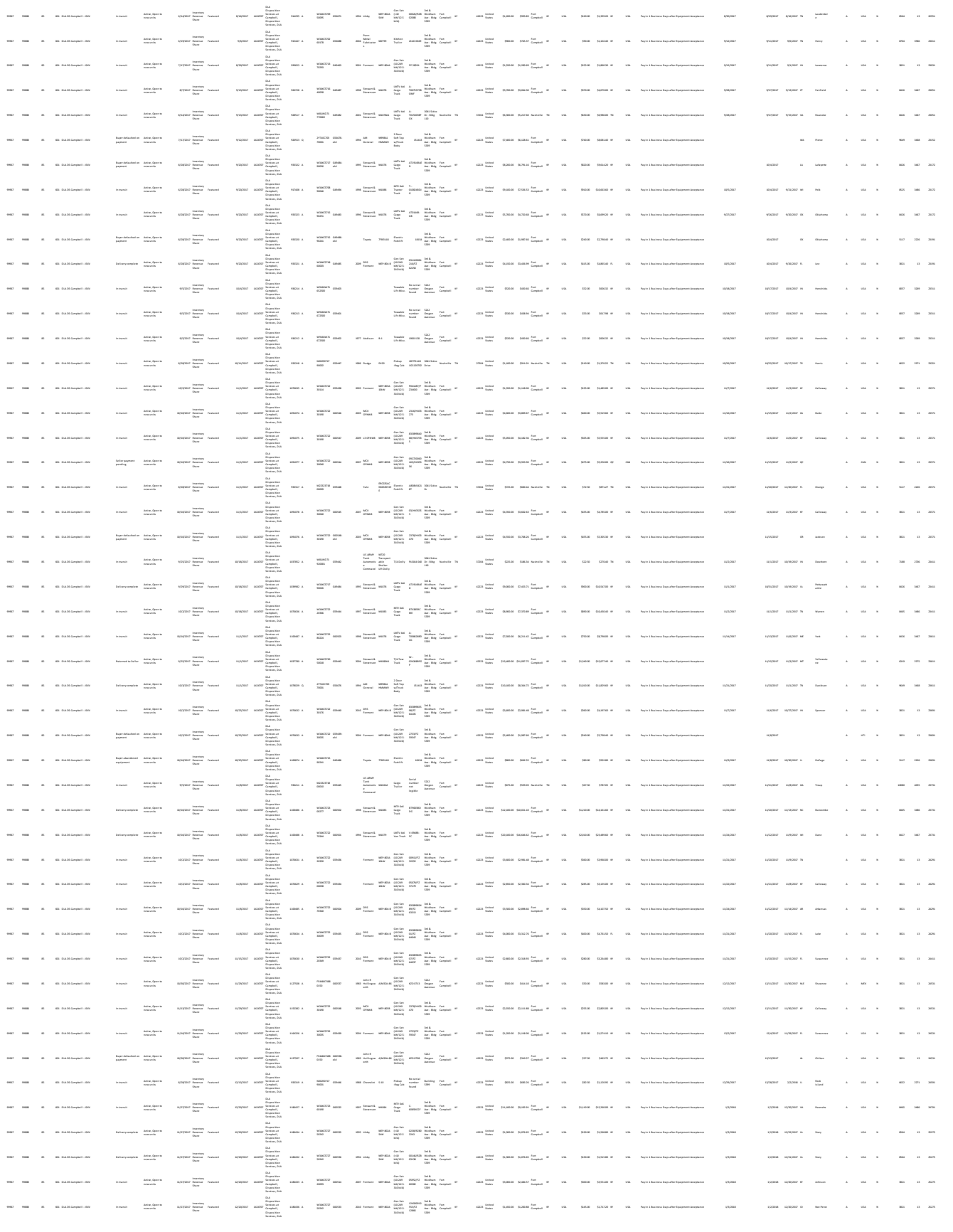


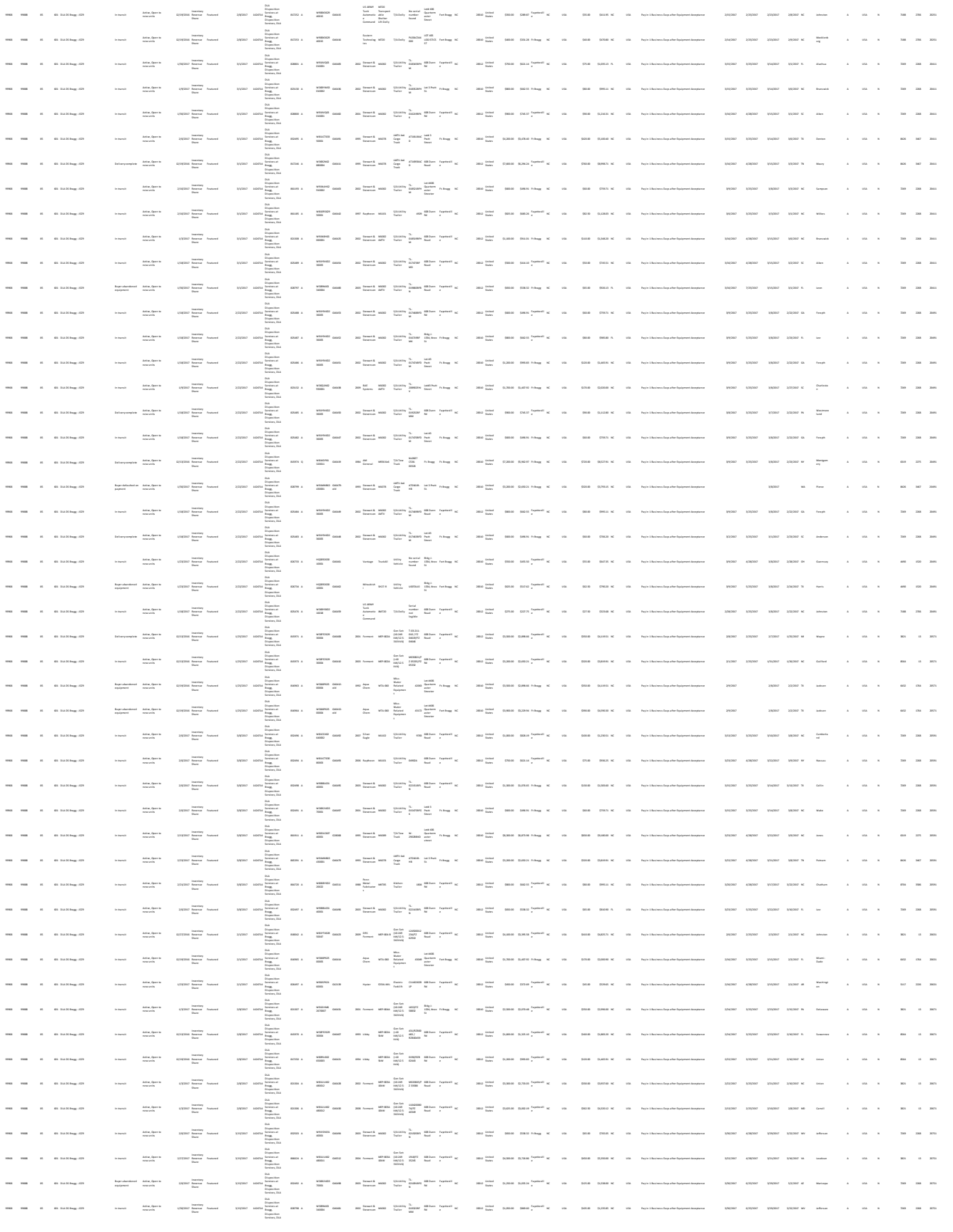


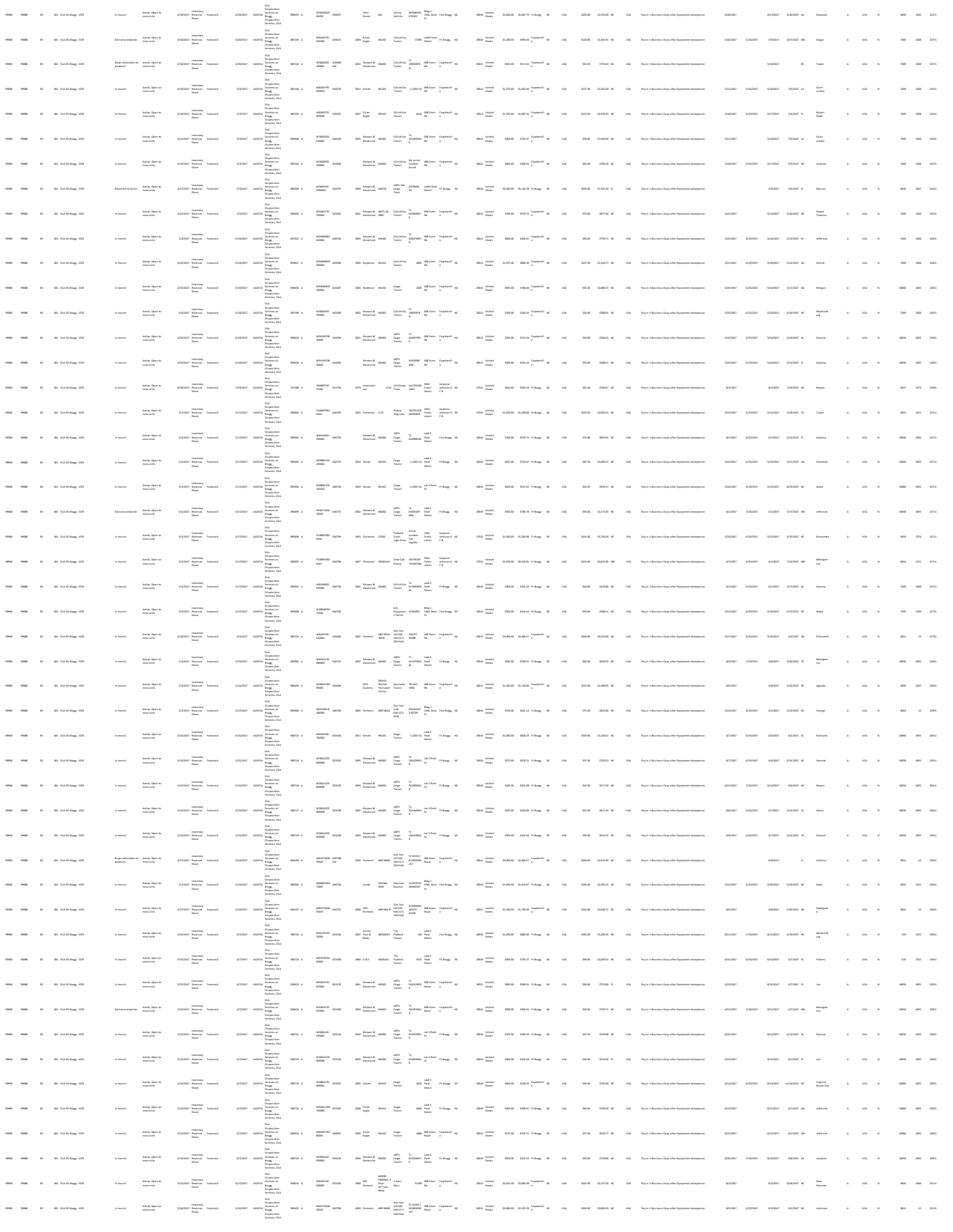


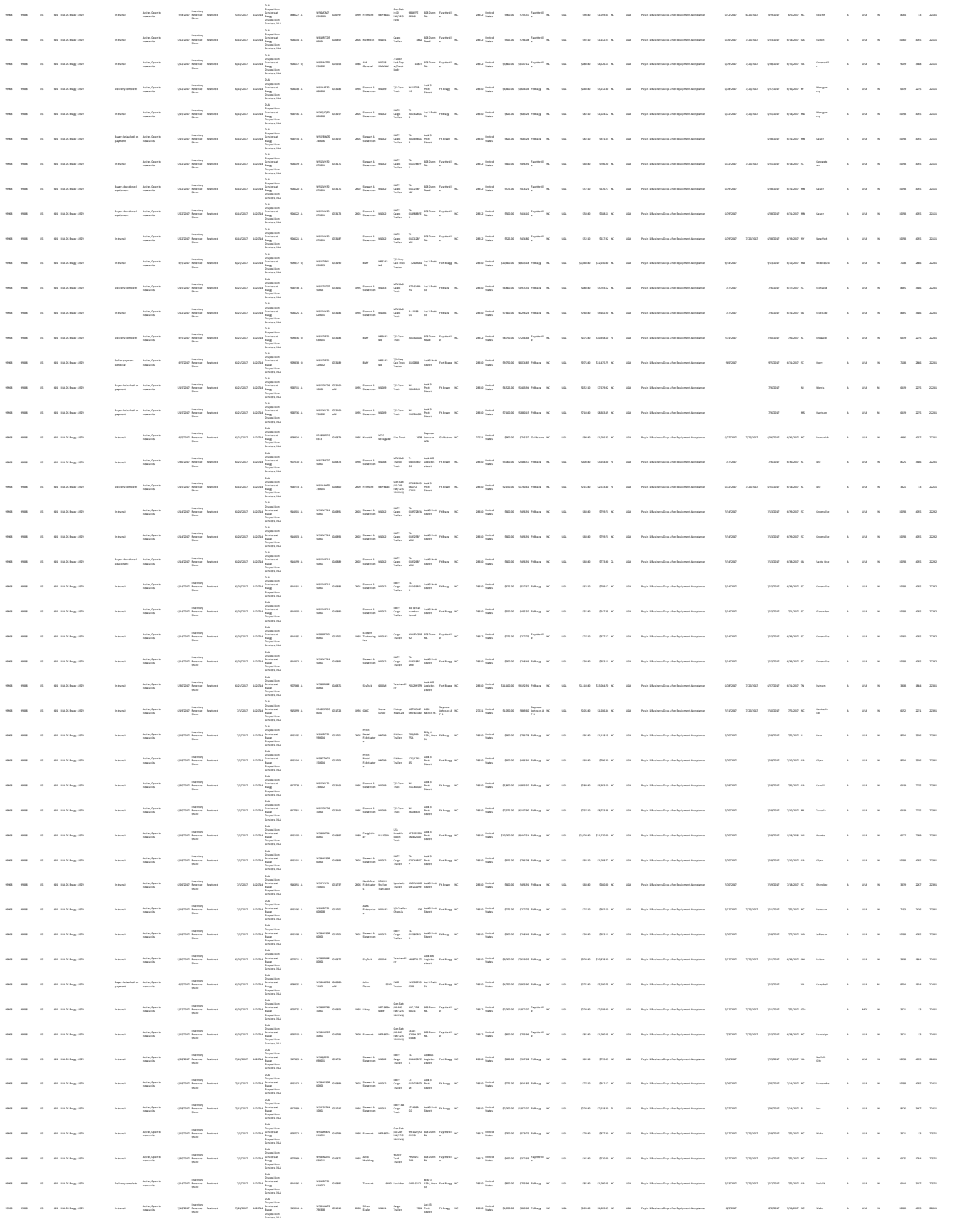


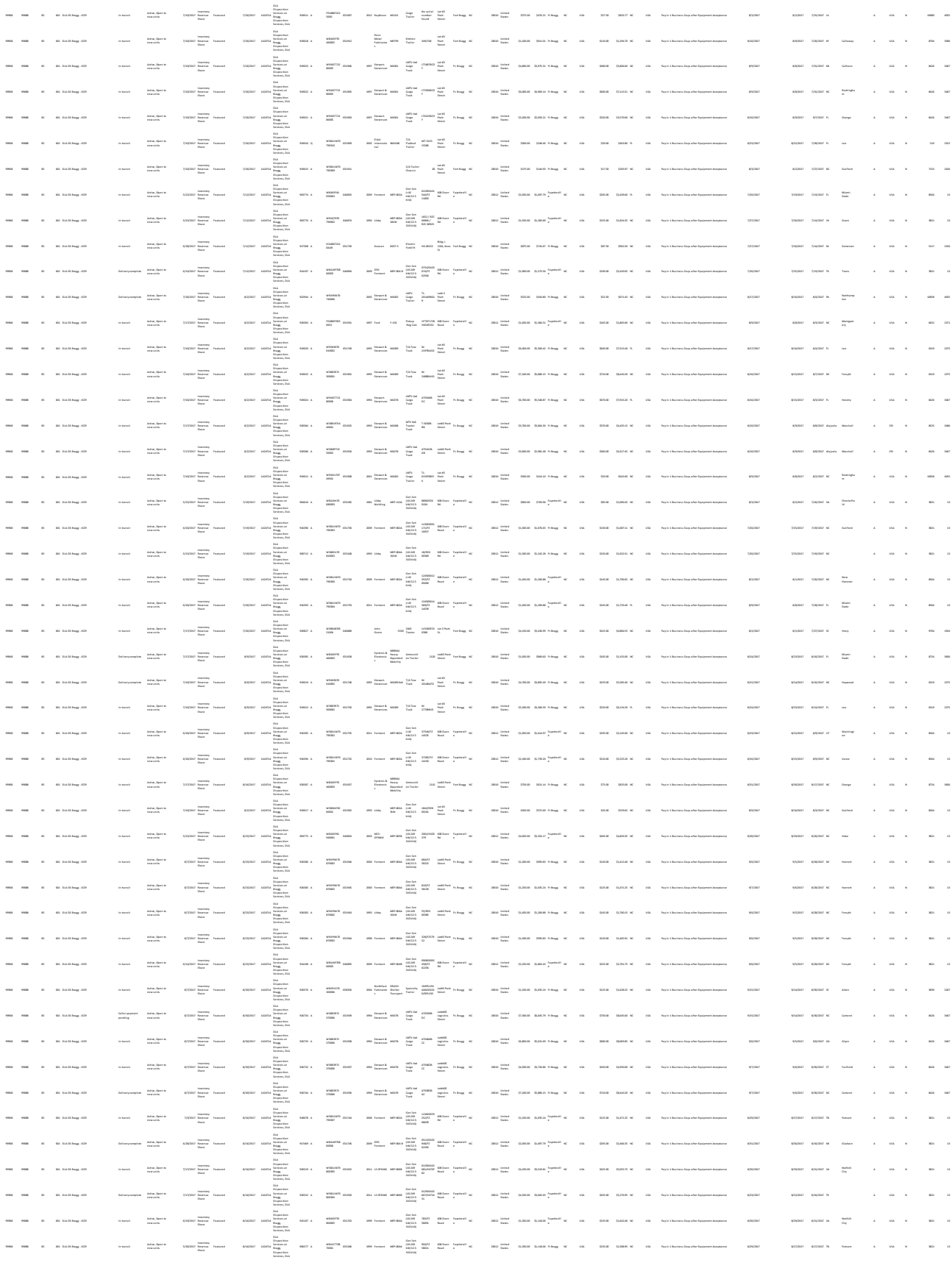


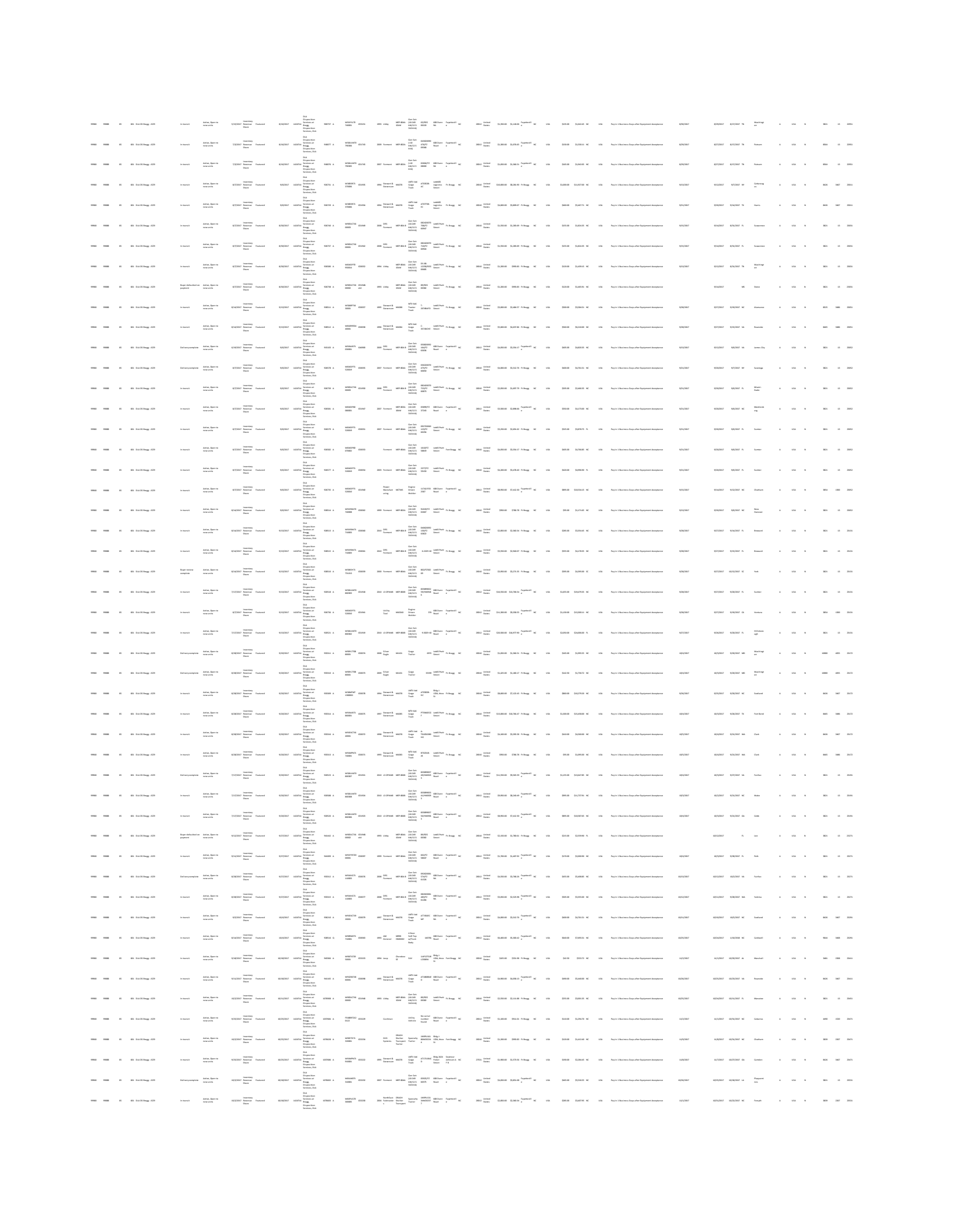


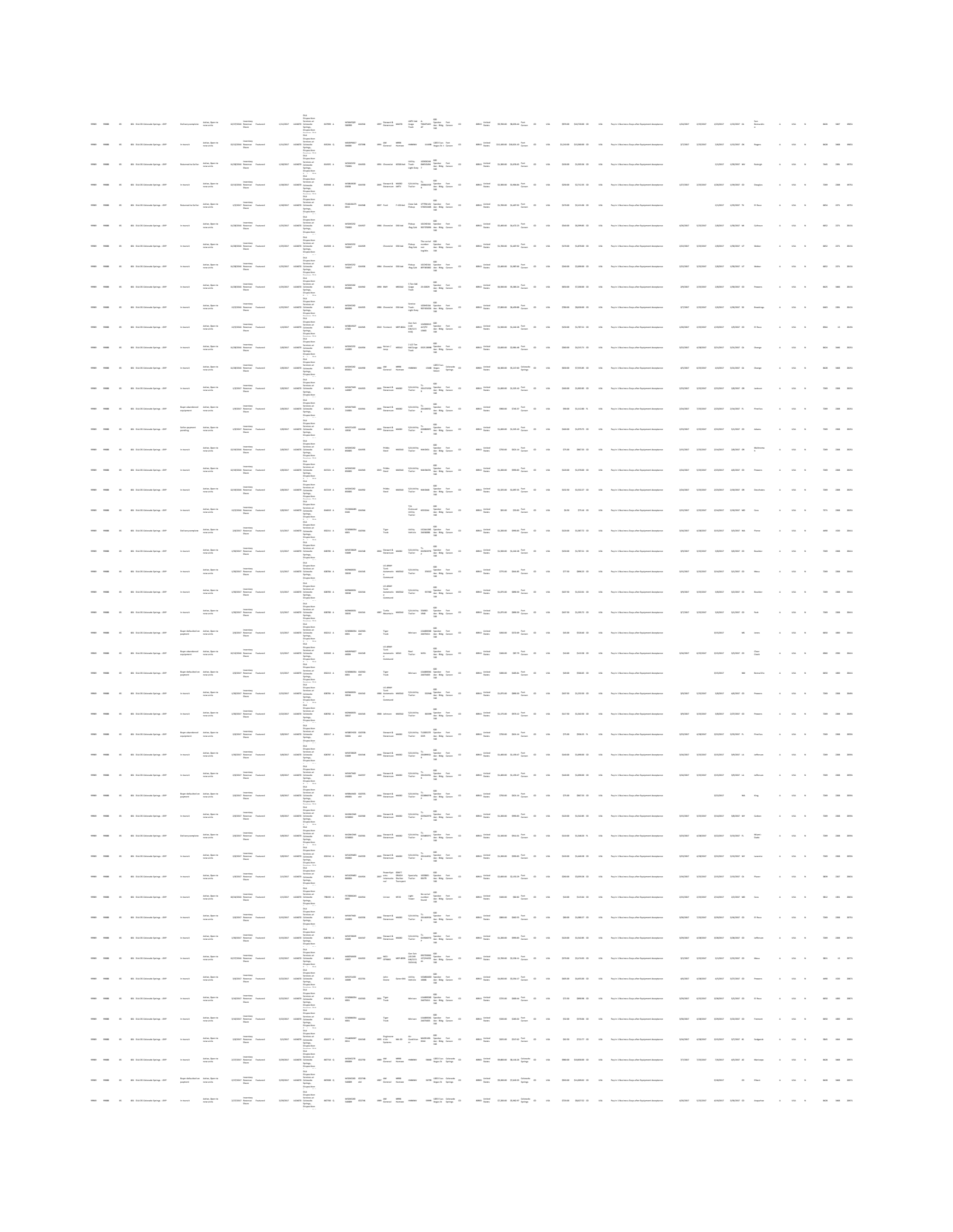


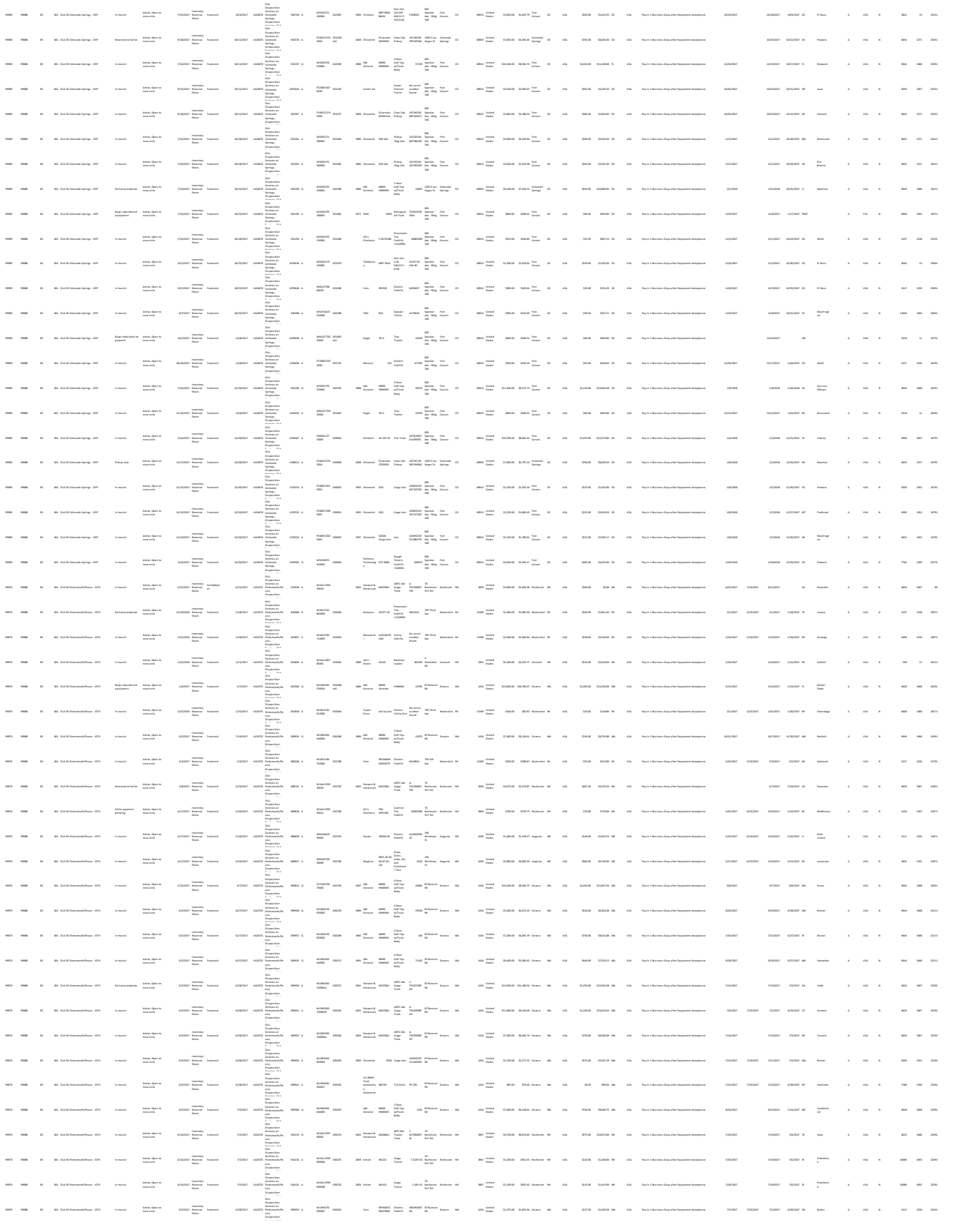


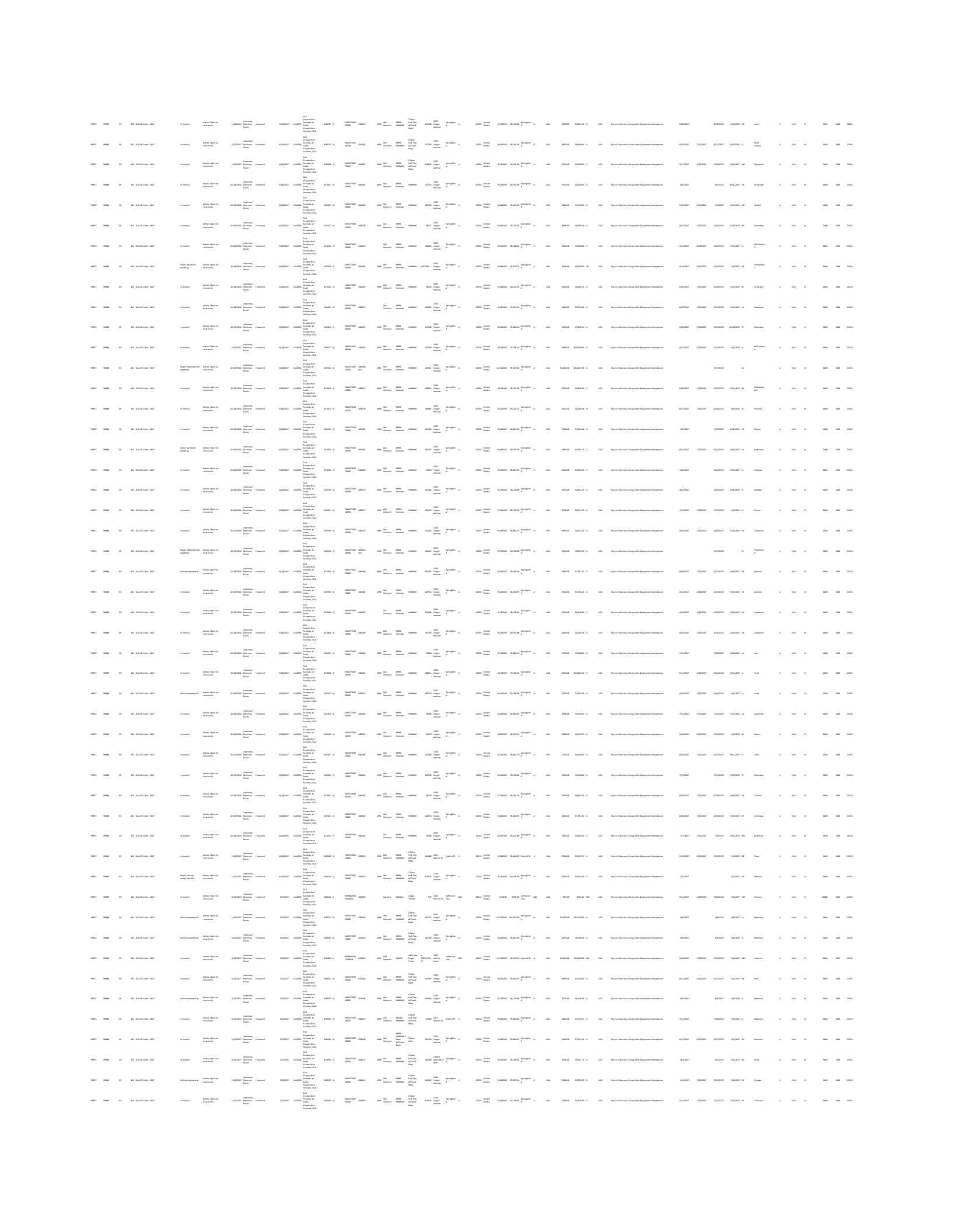


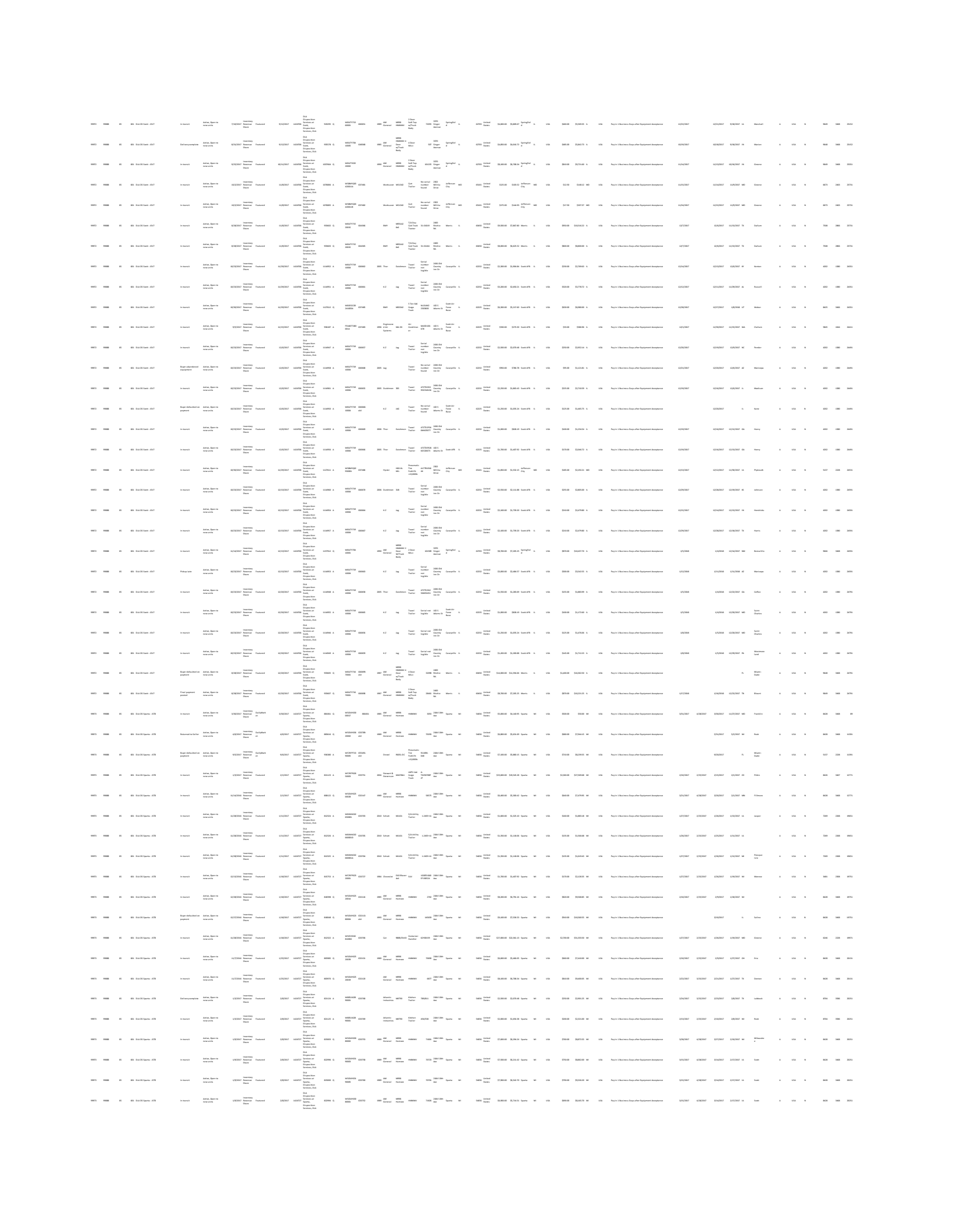


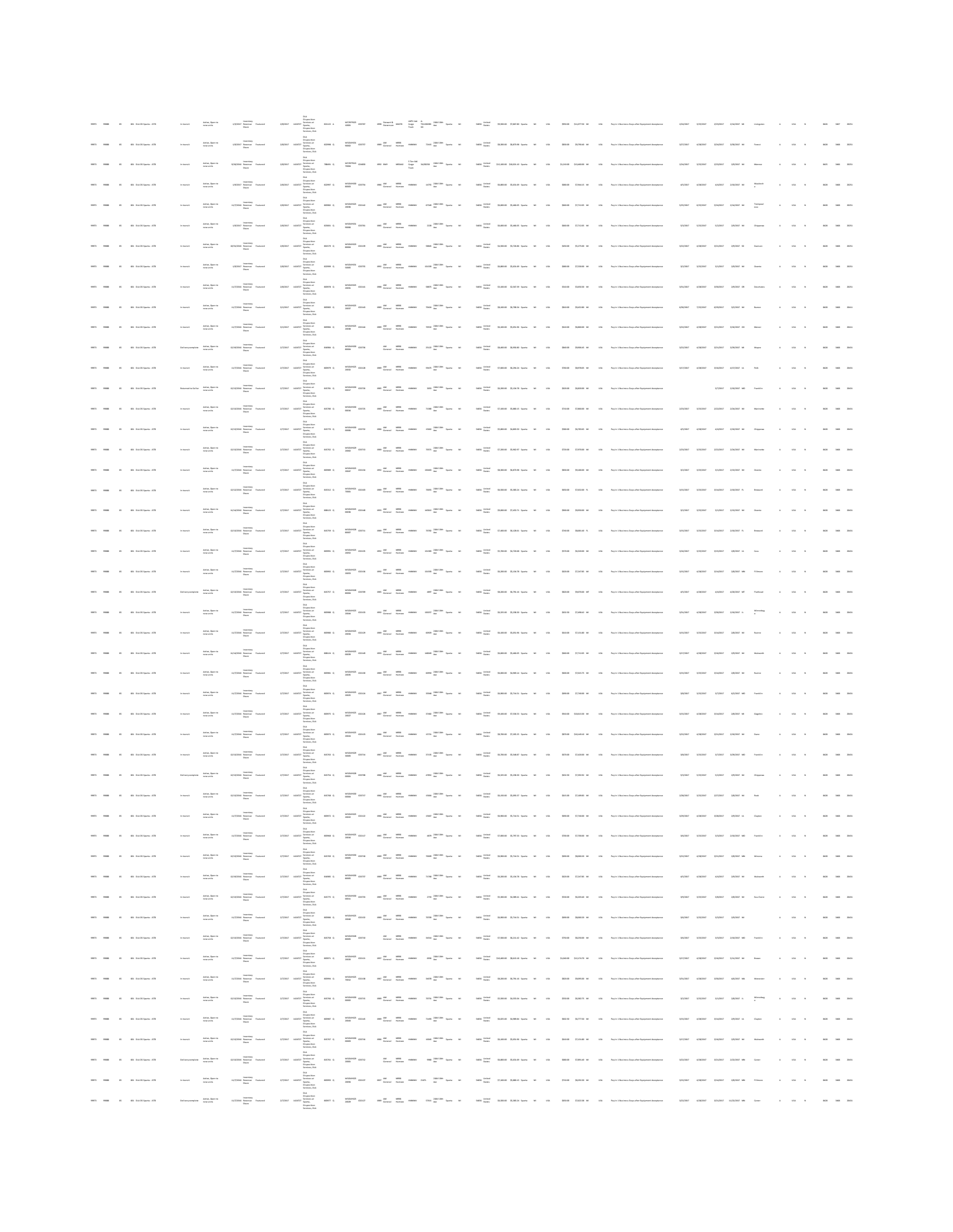


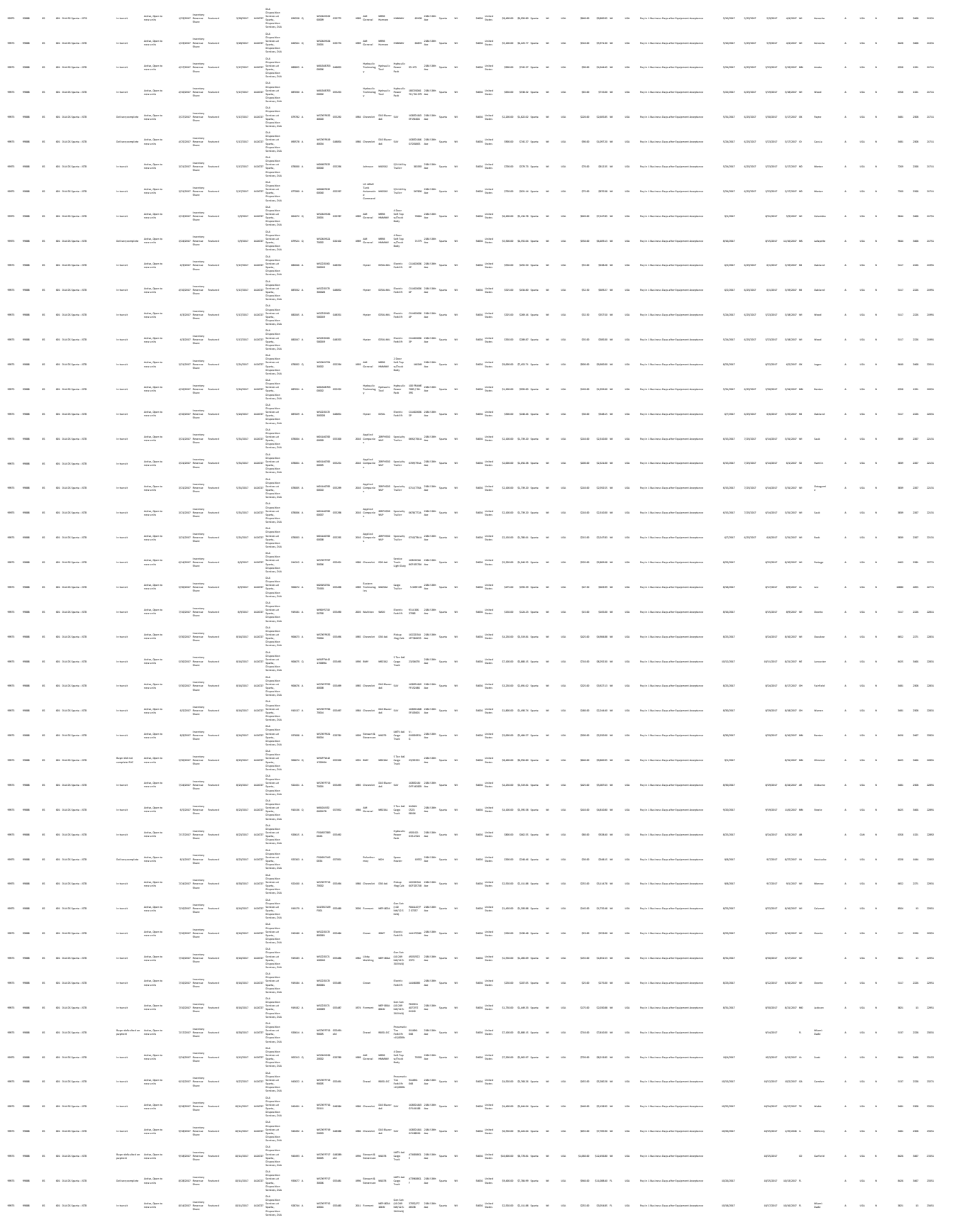


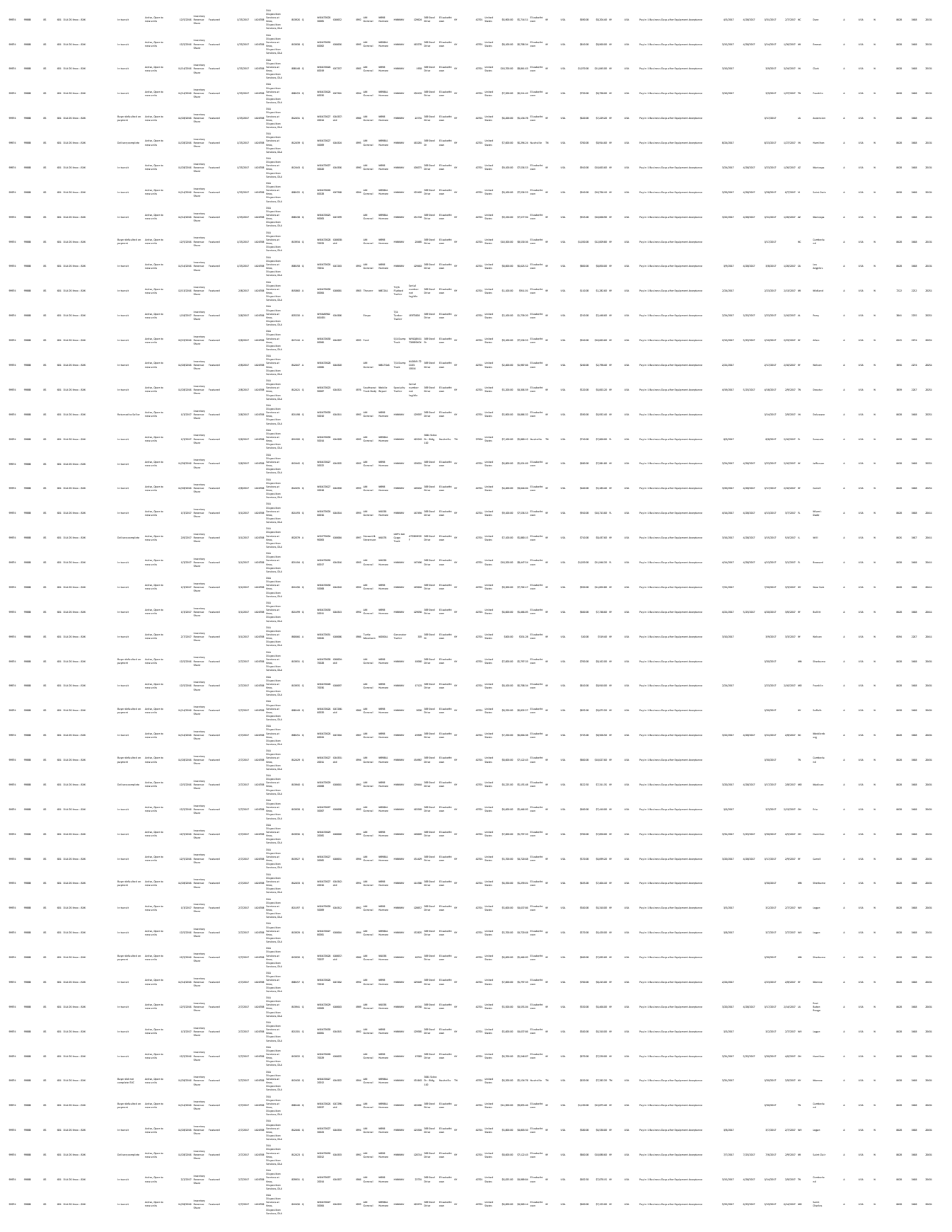


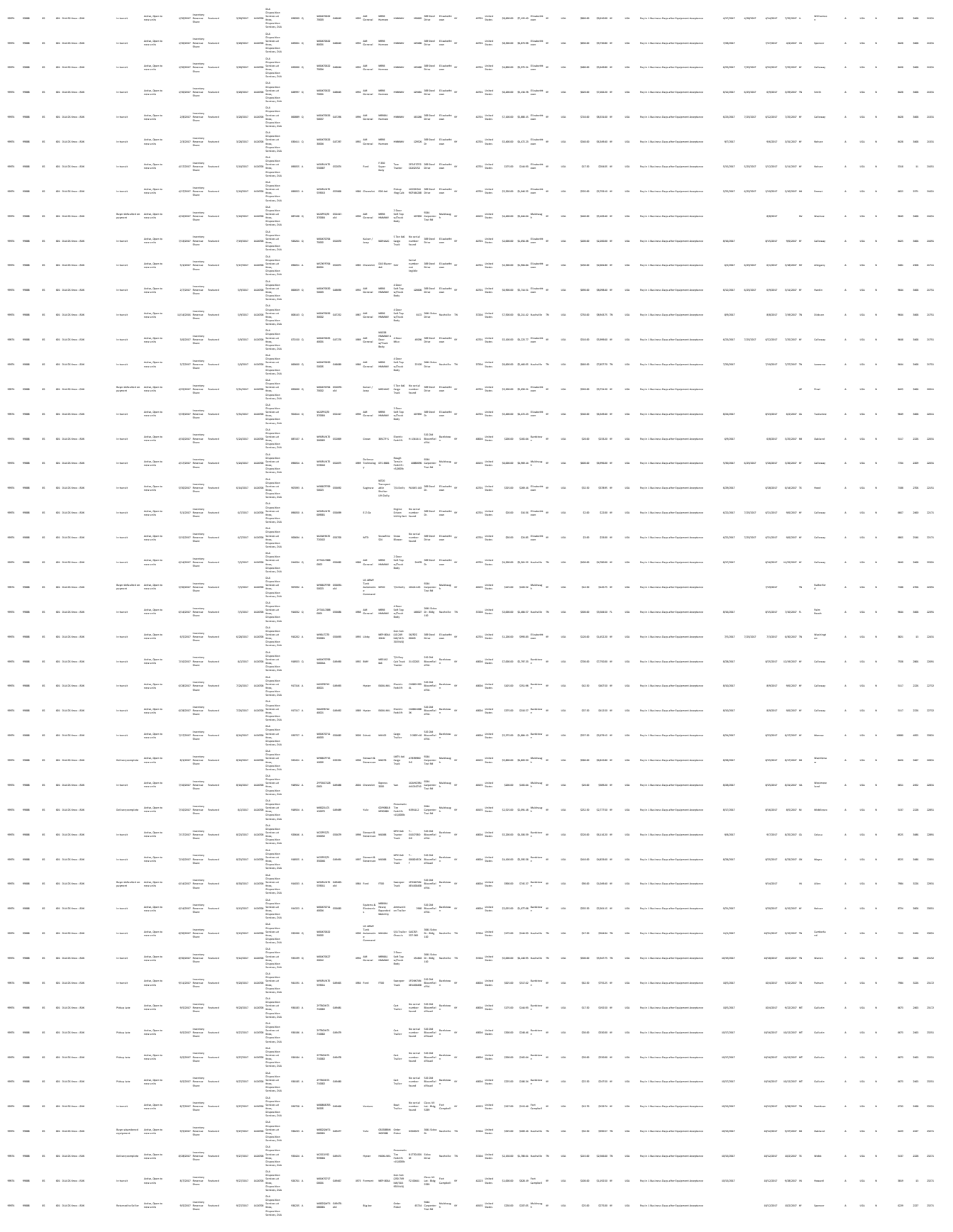


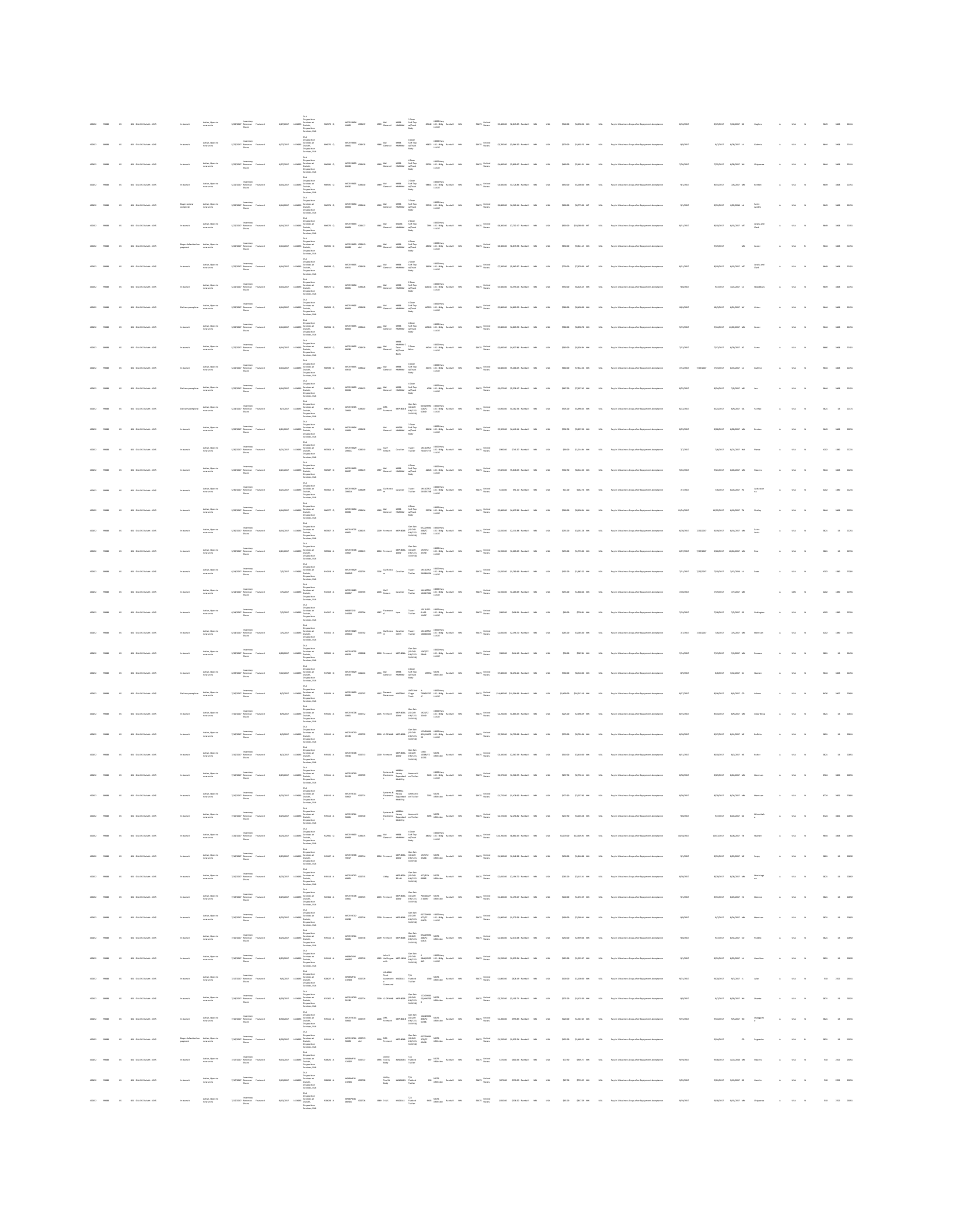


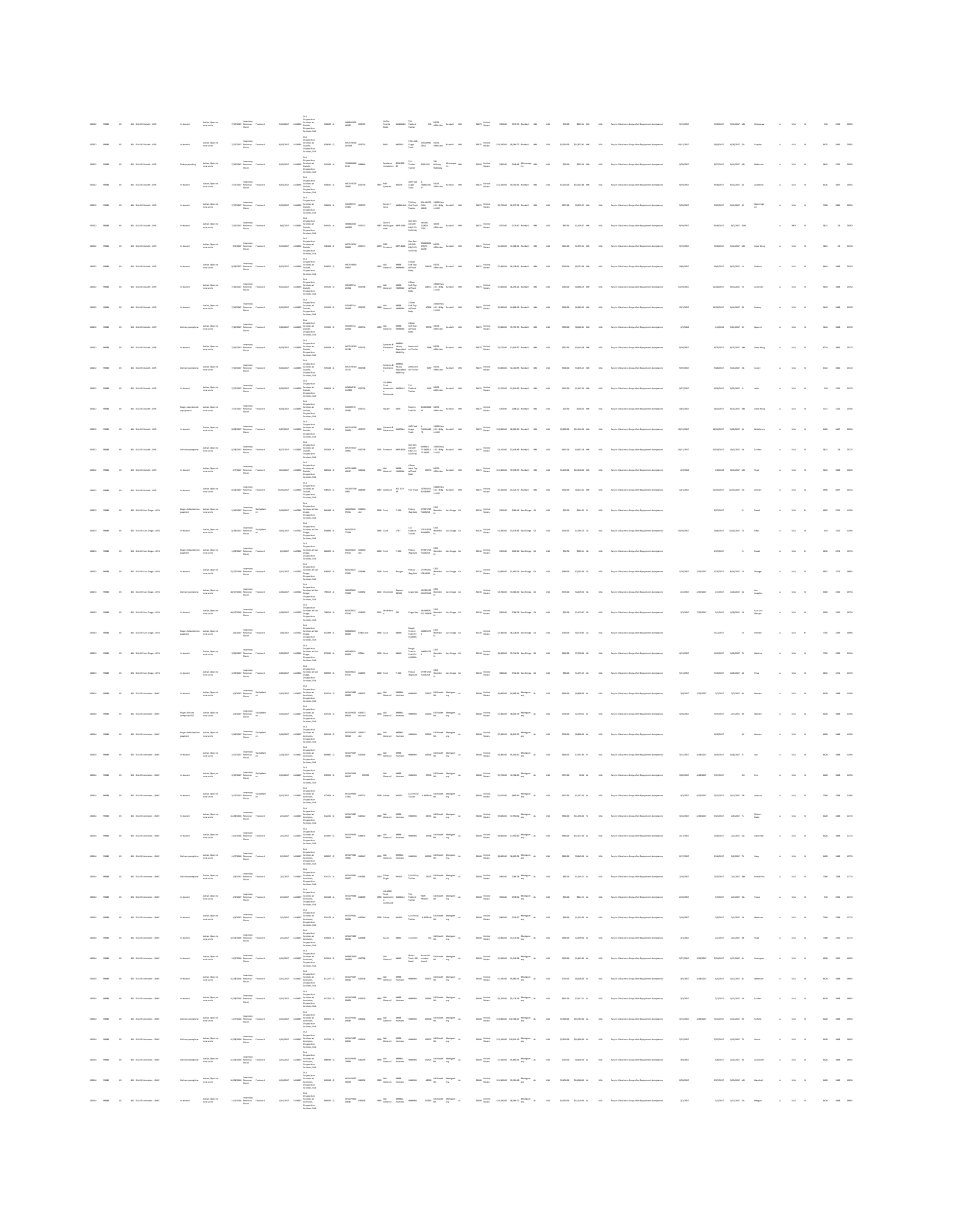


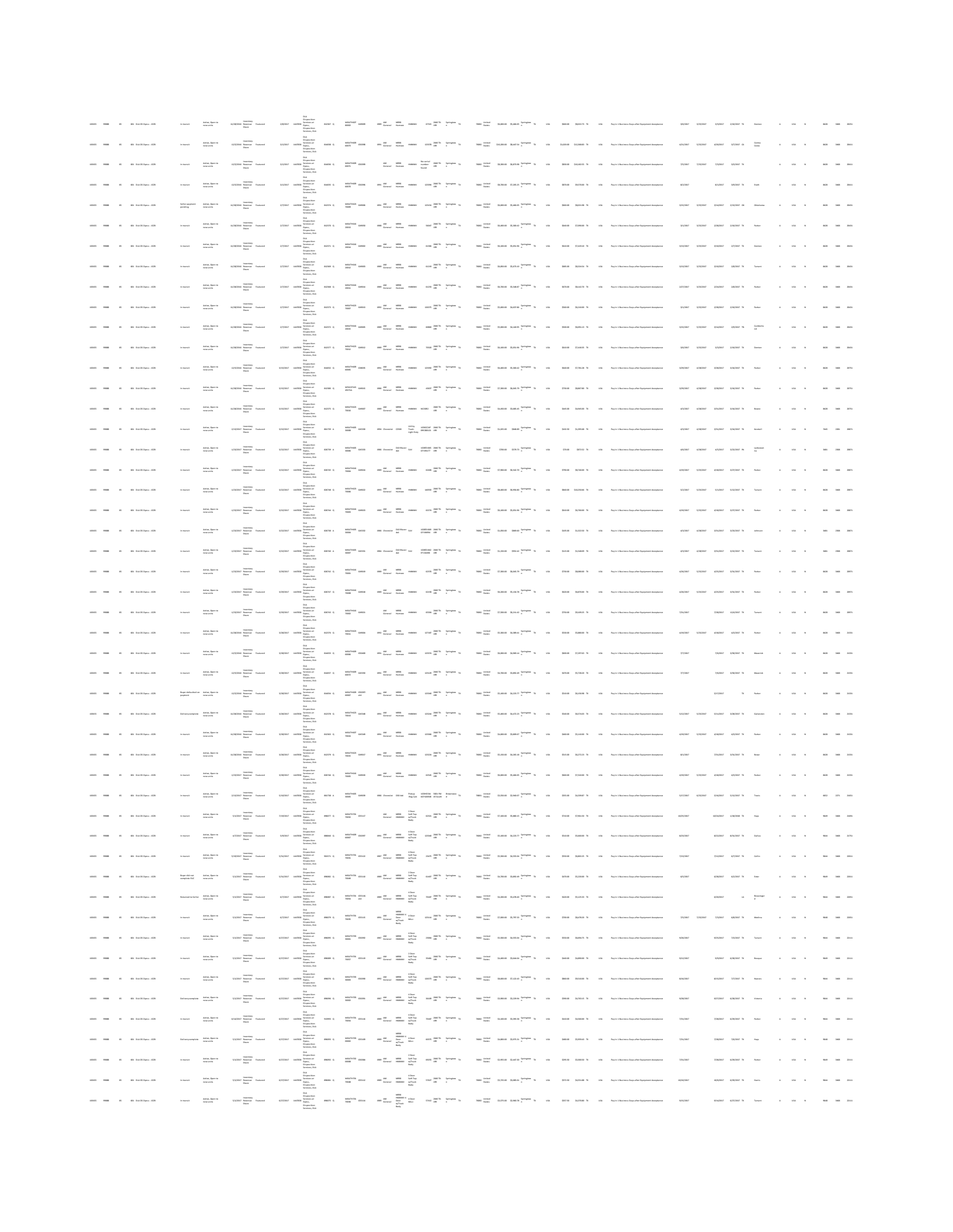


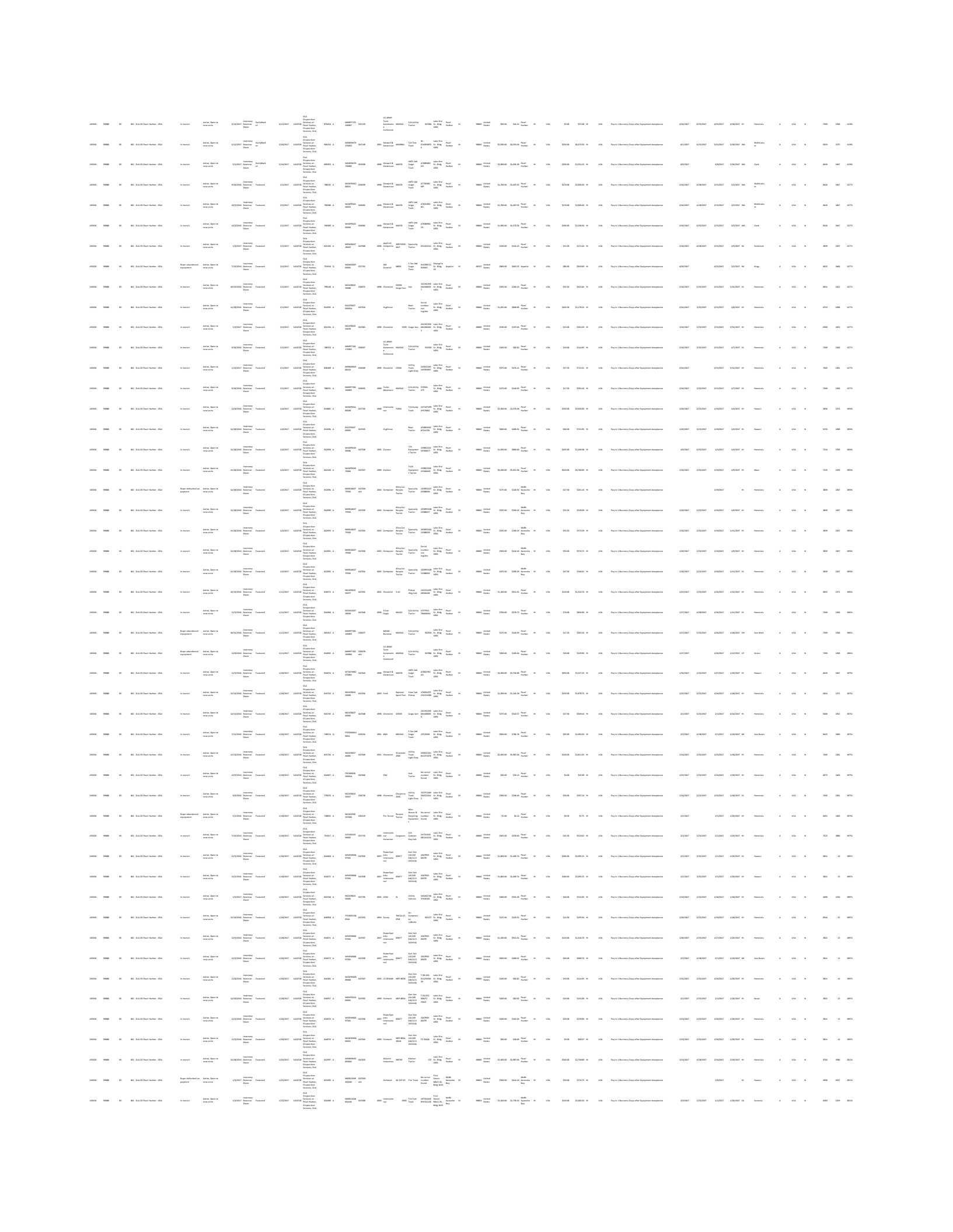


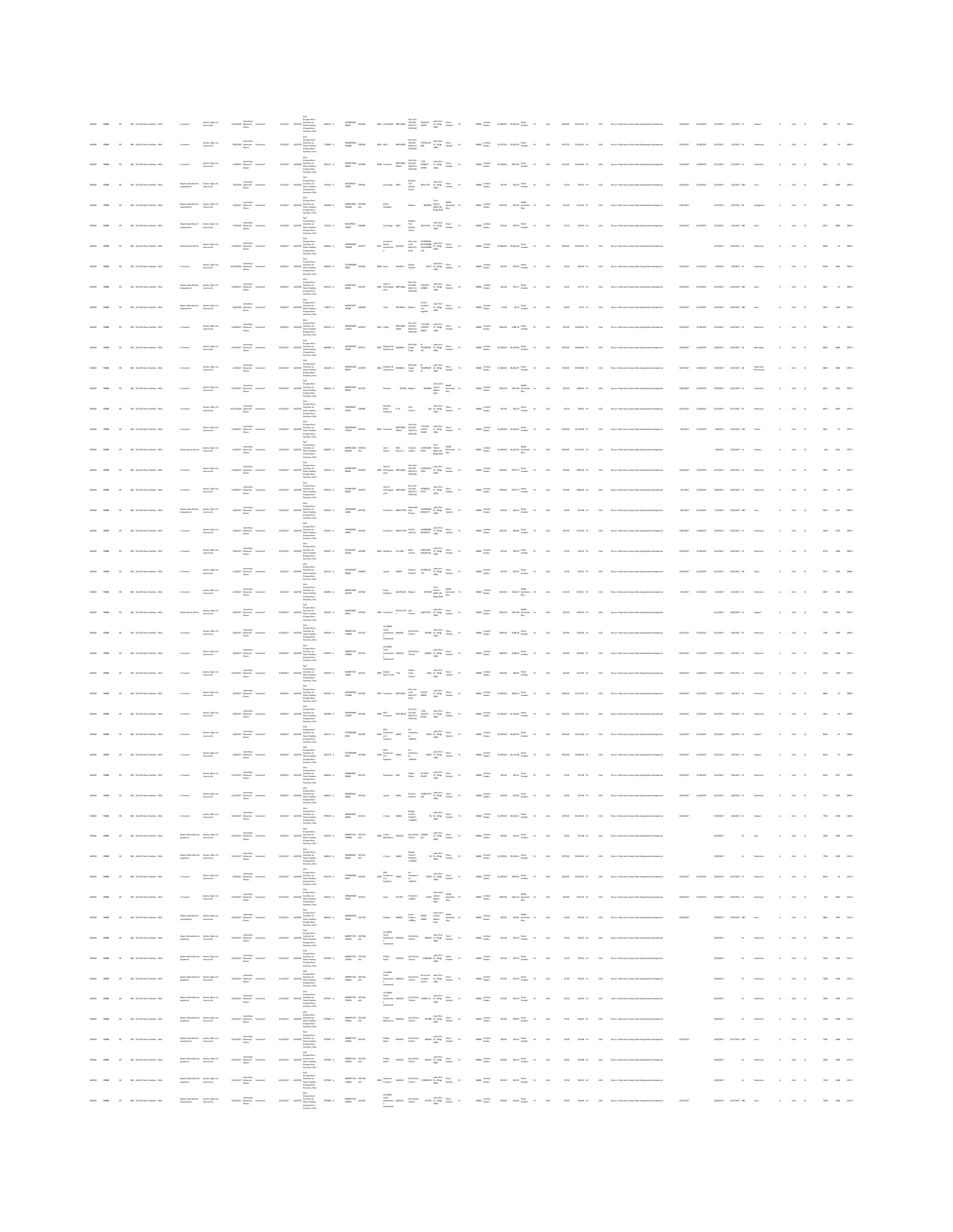


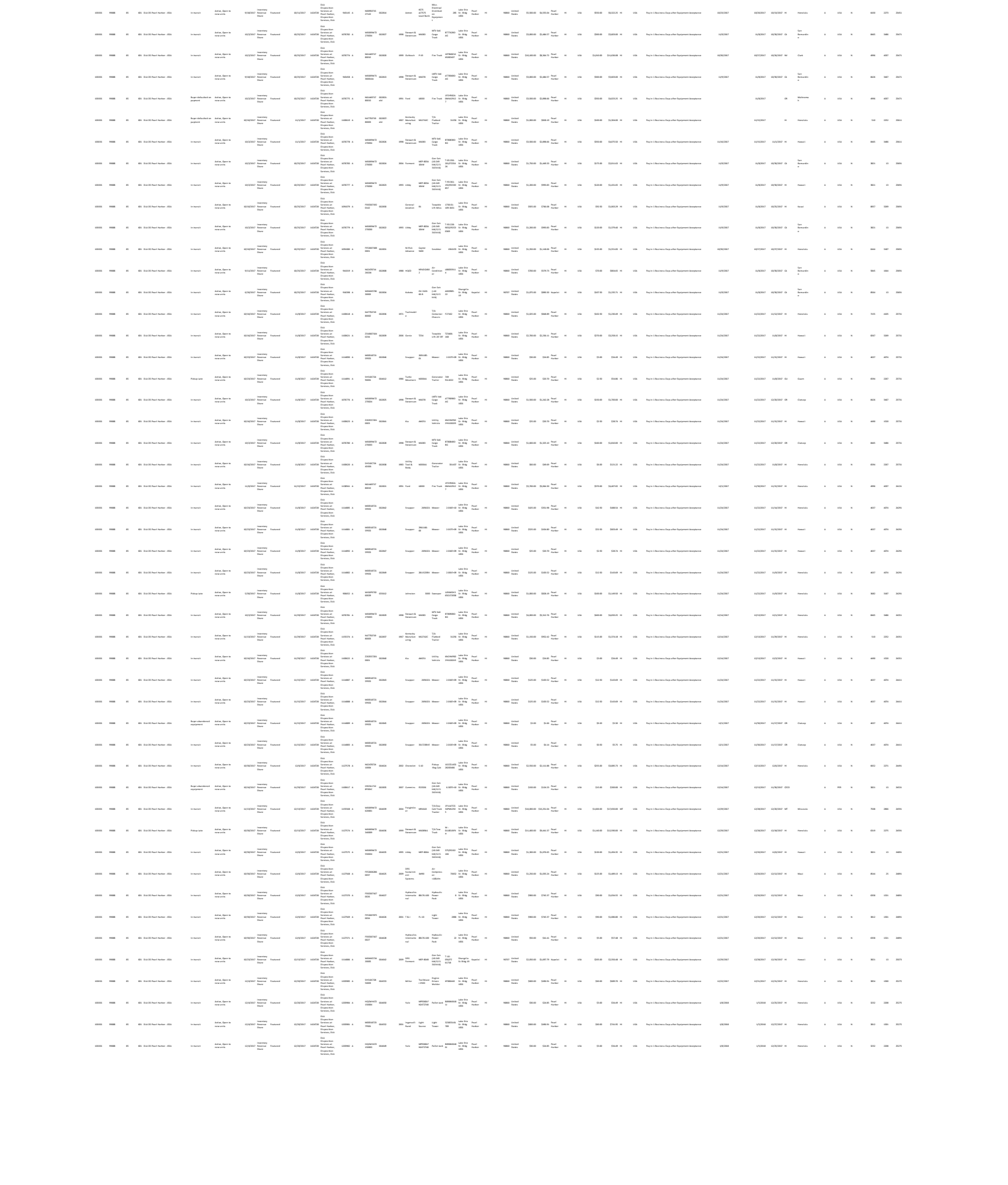


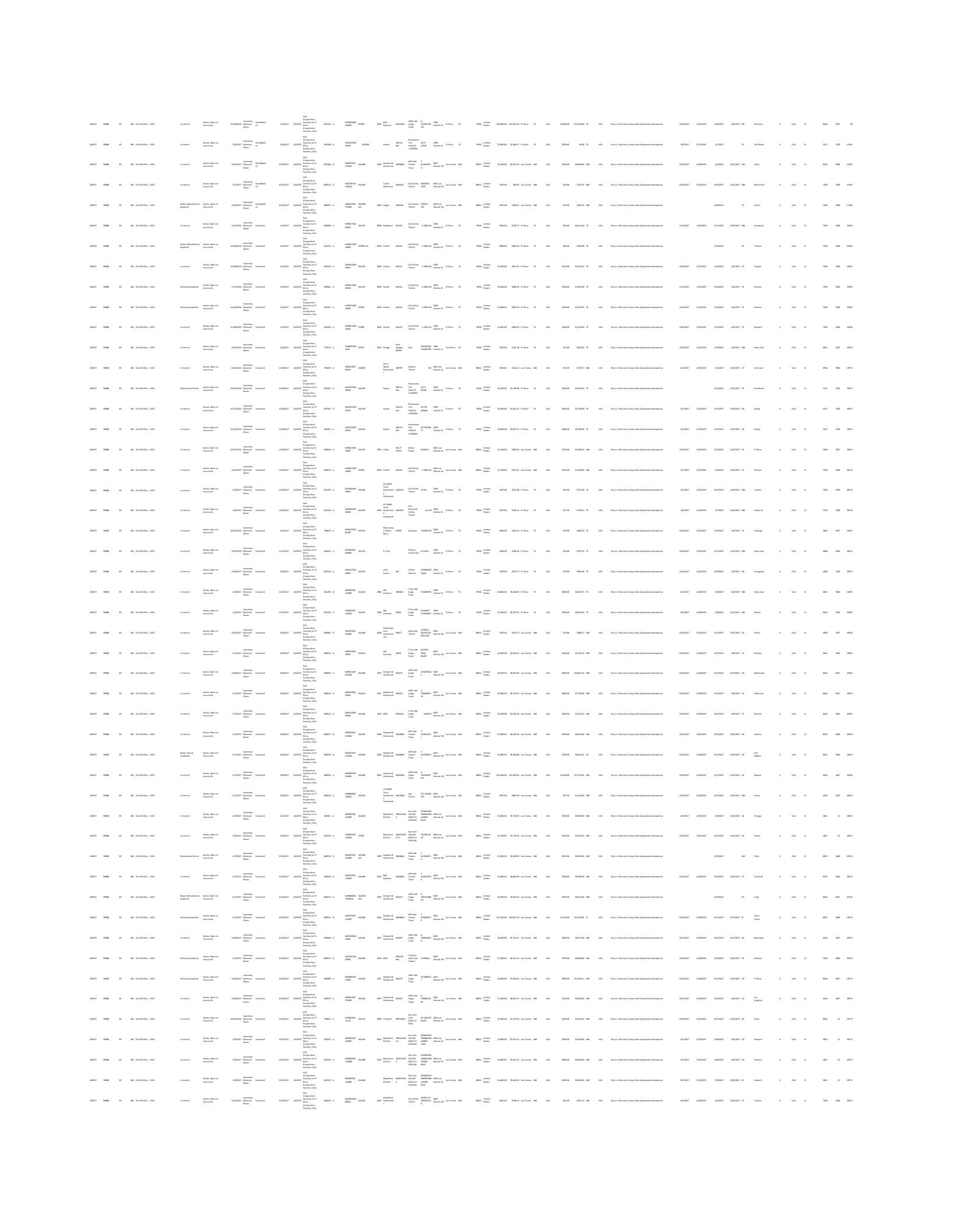


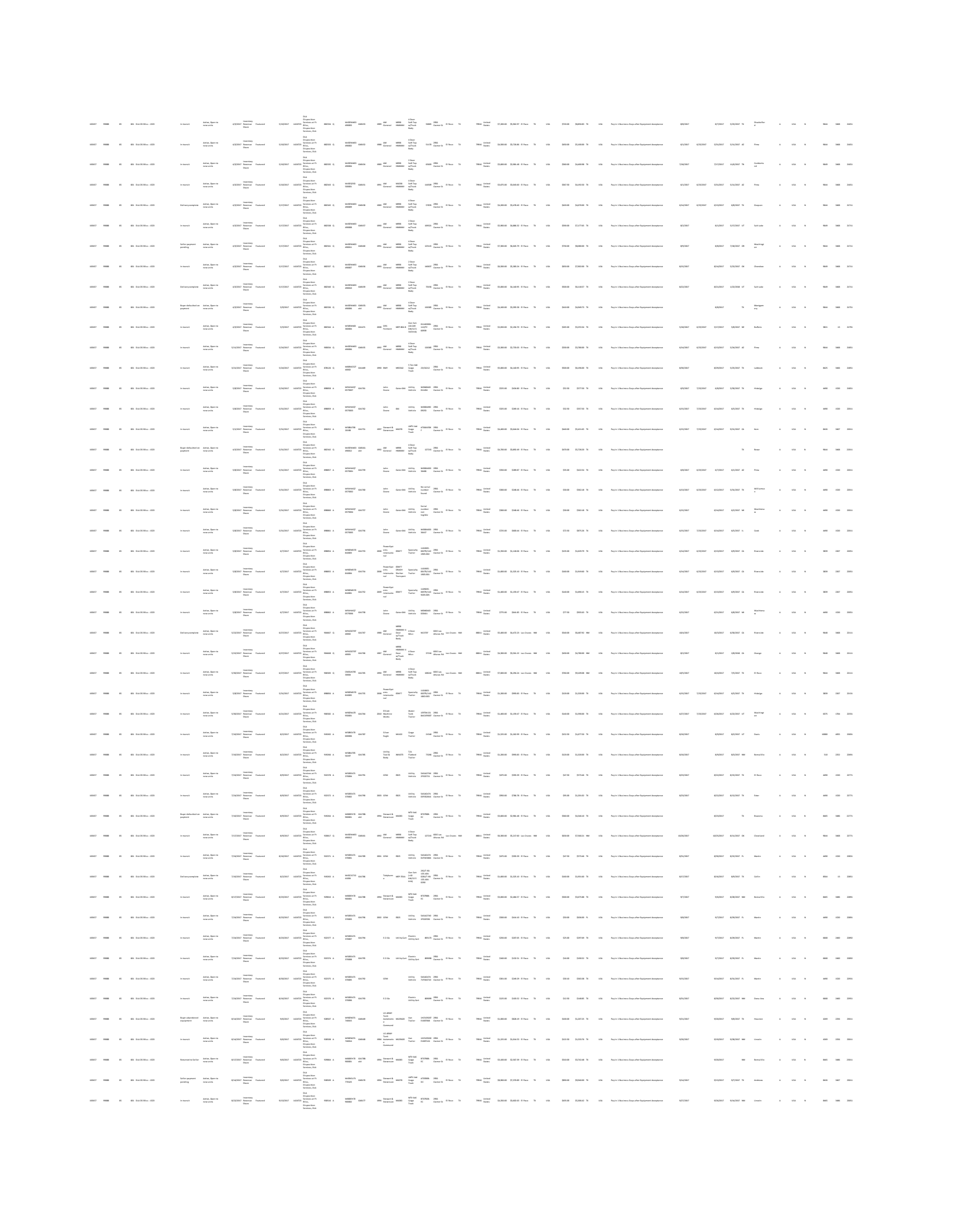


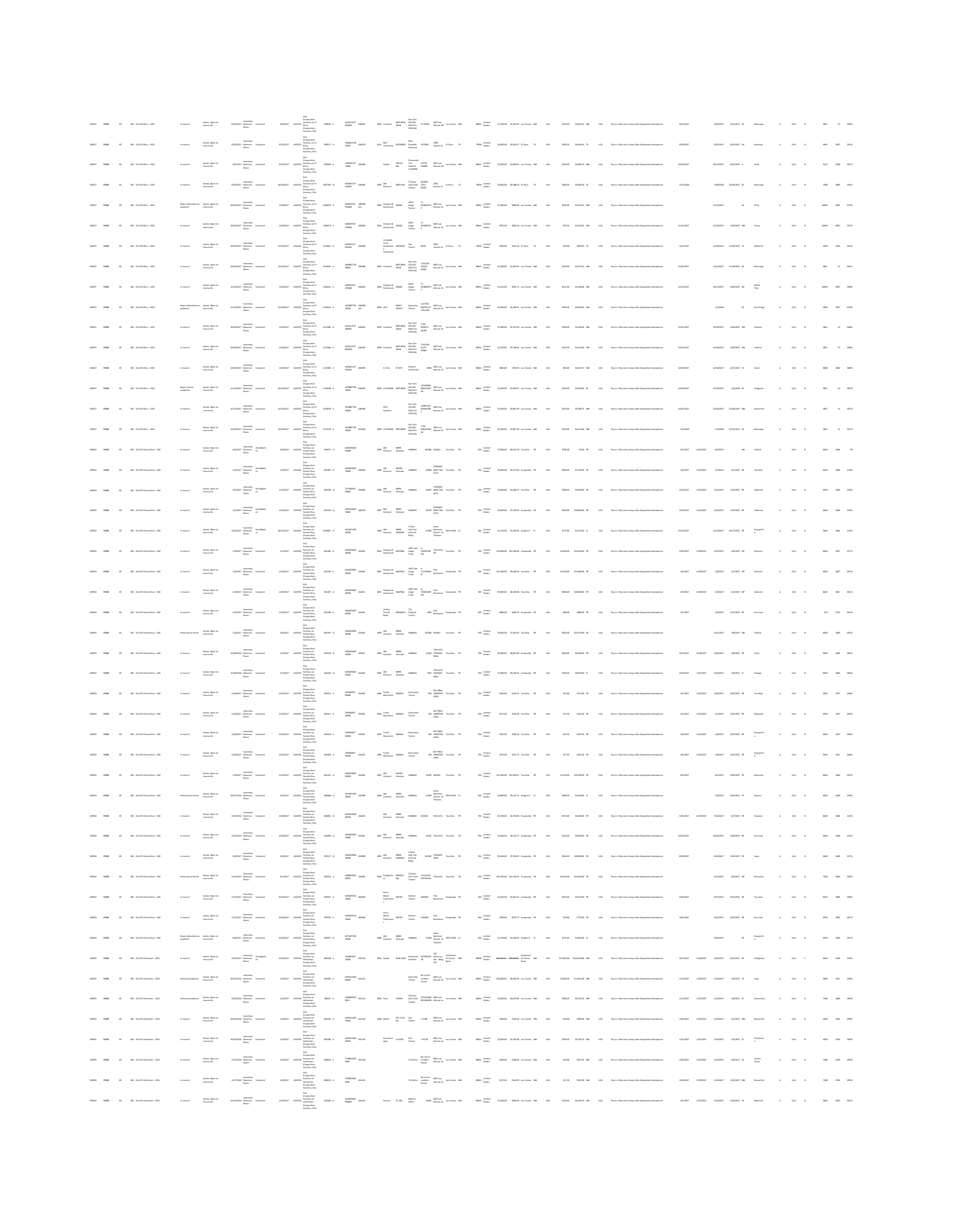


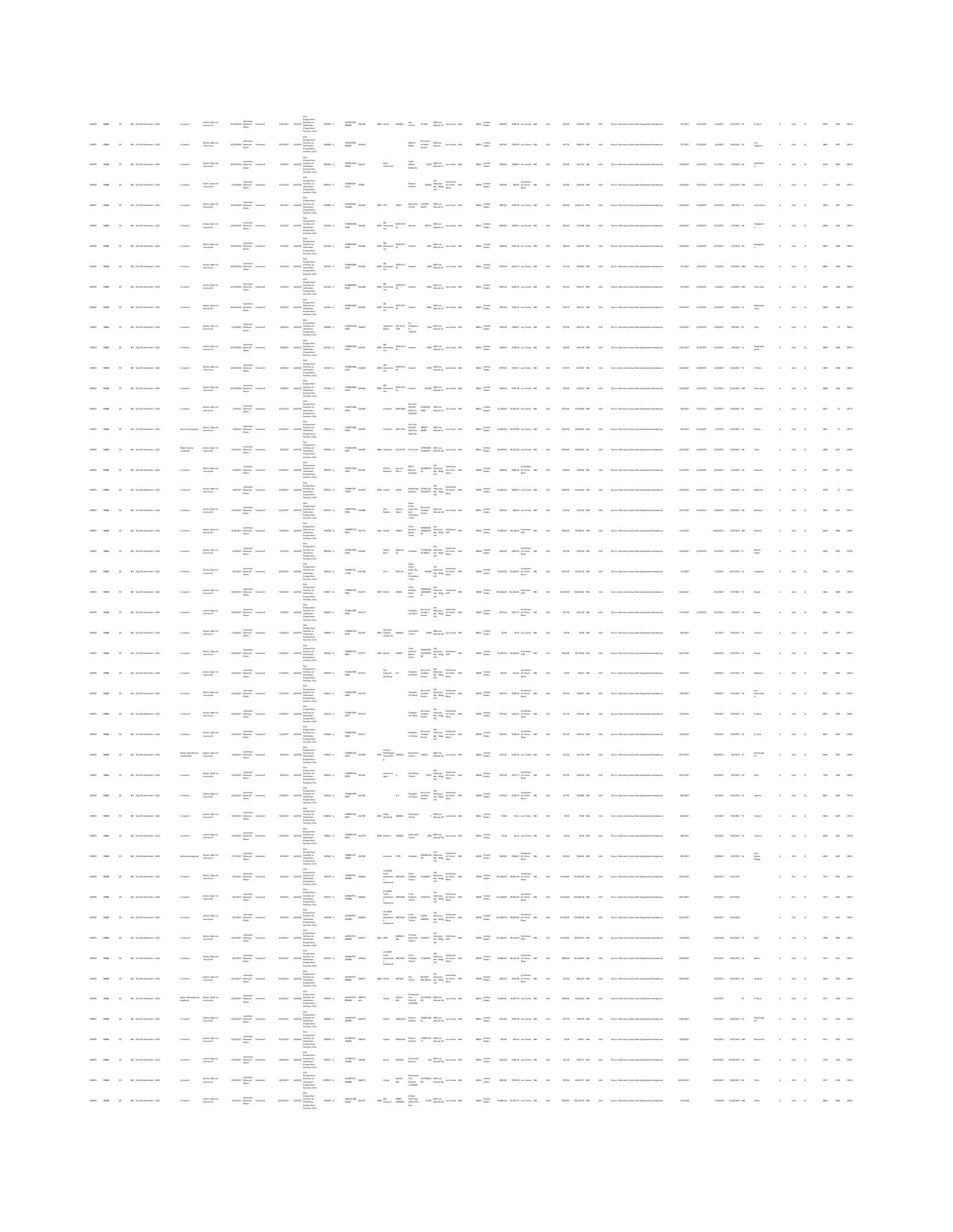


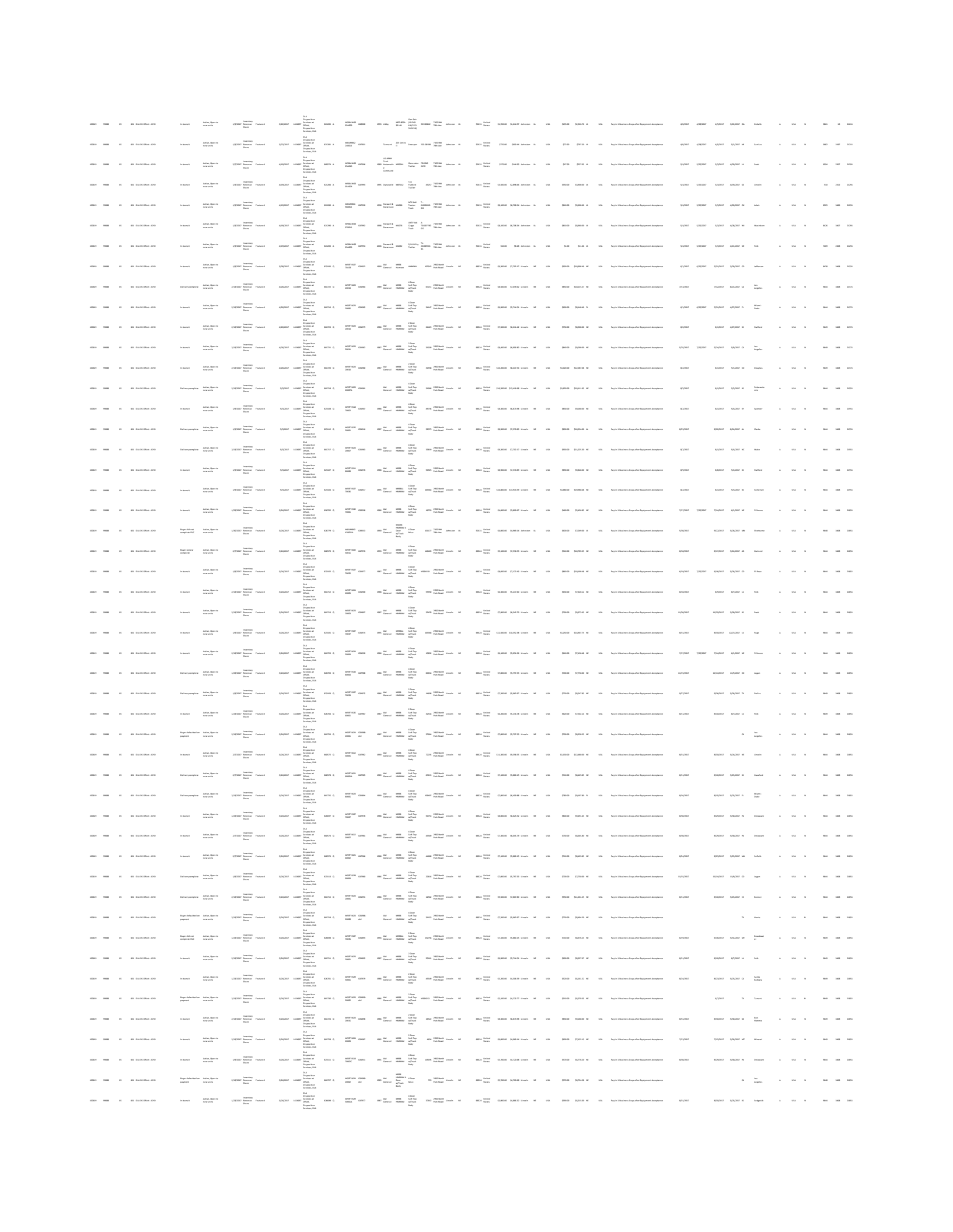


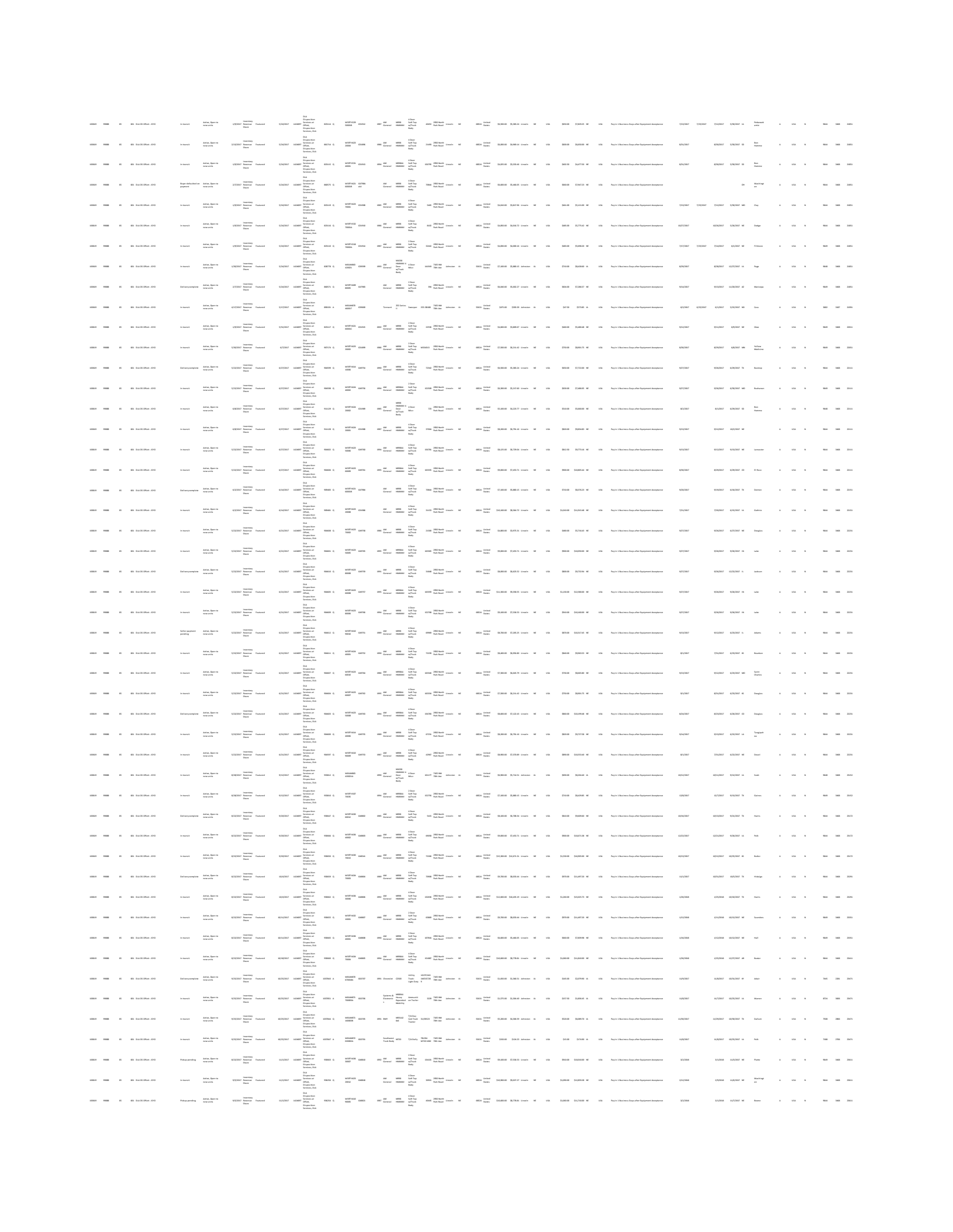


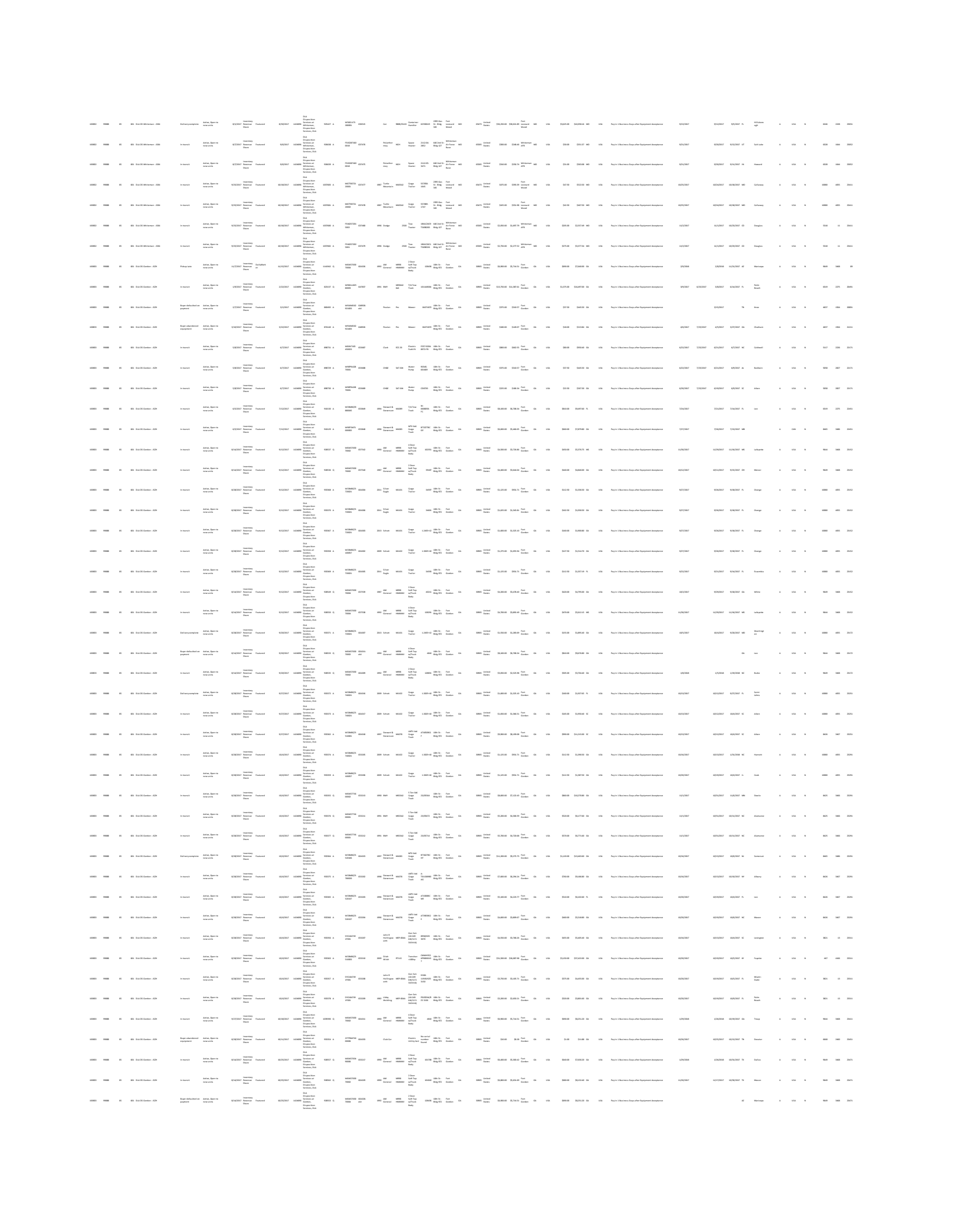


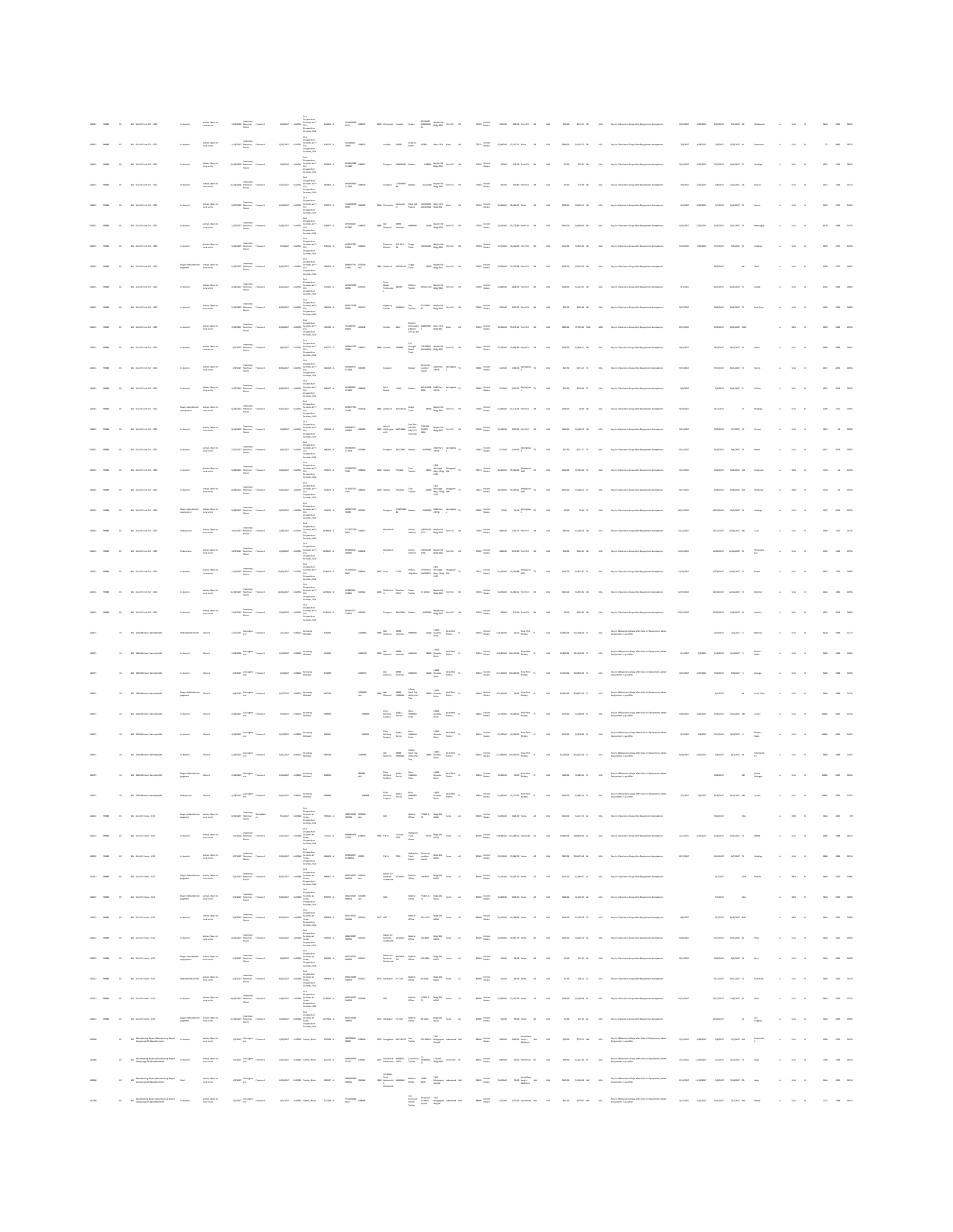


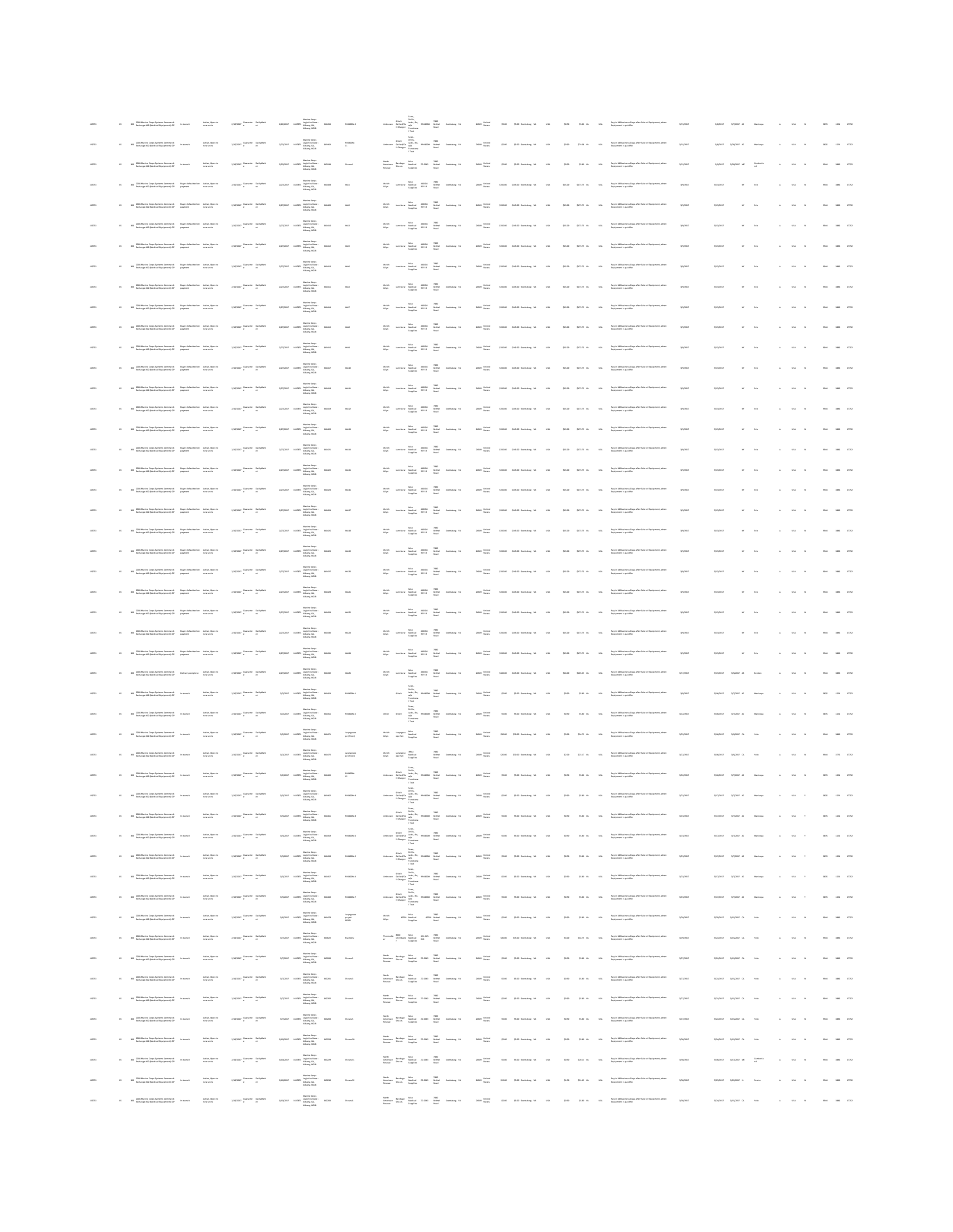


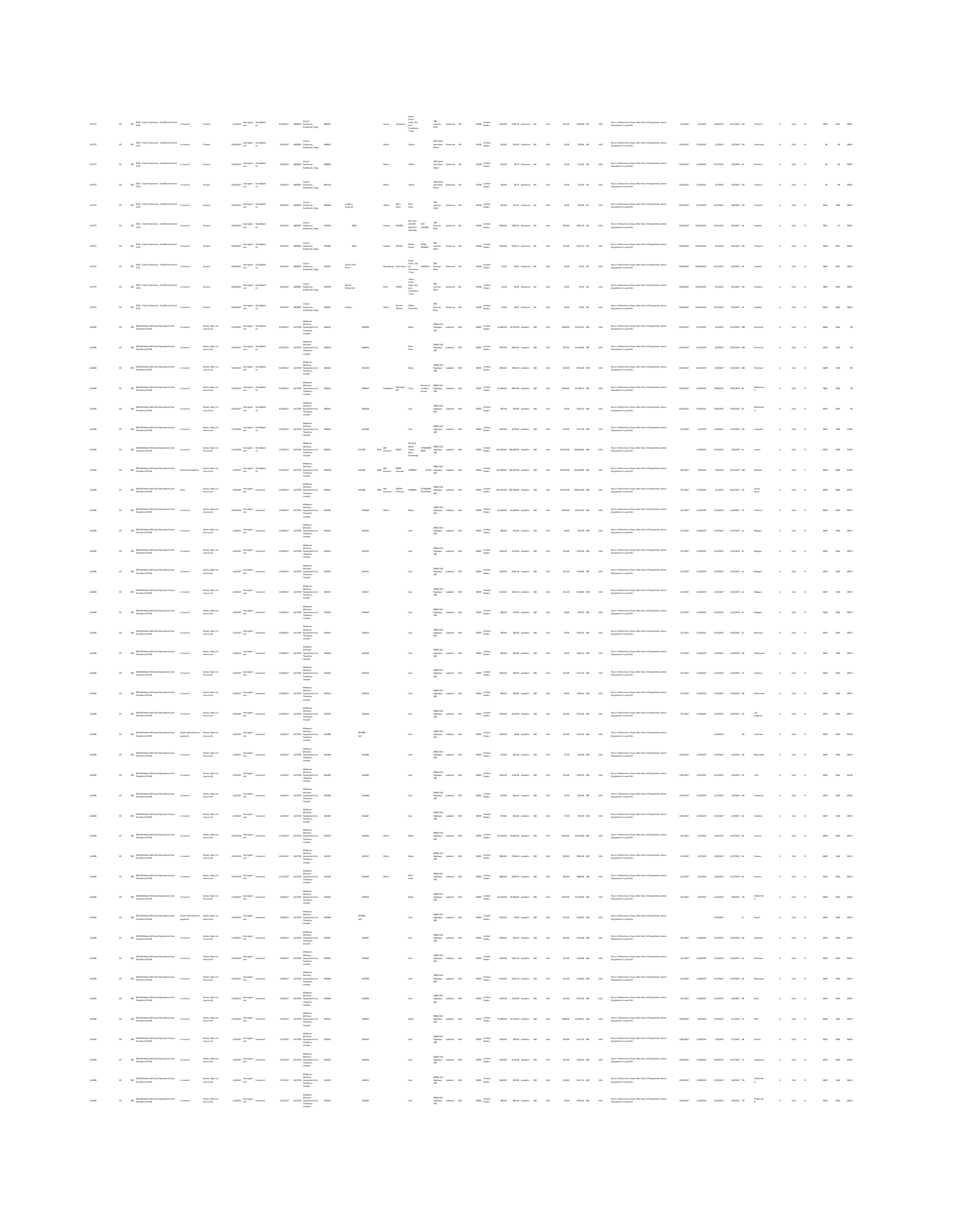


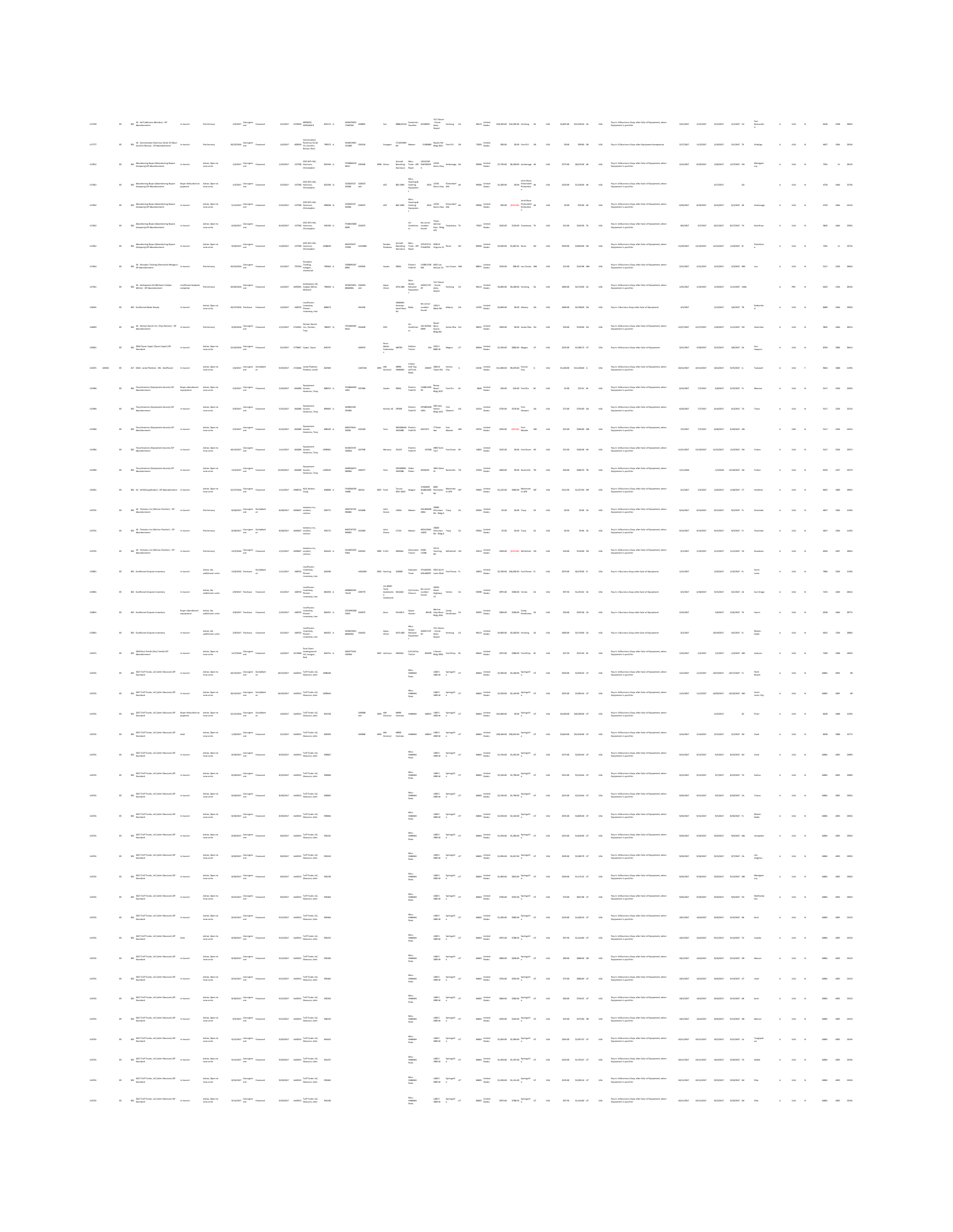


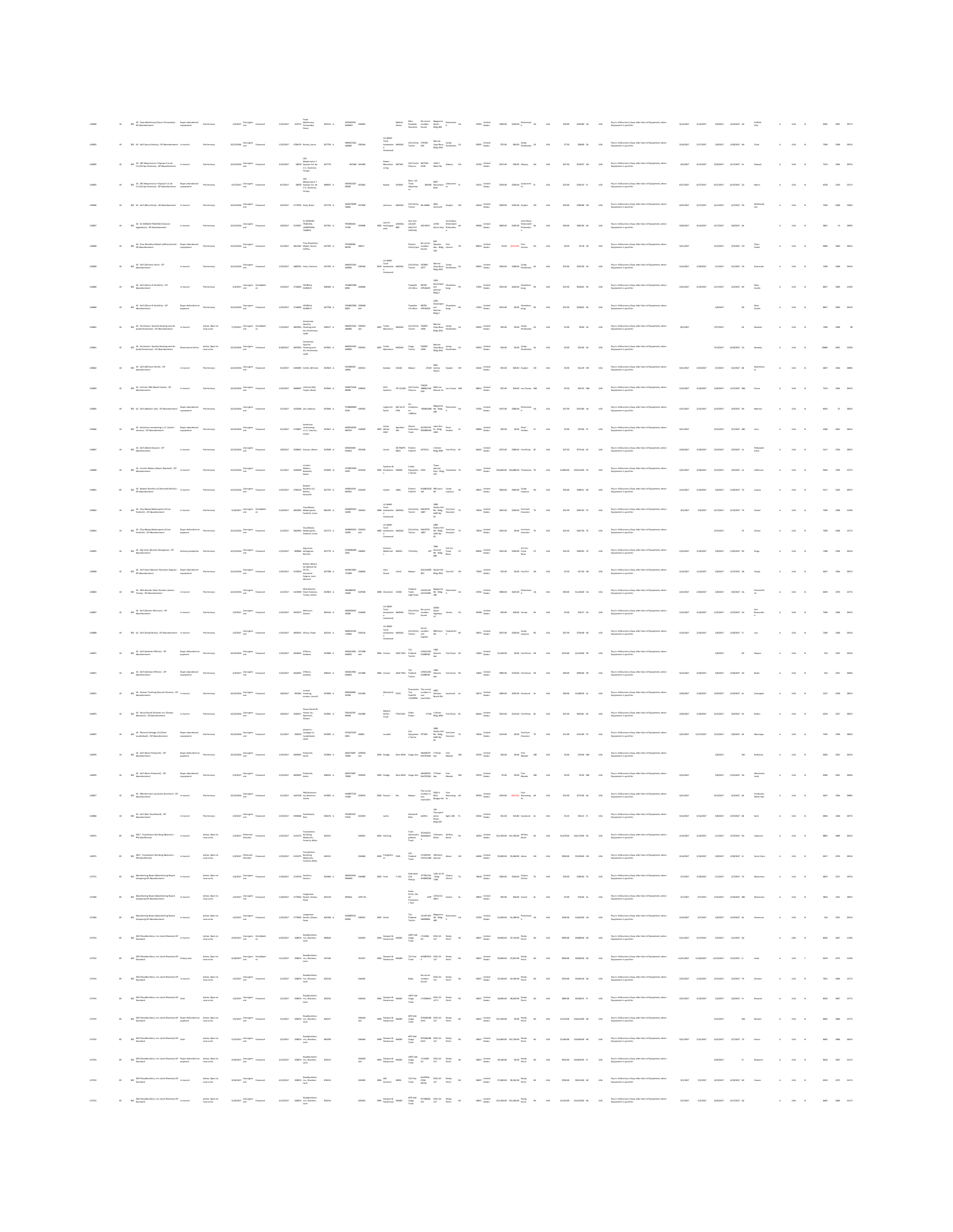


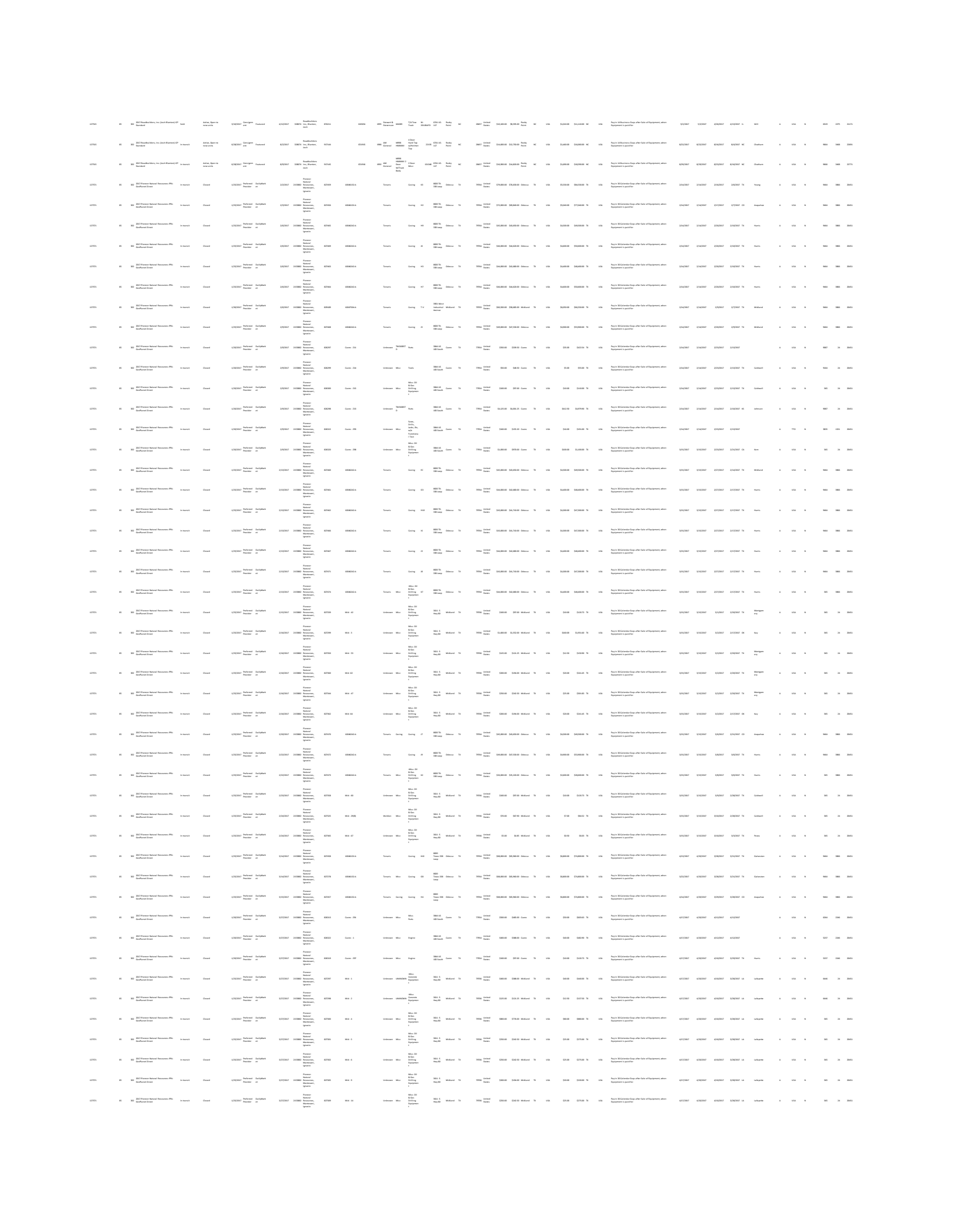


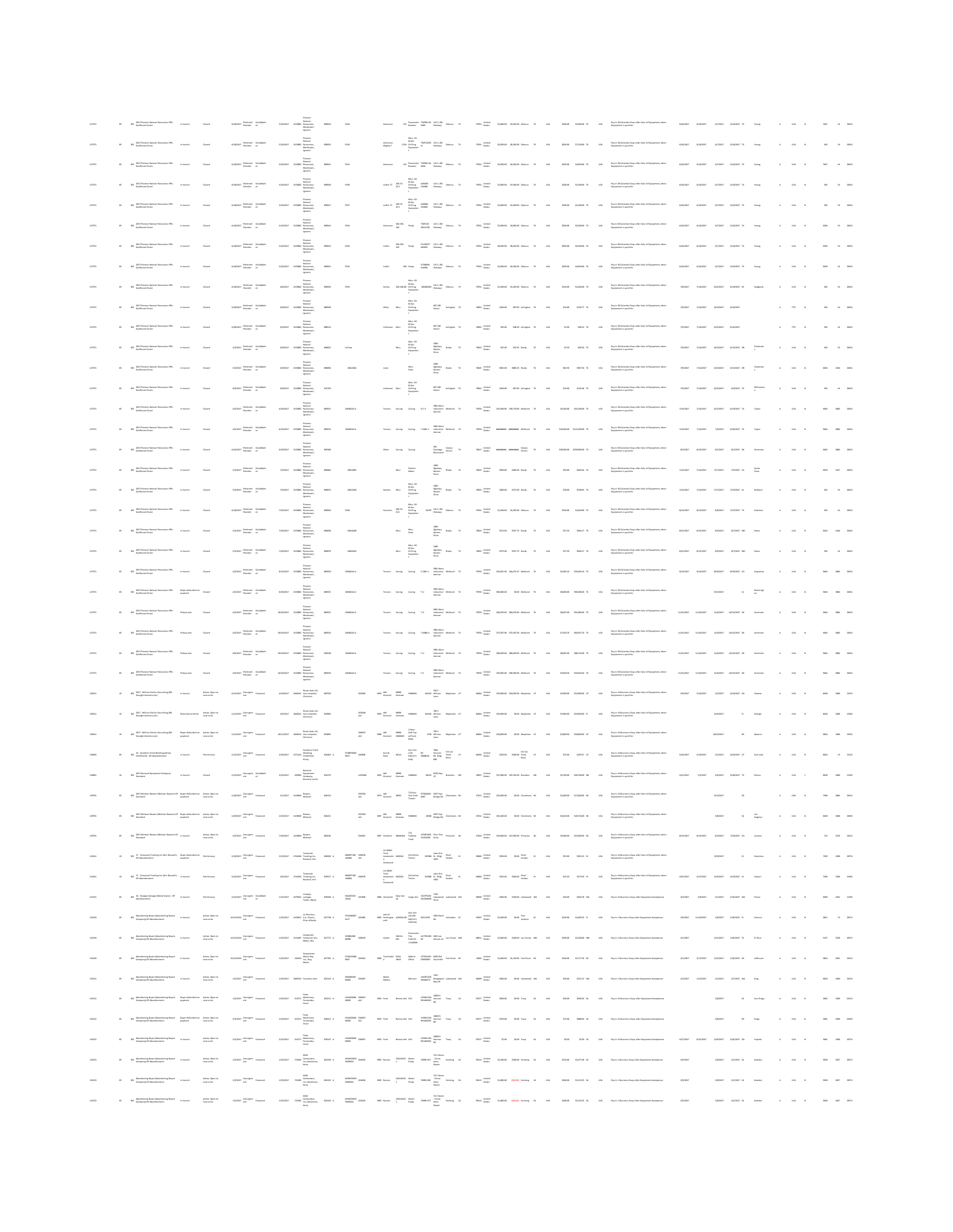


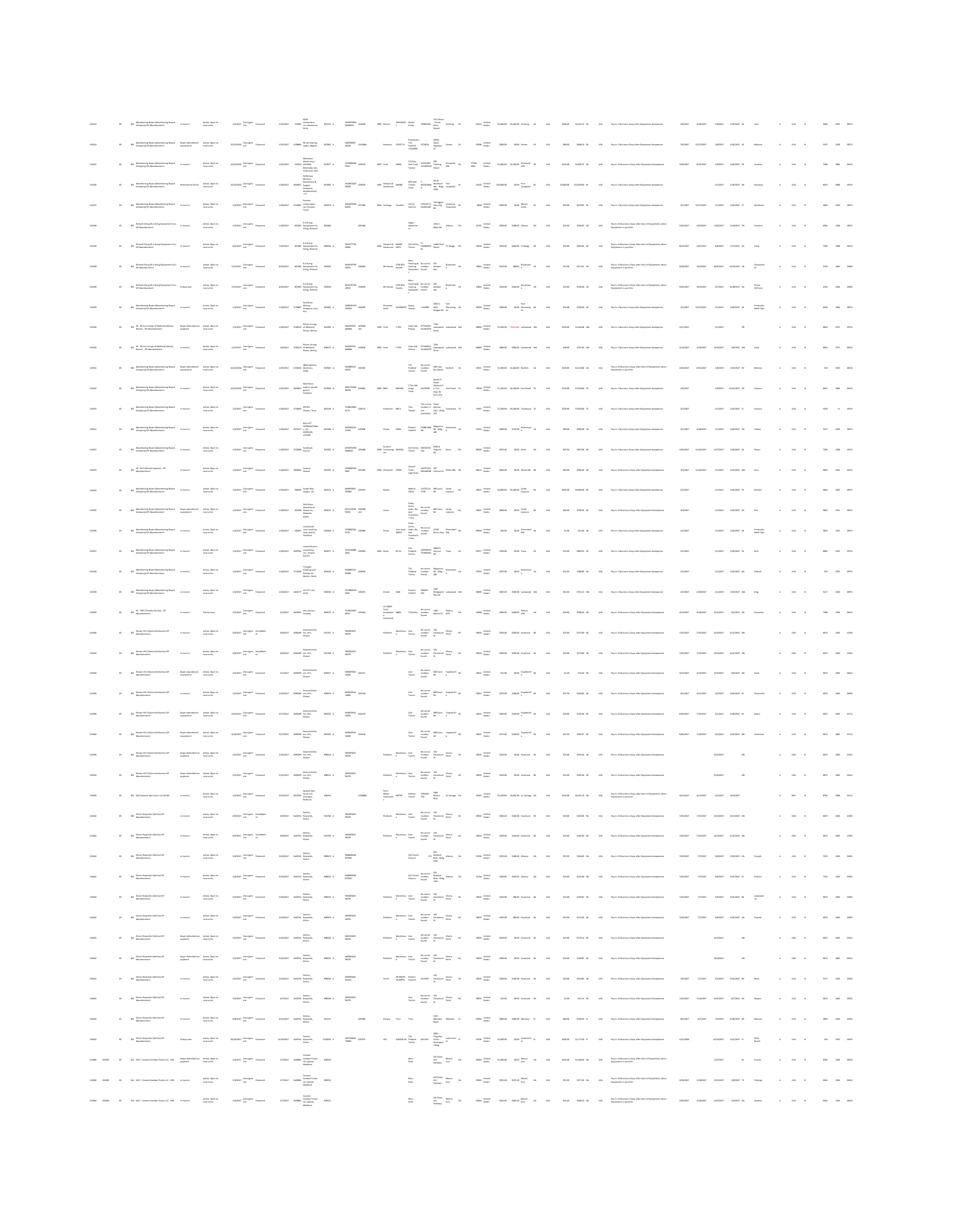


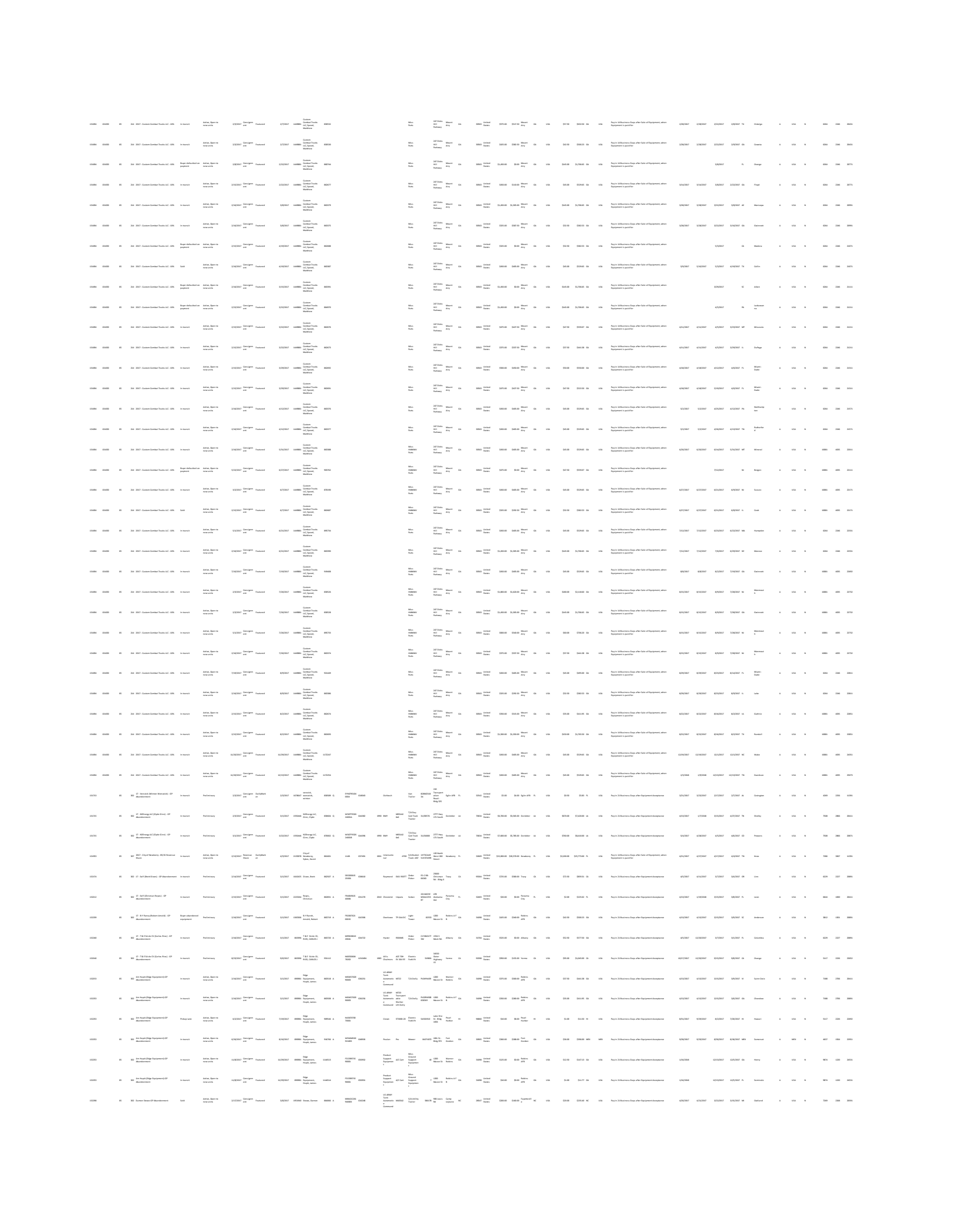


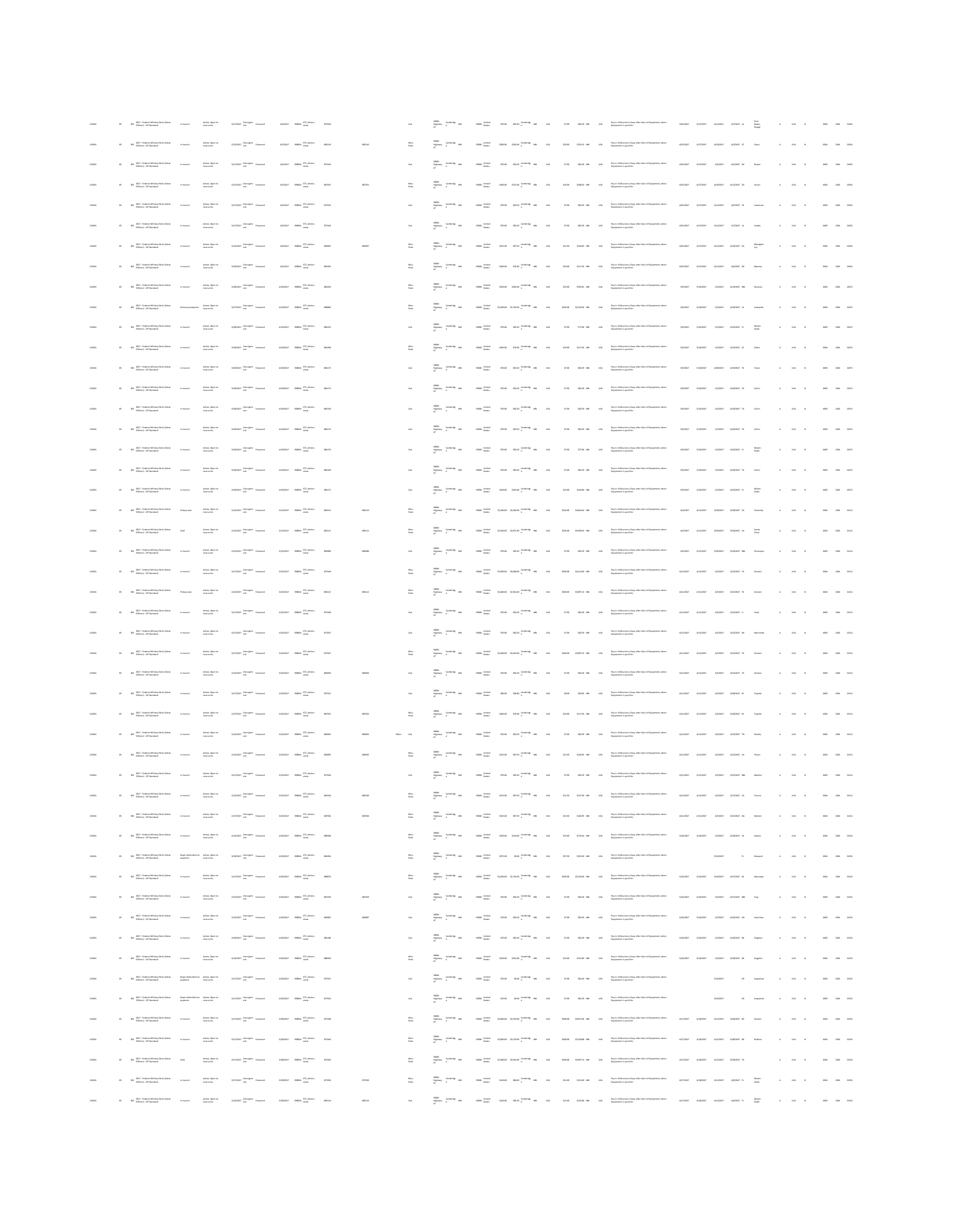


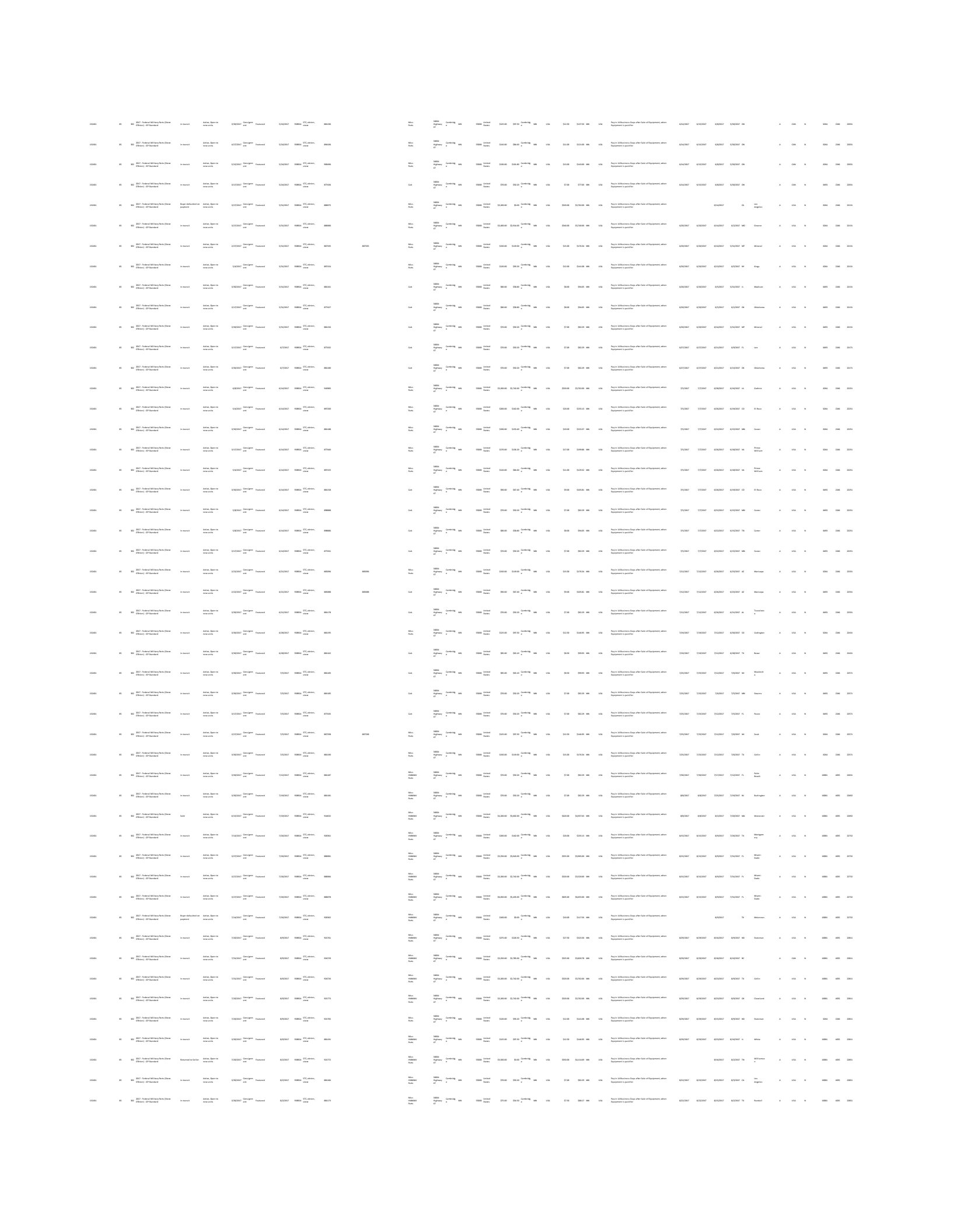


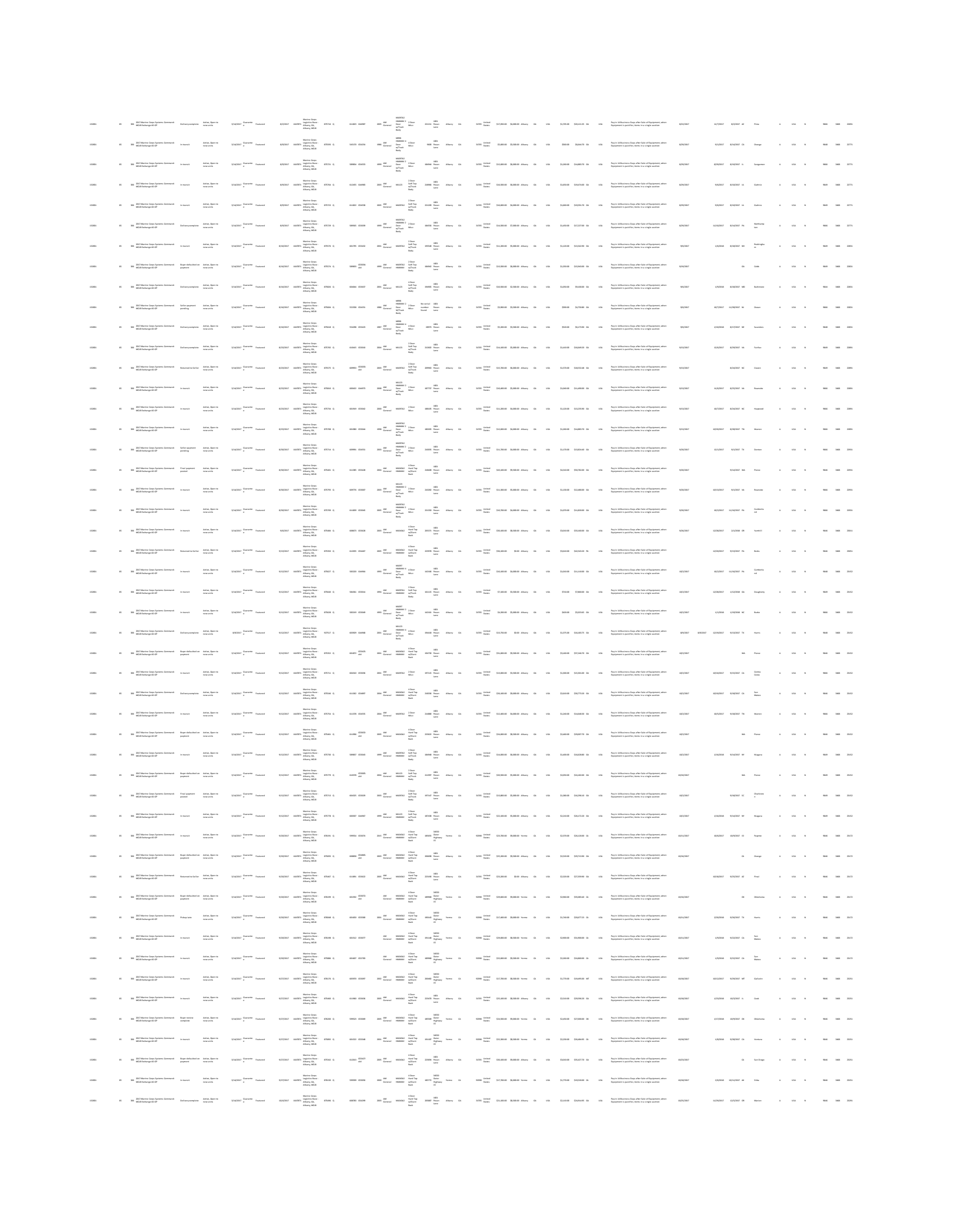


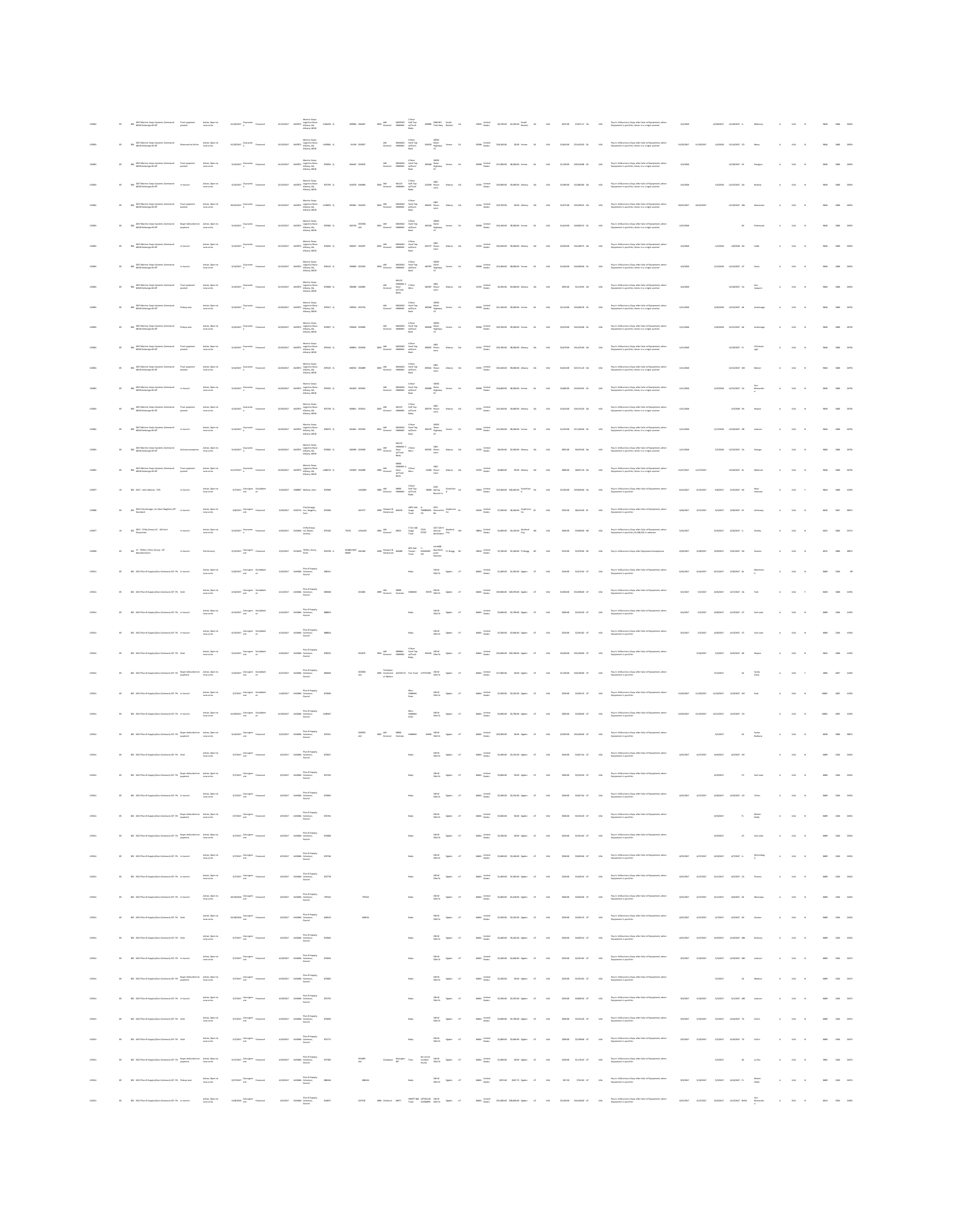




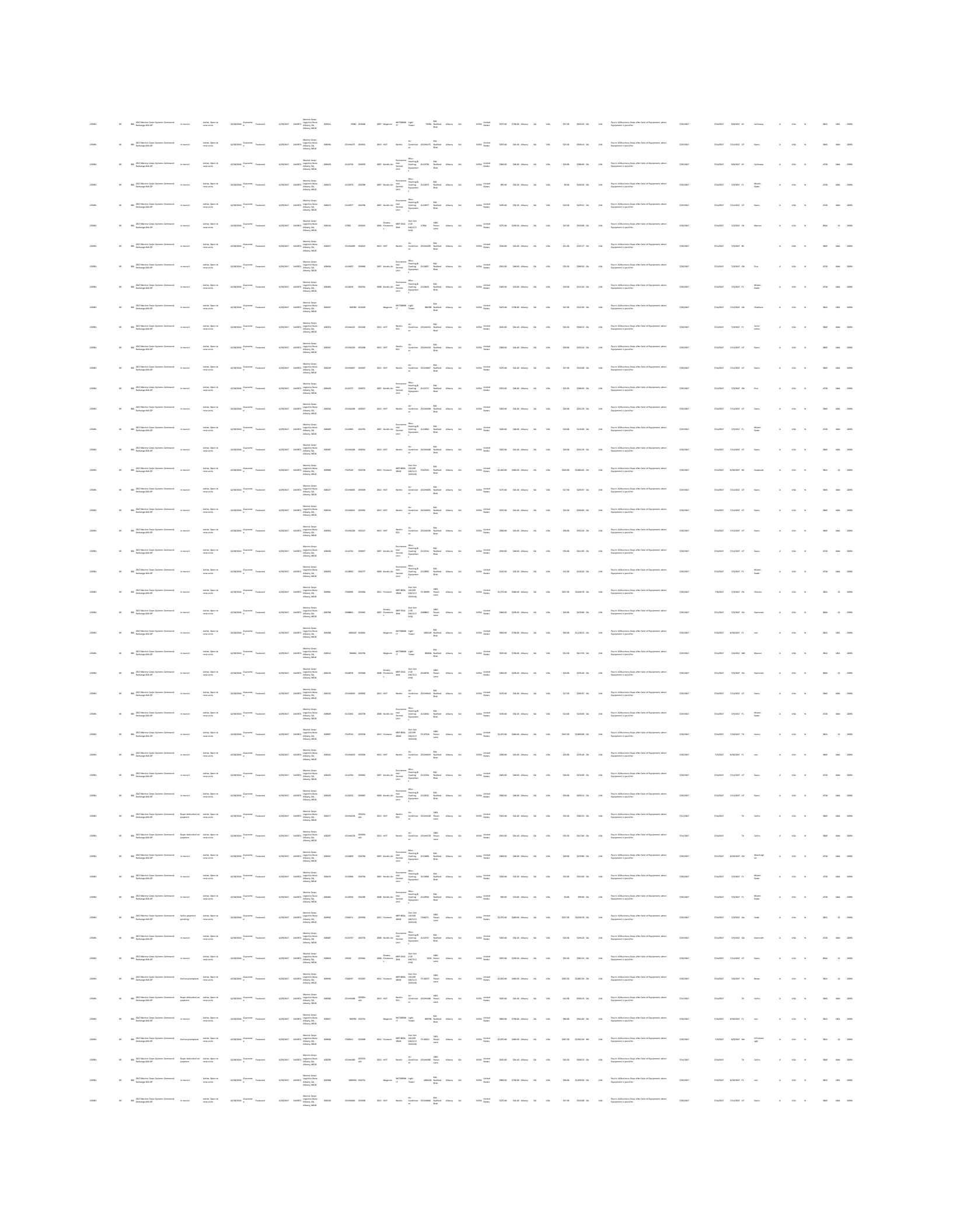


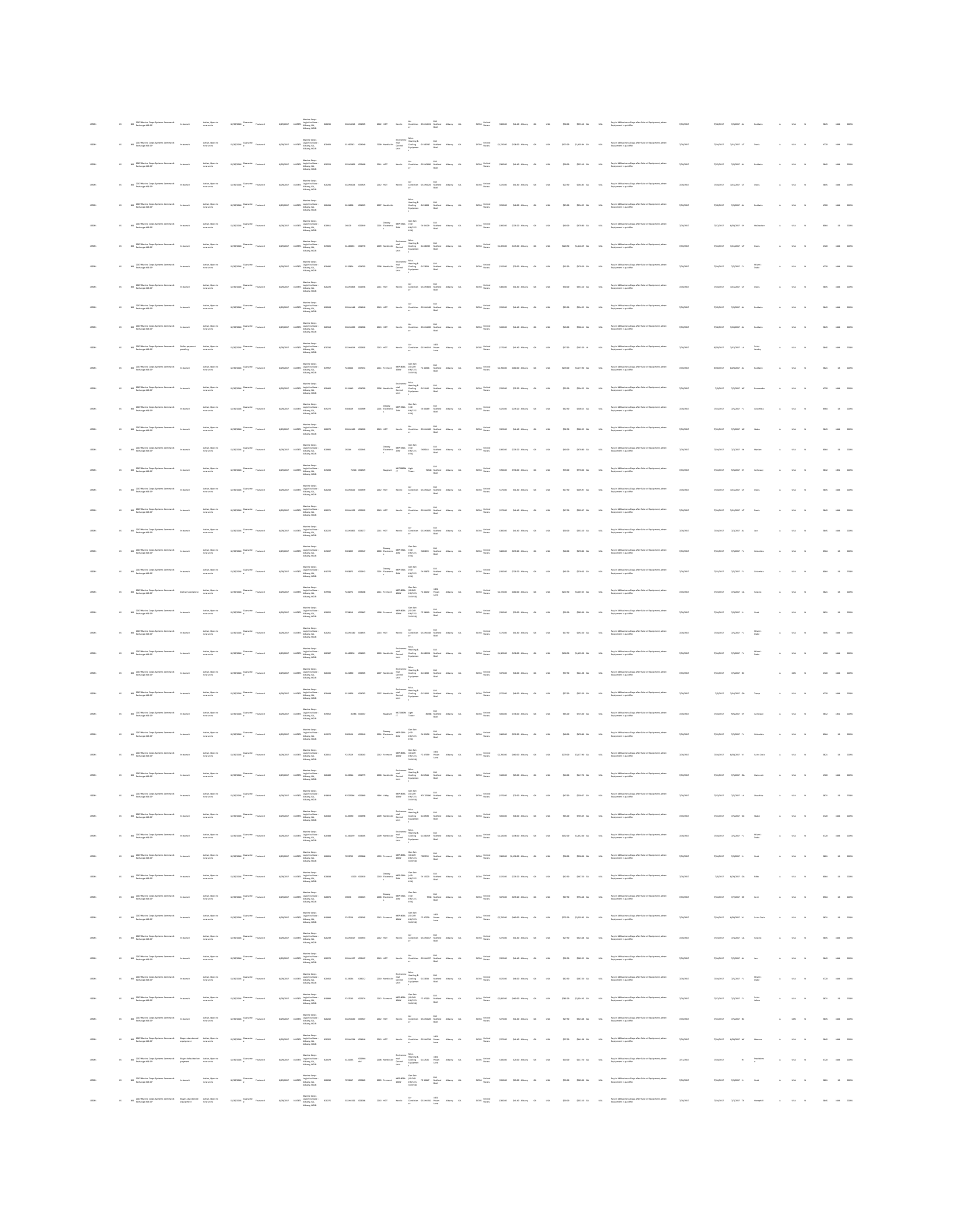


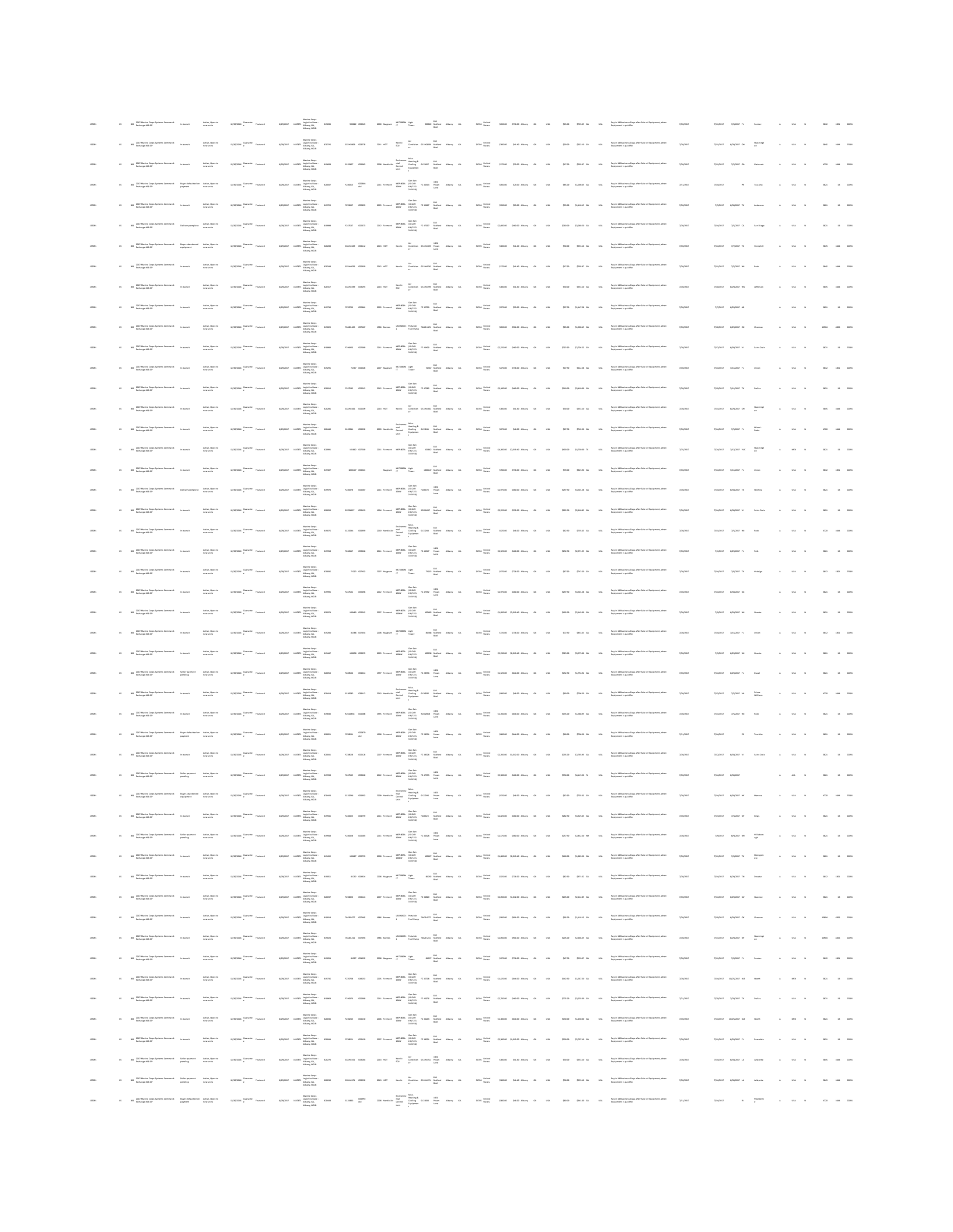


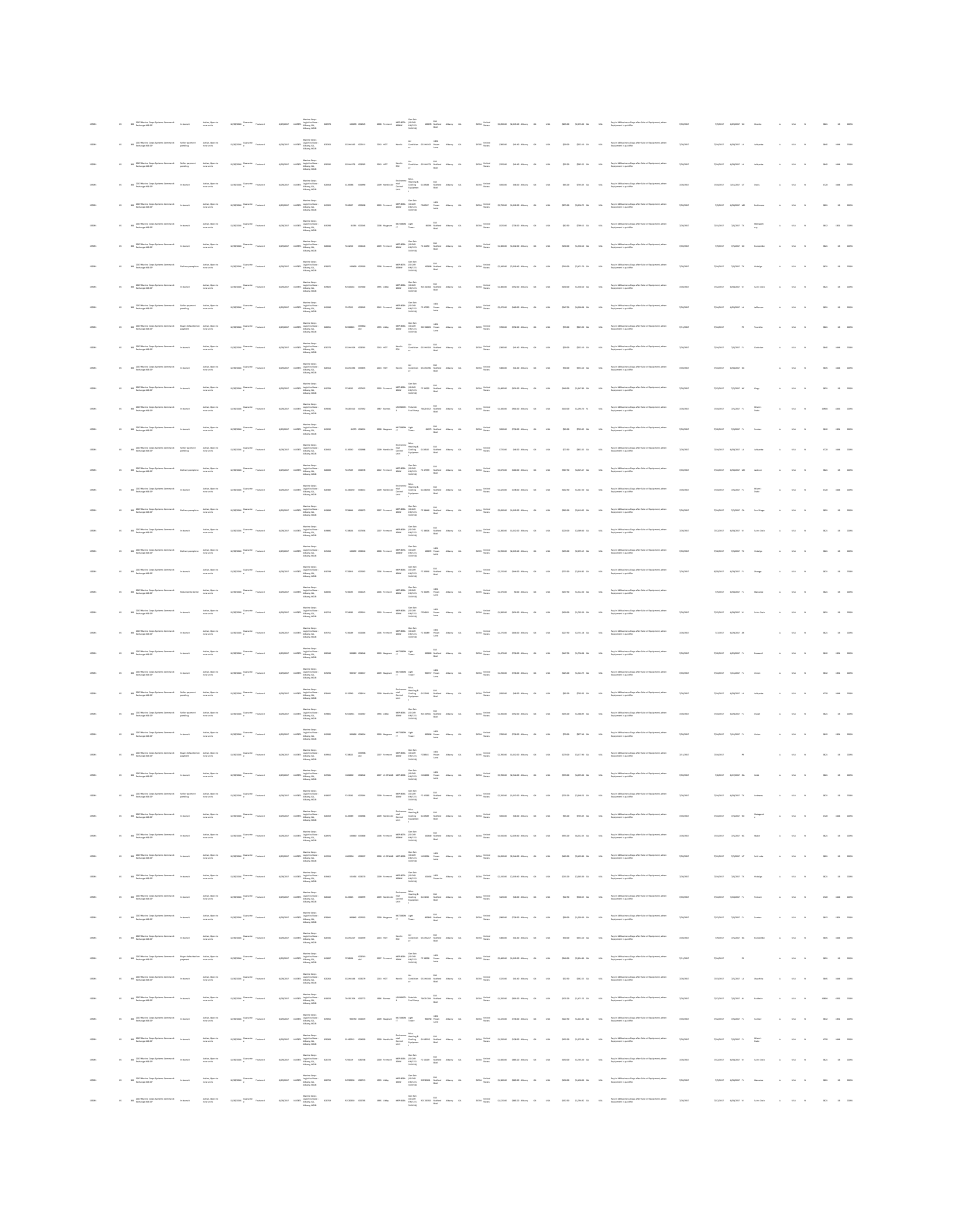


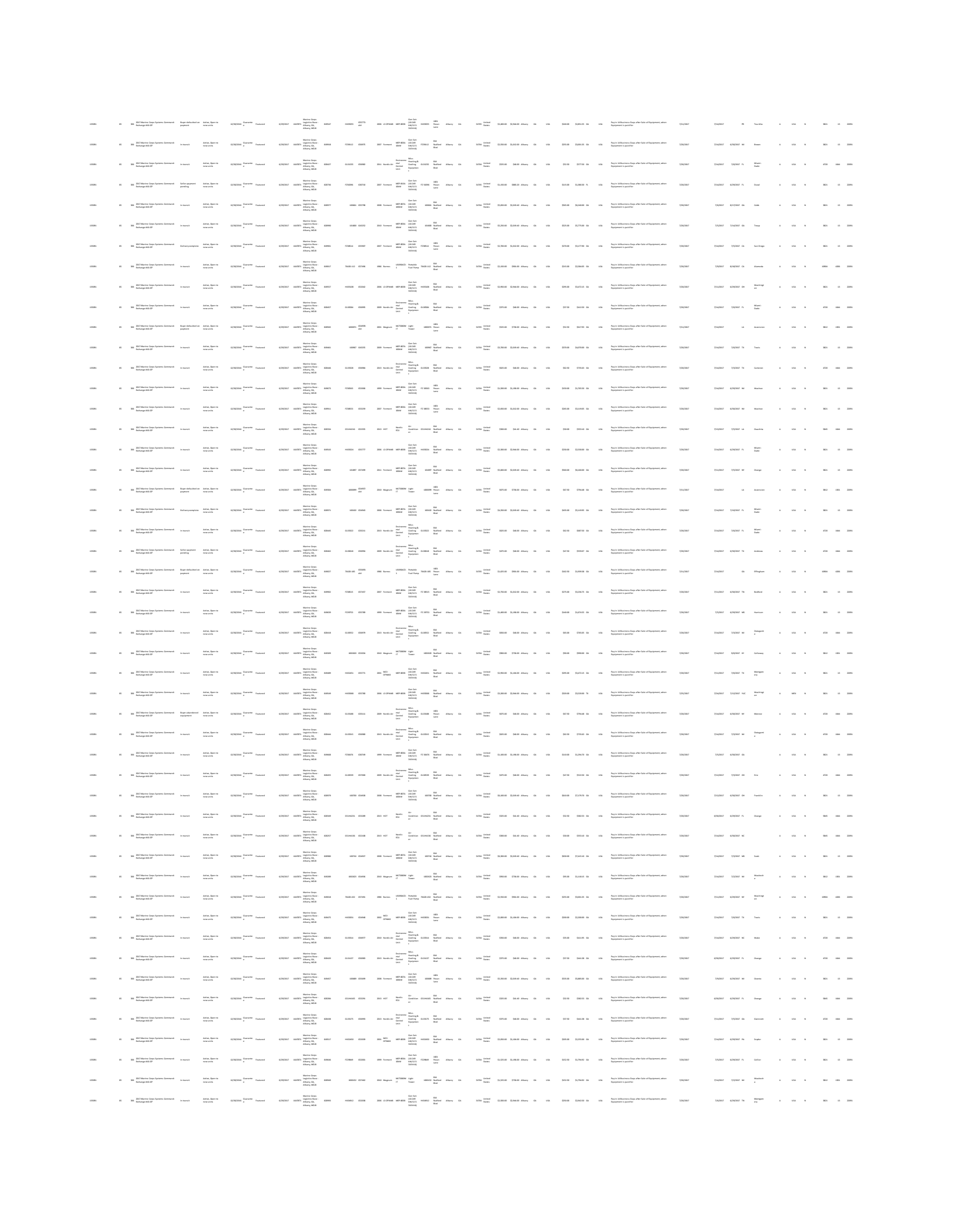
| | | |

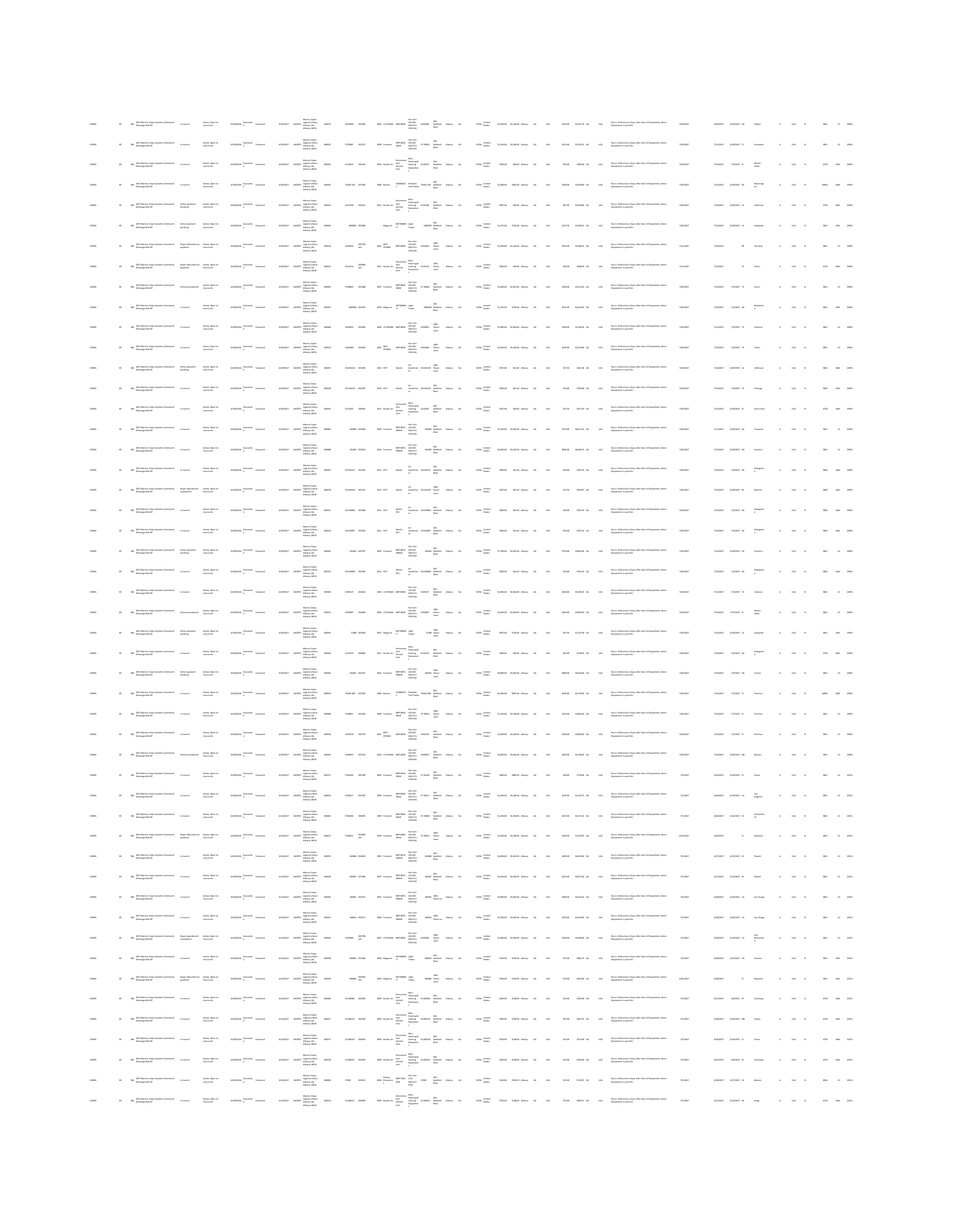


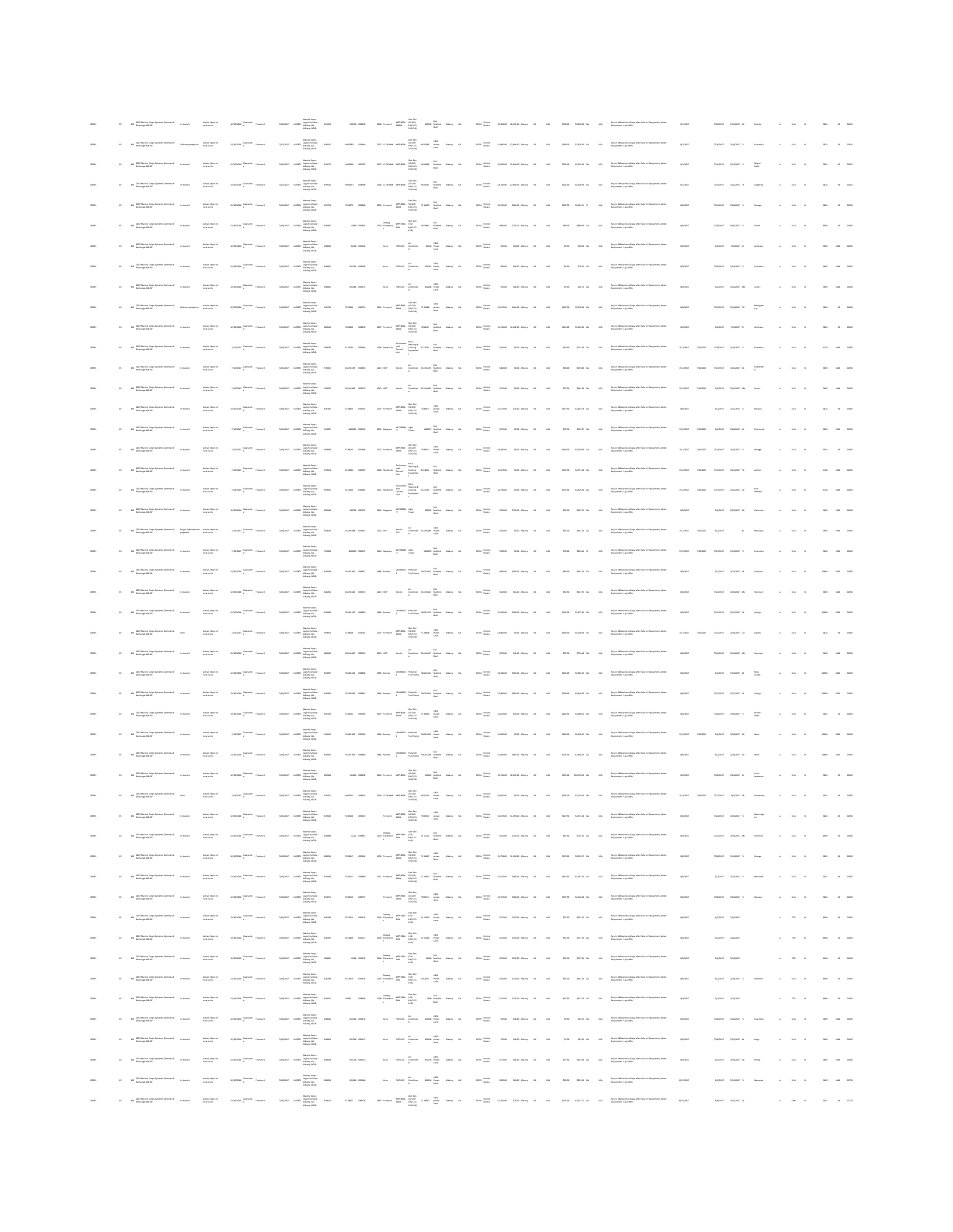


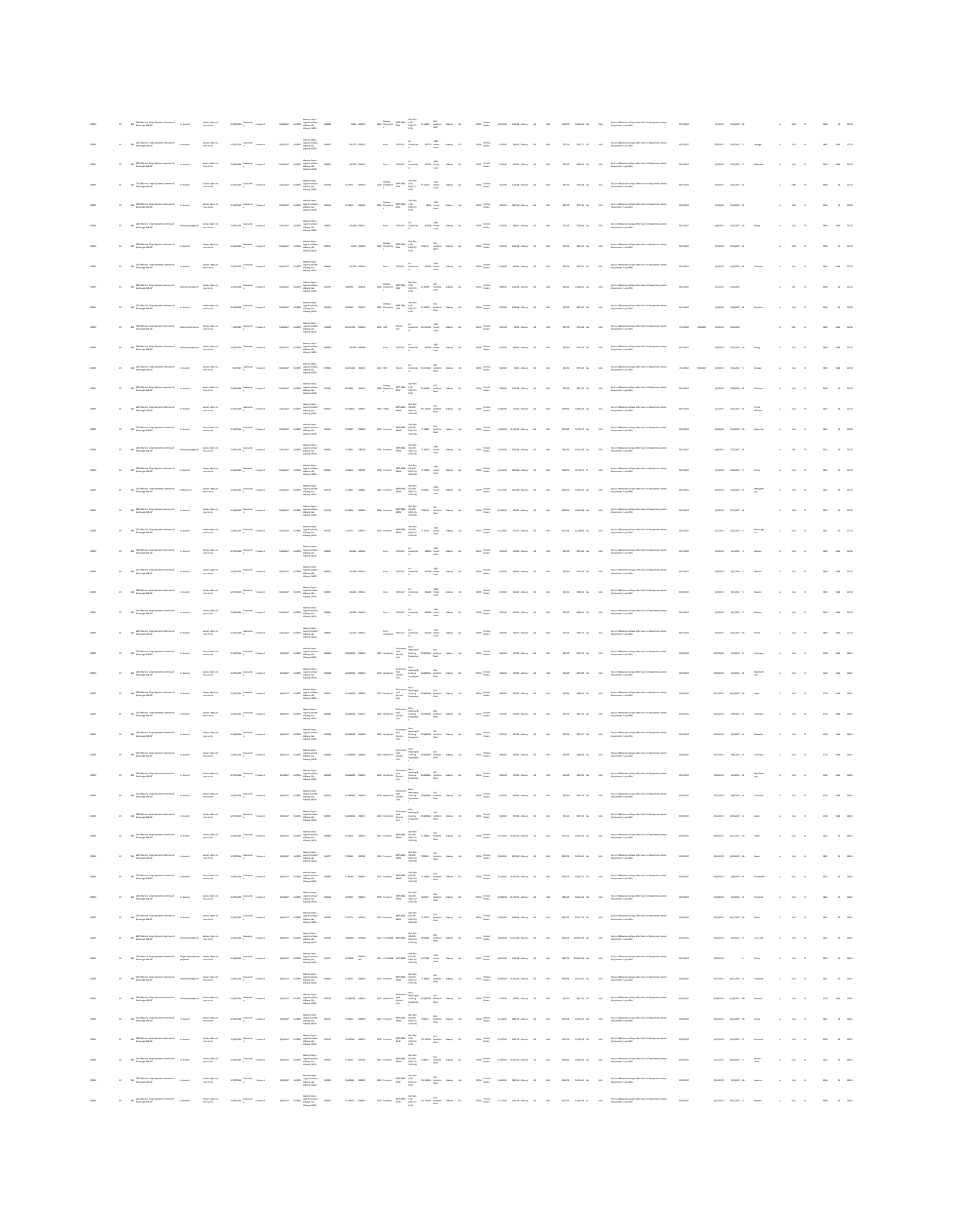


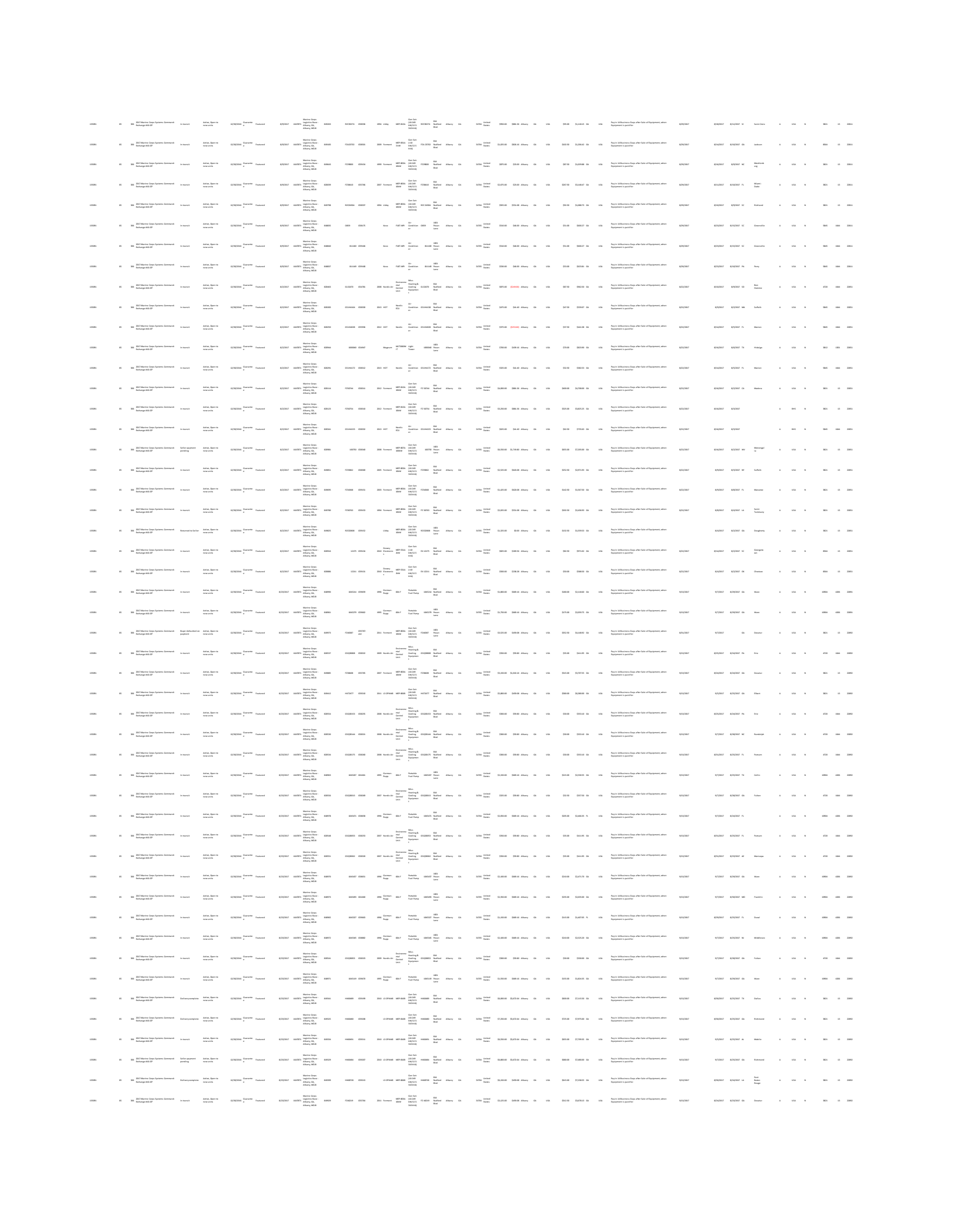


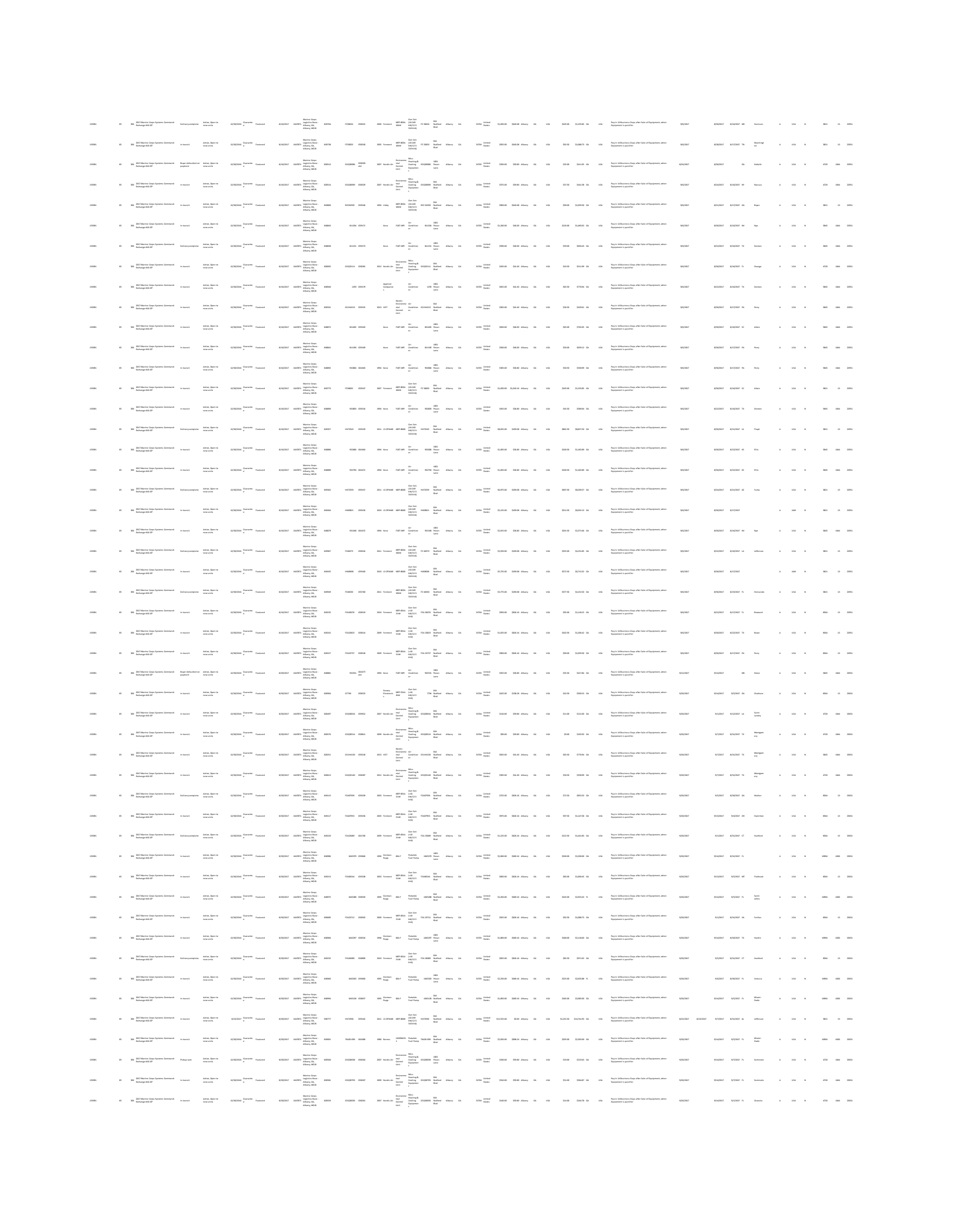


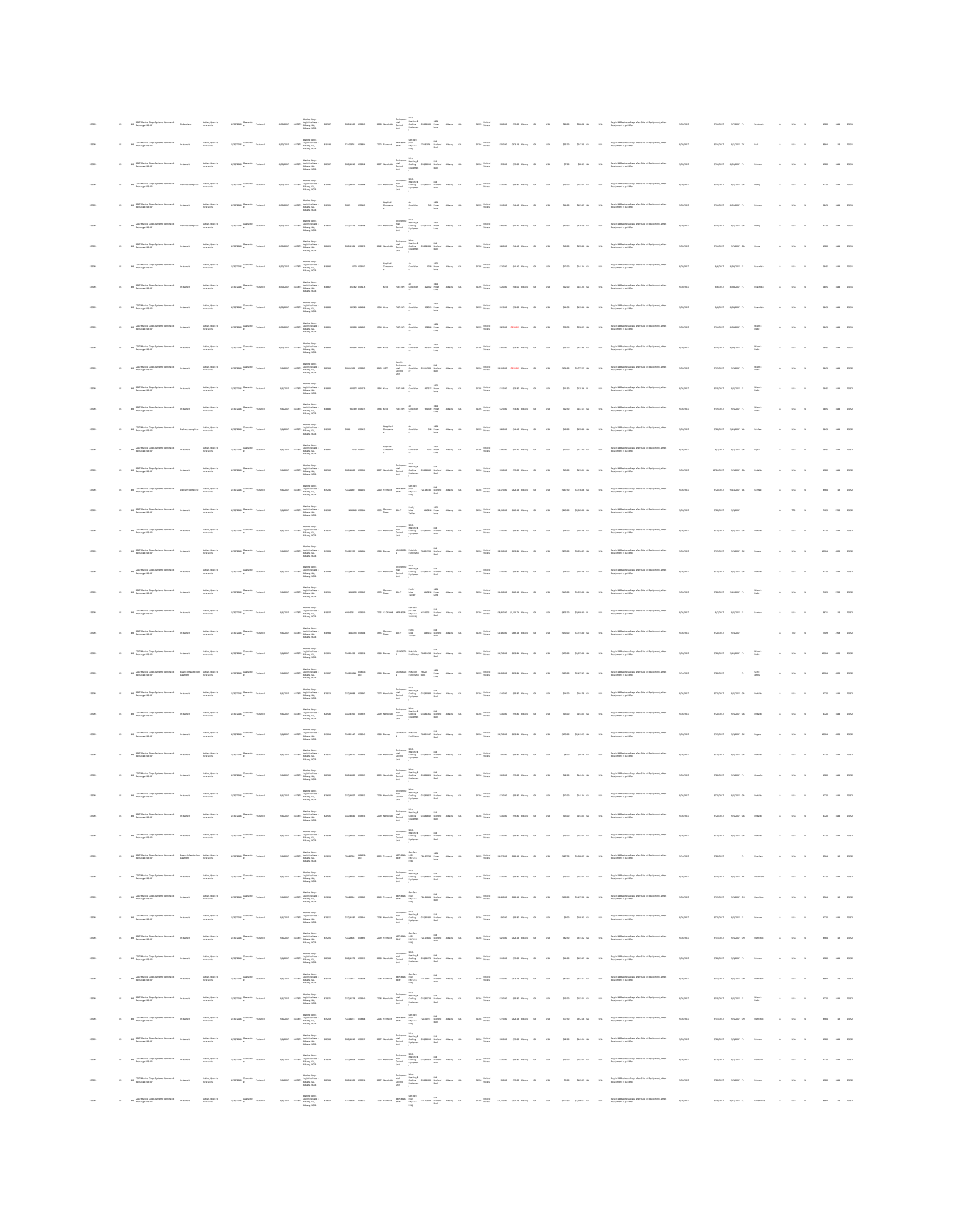


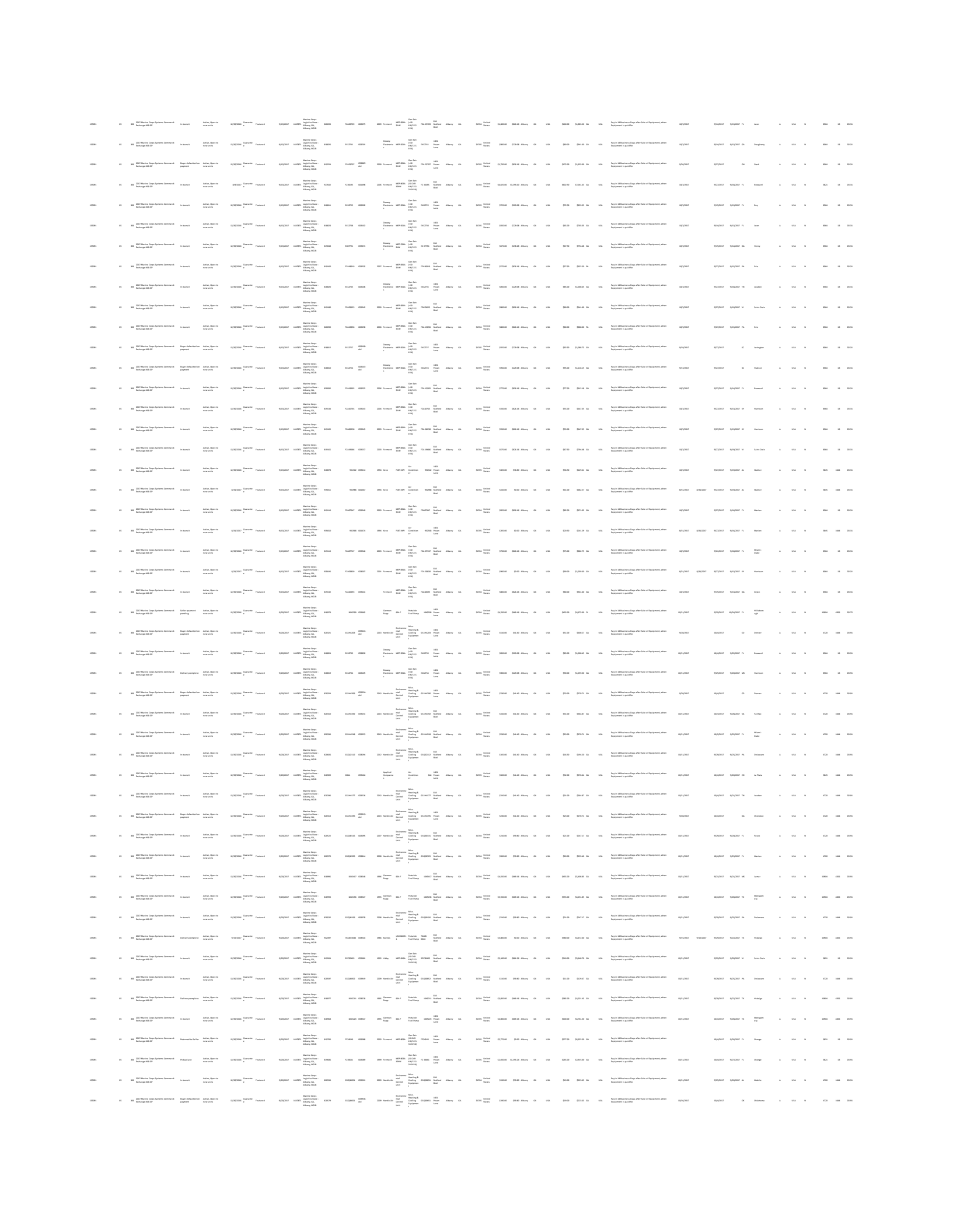


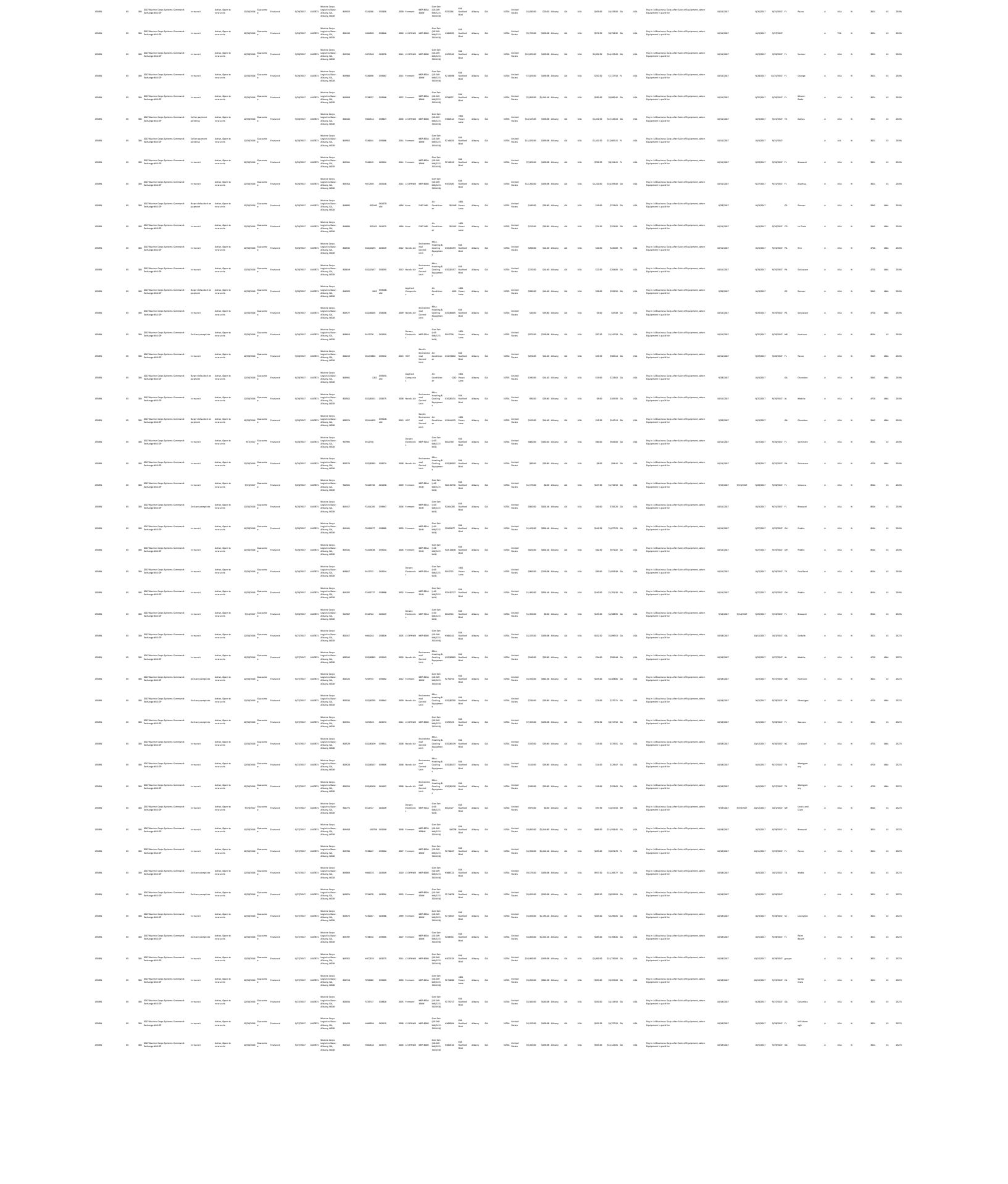


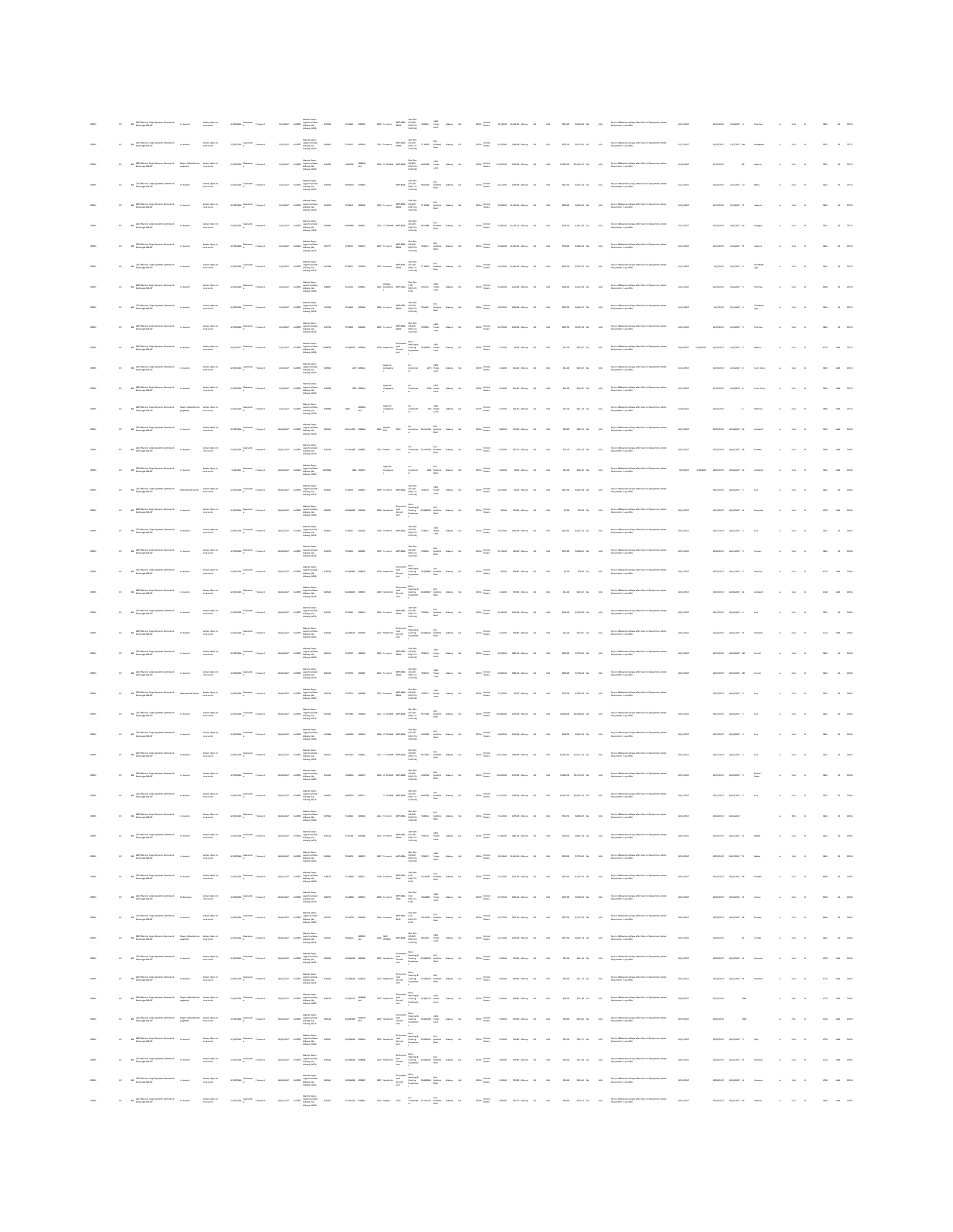


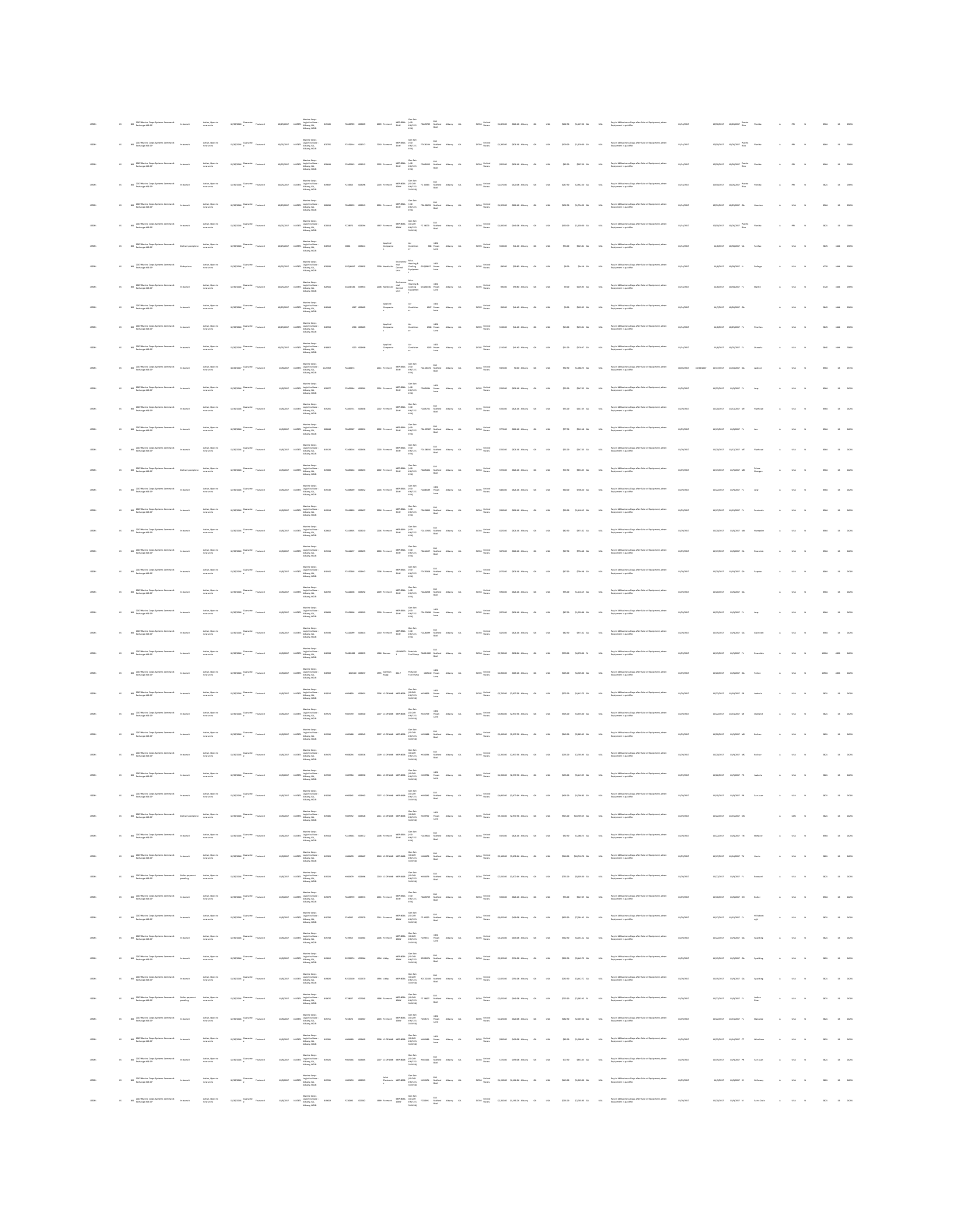


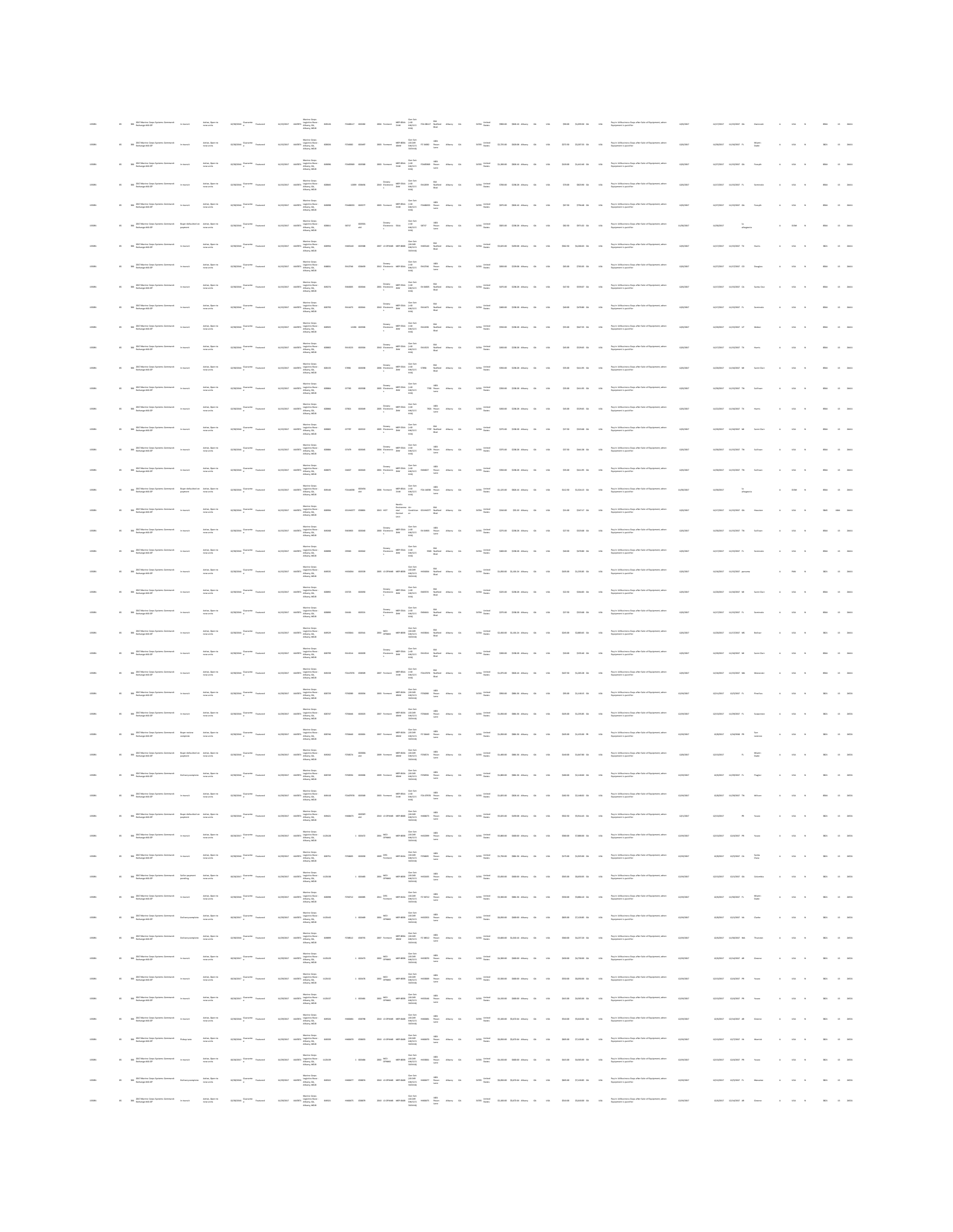


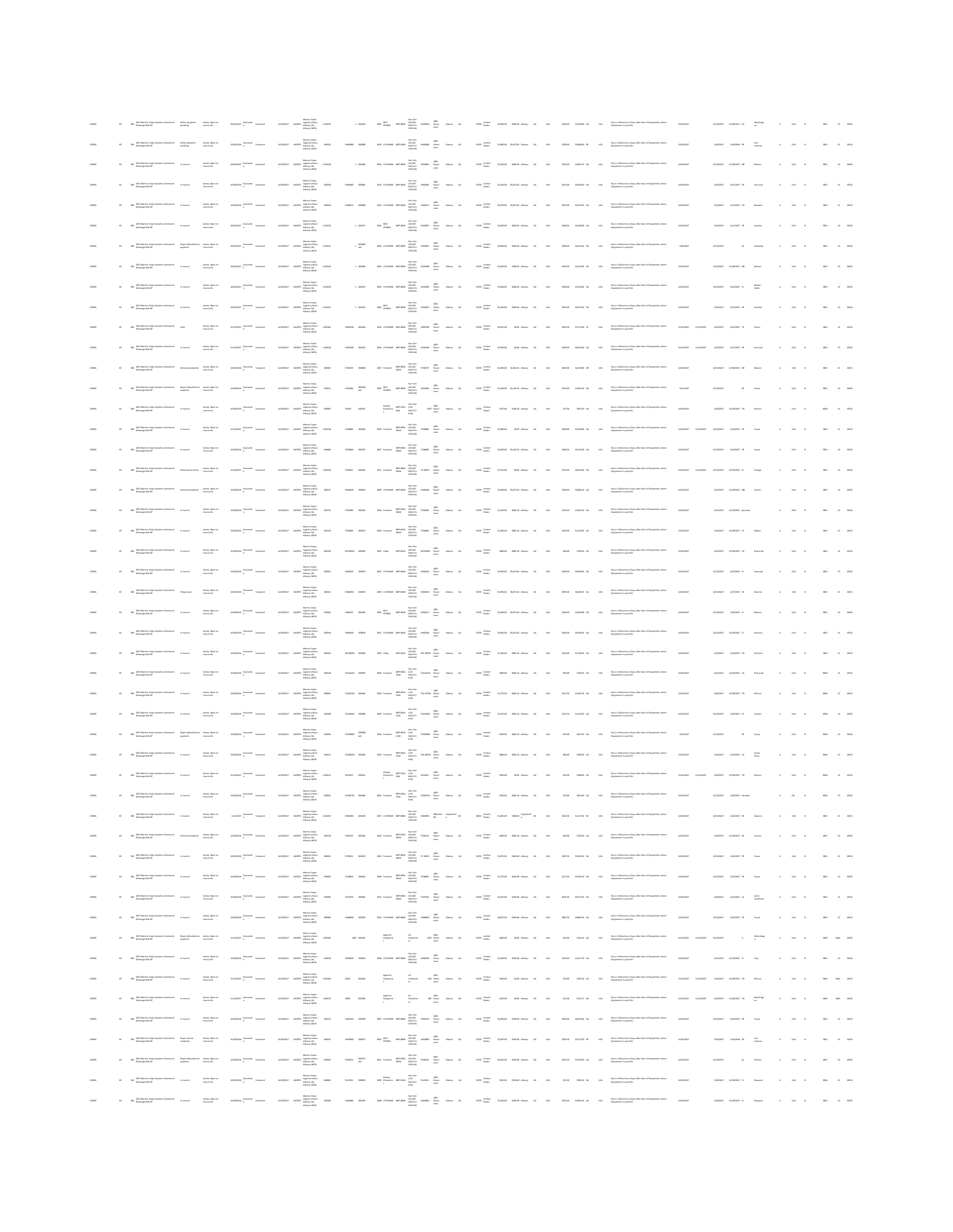


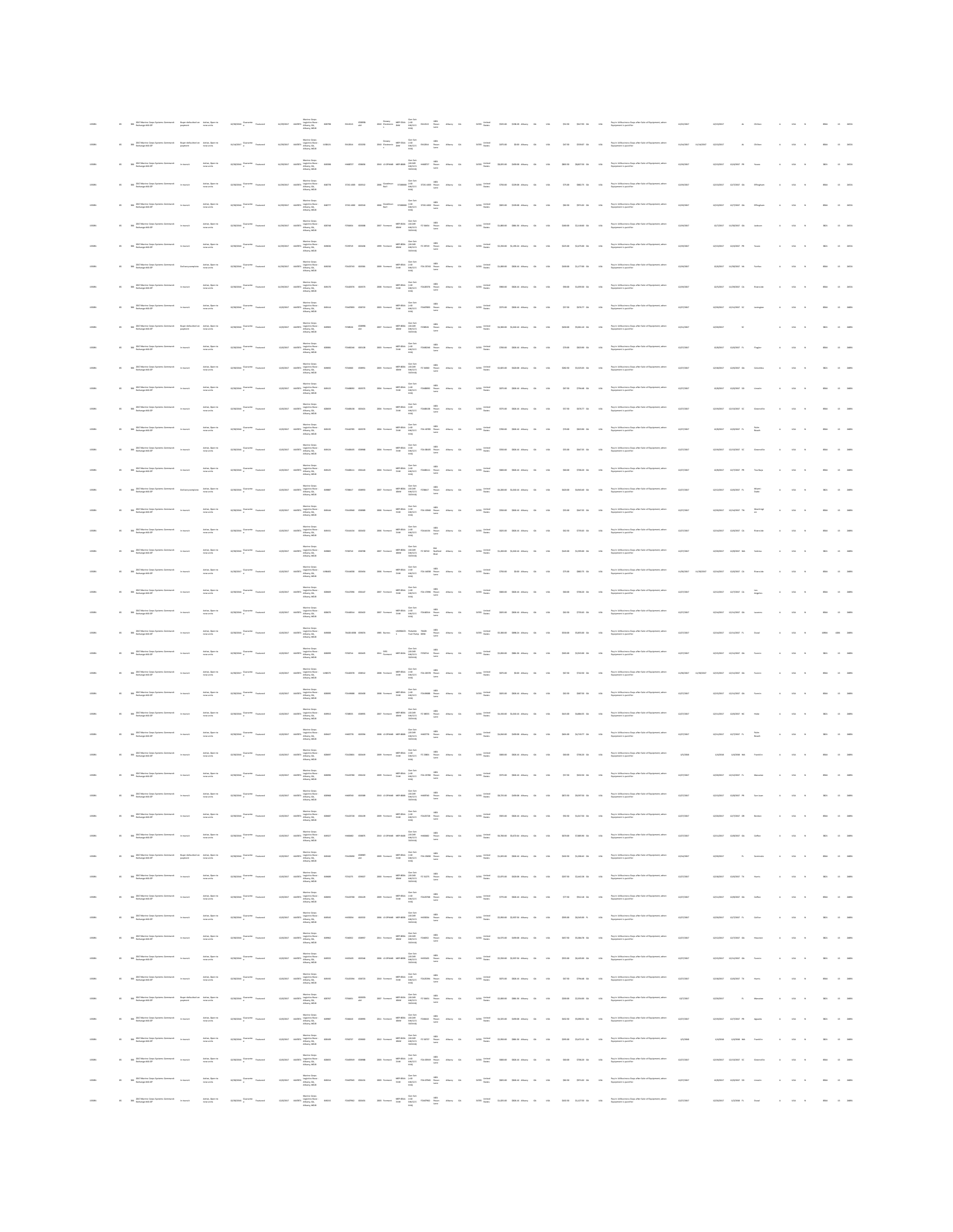


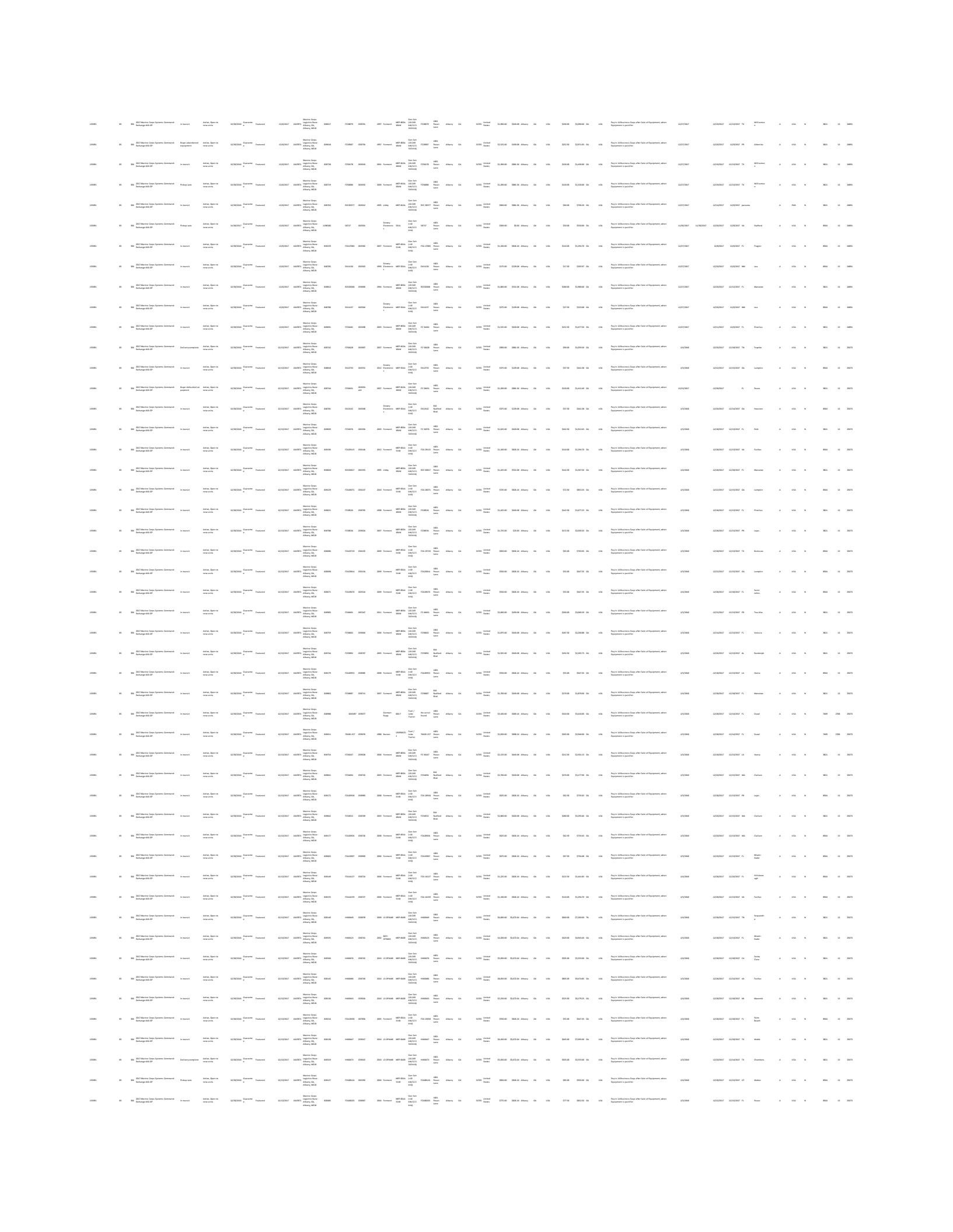


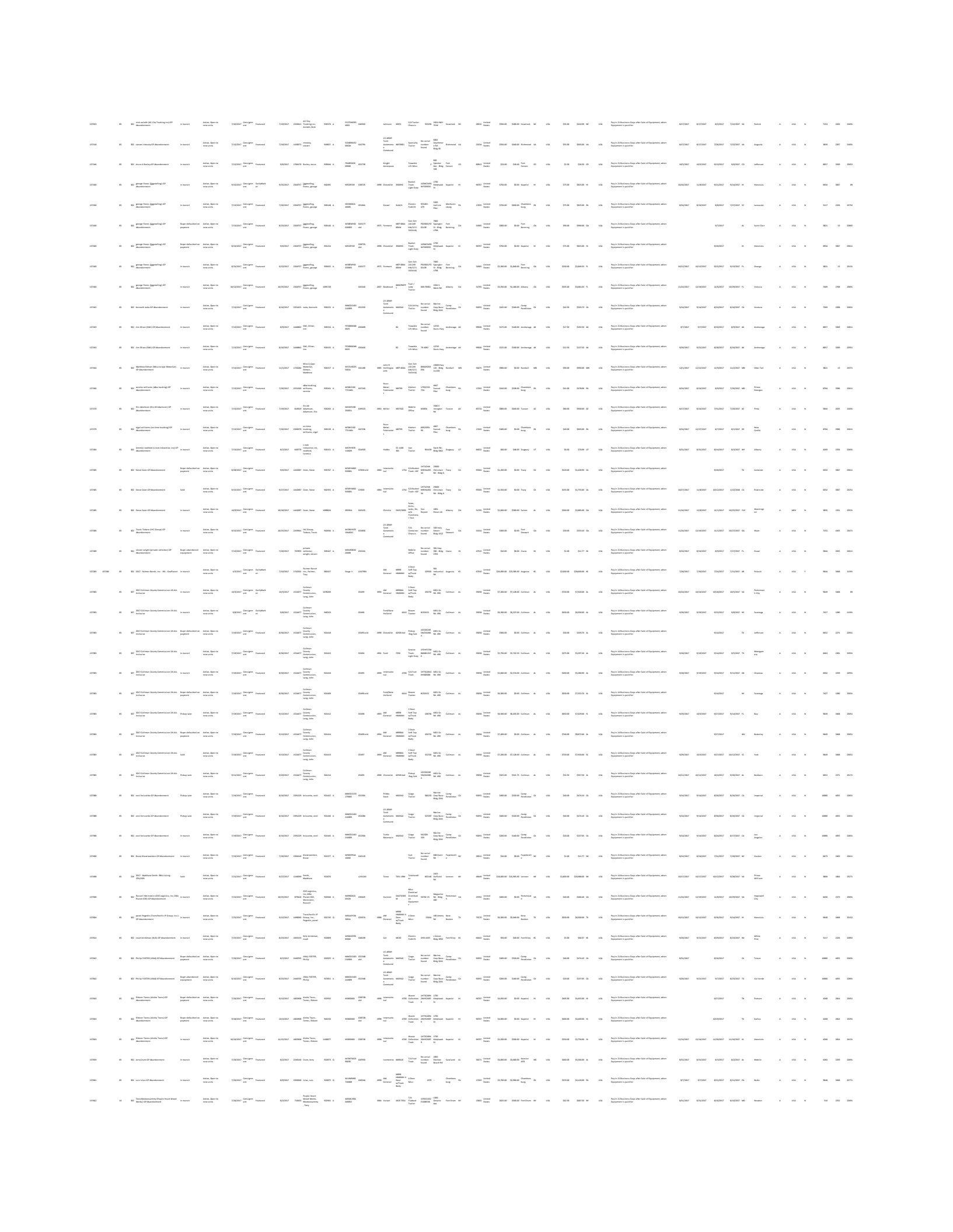


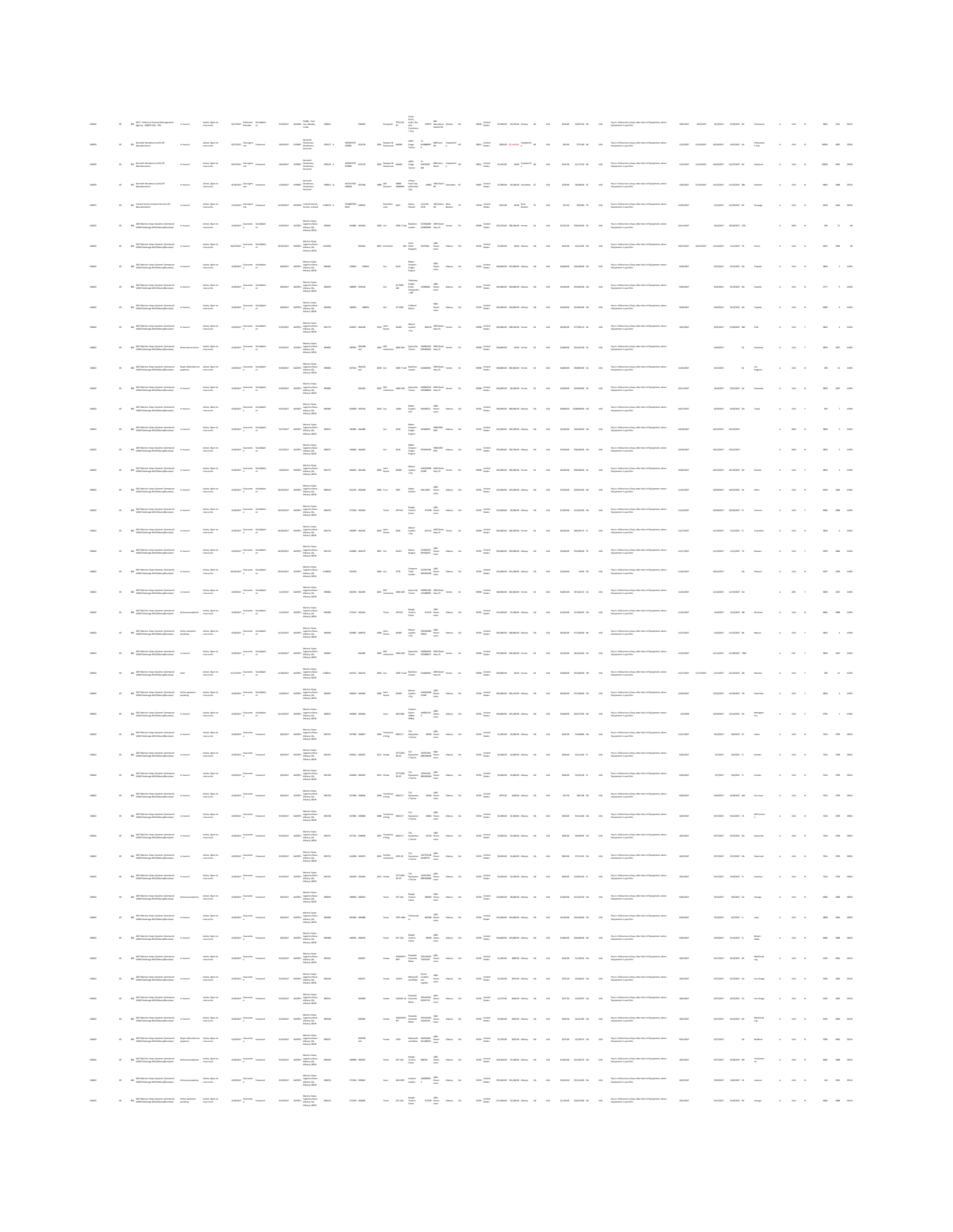


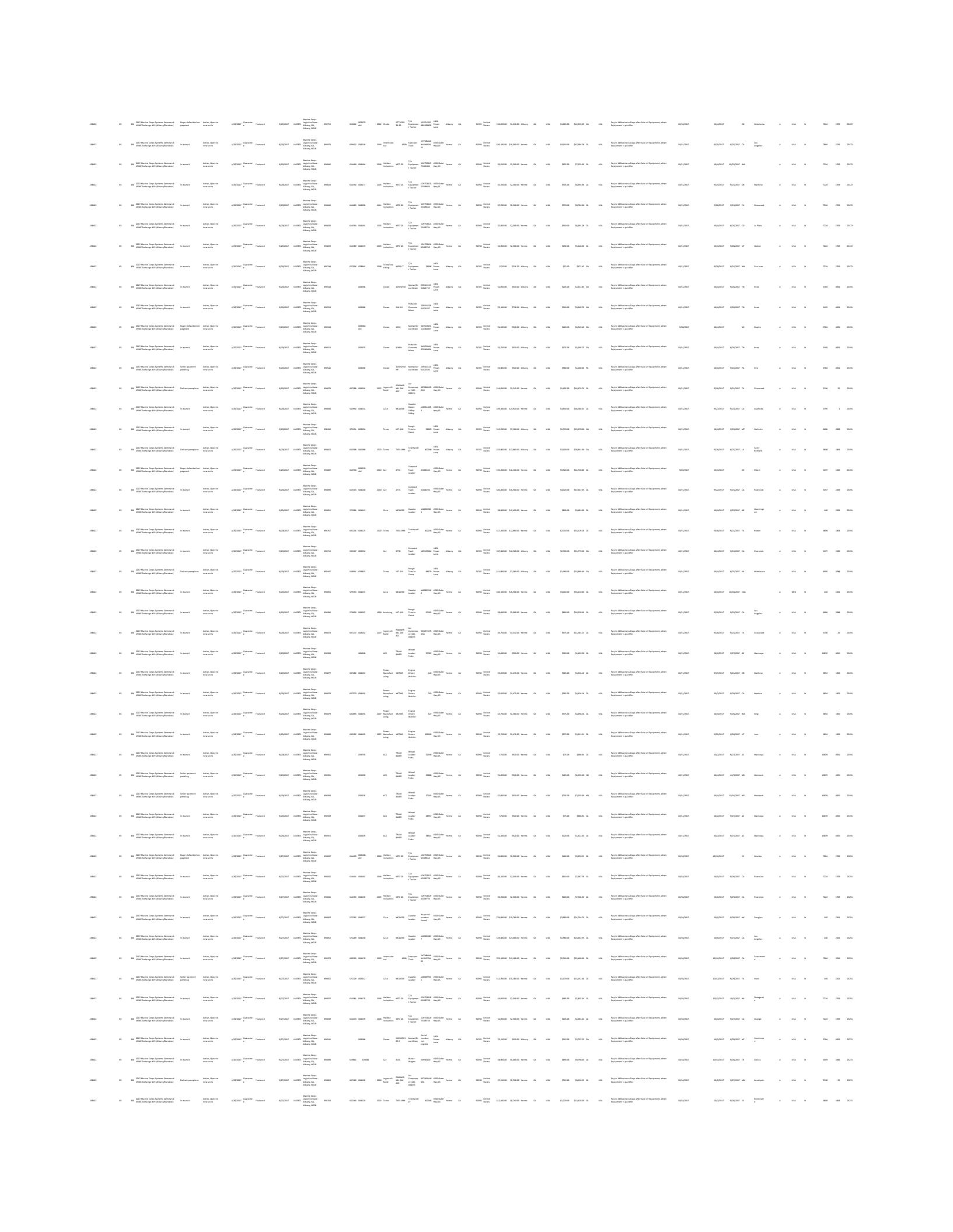


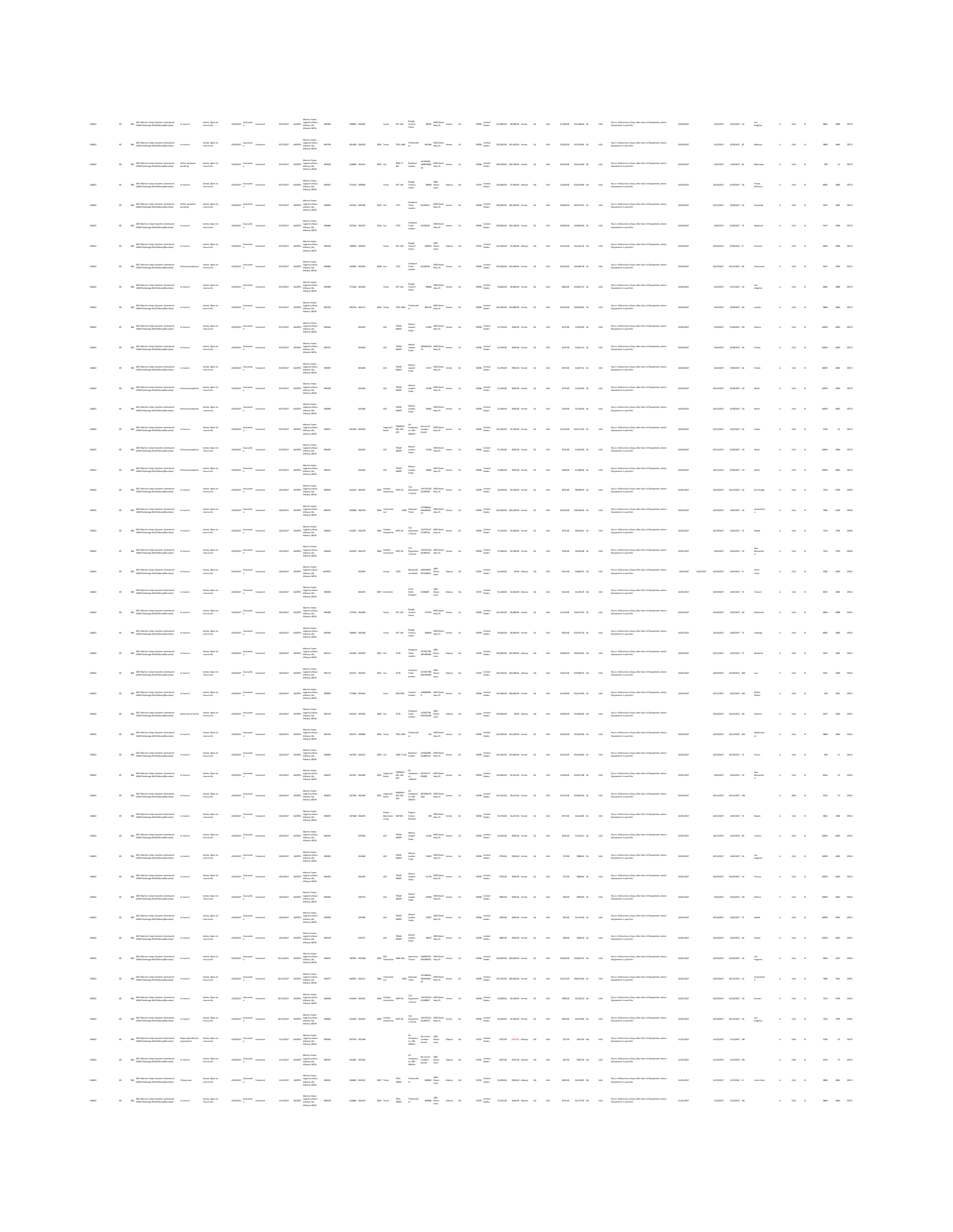




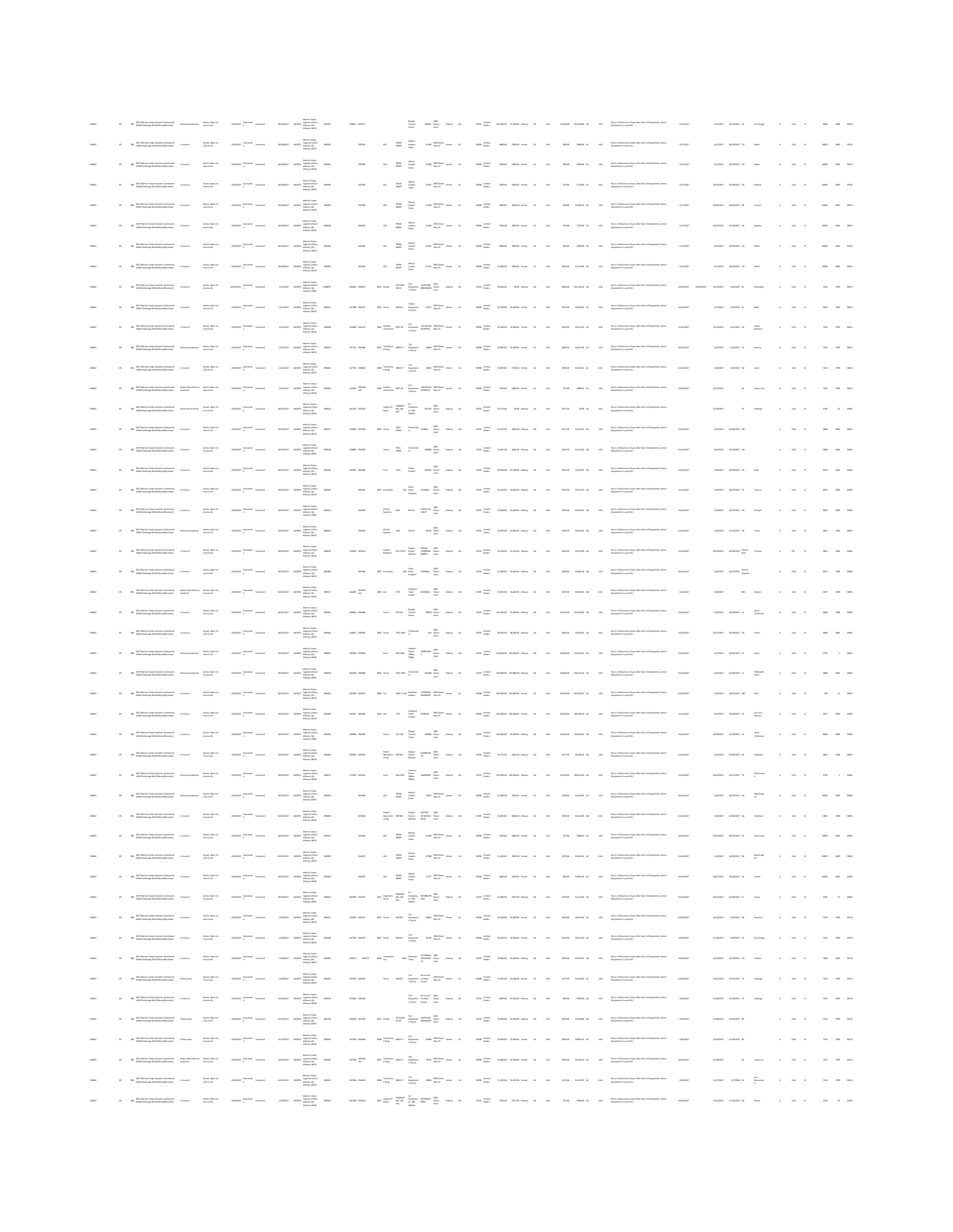


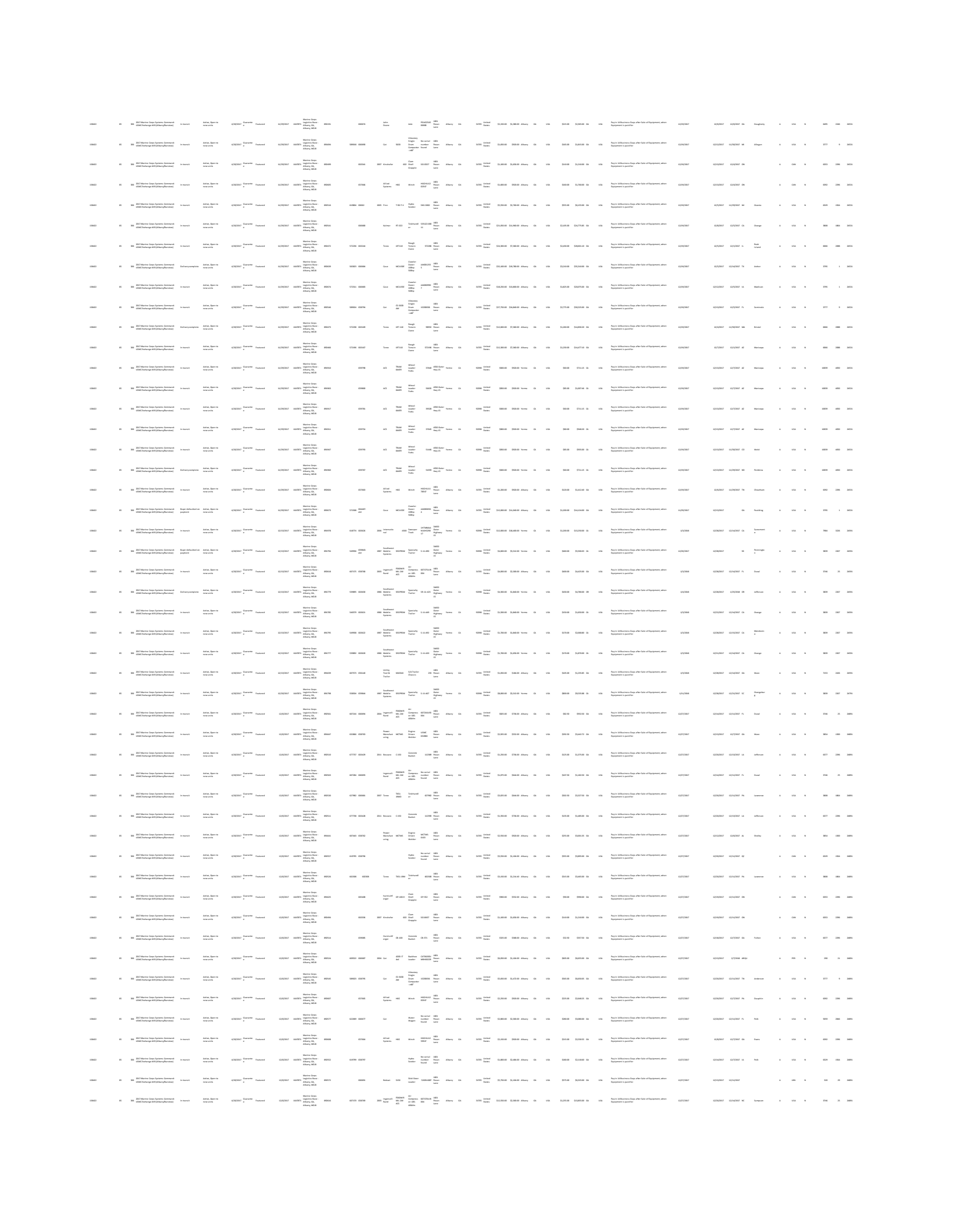


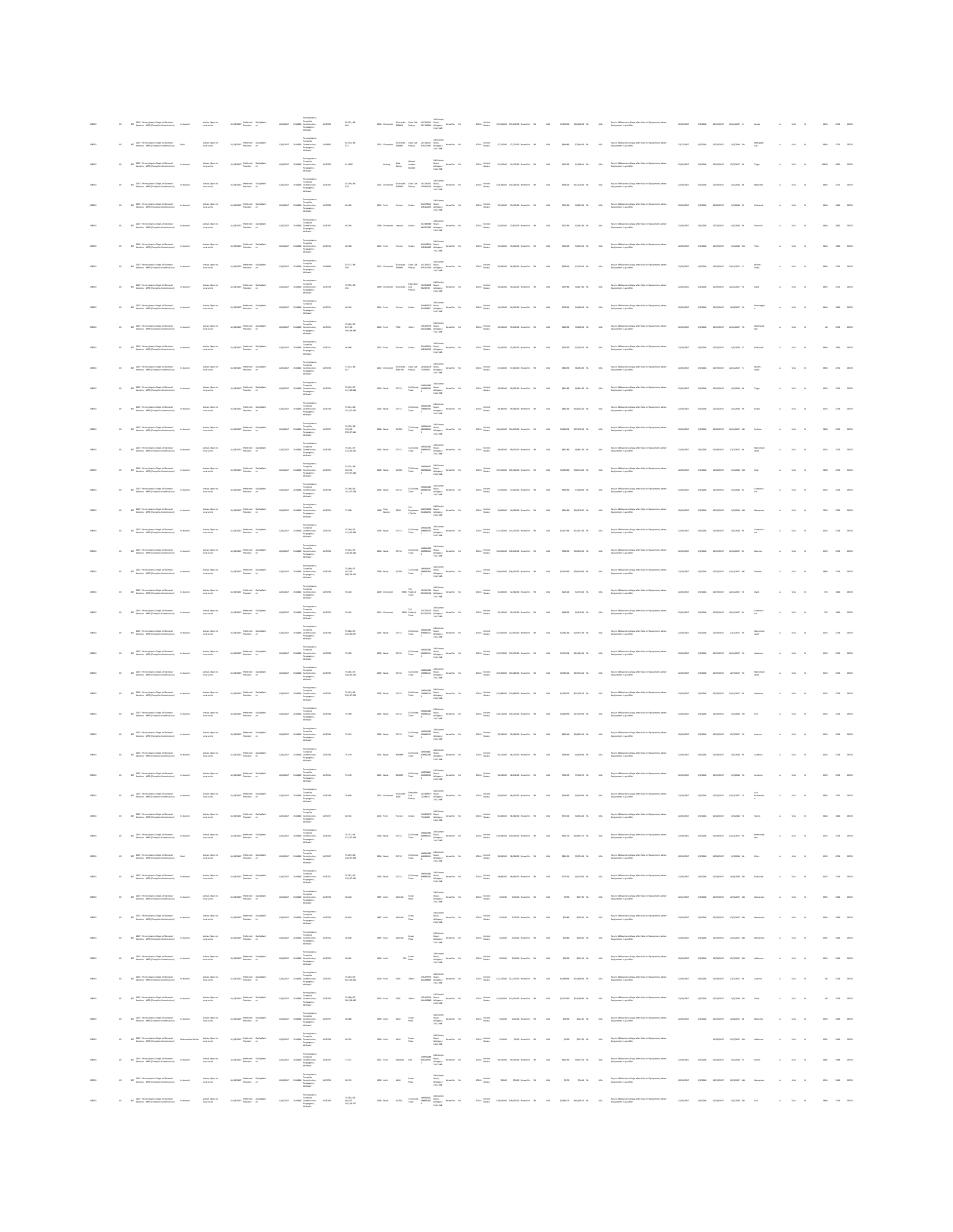


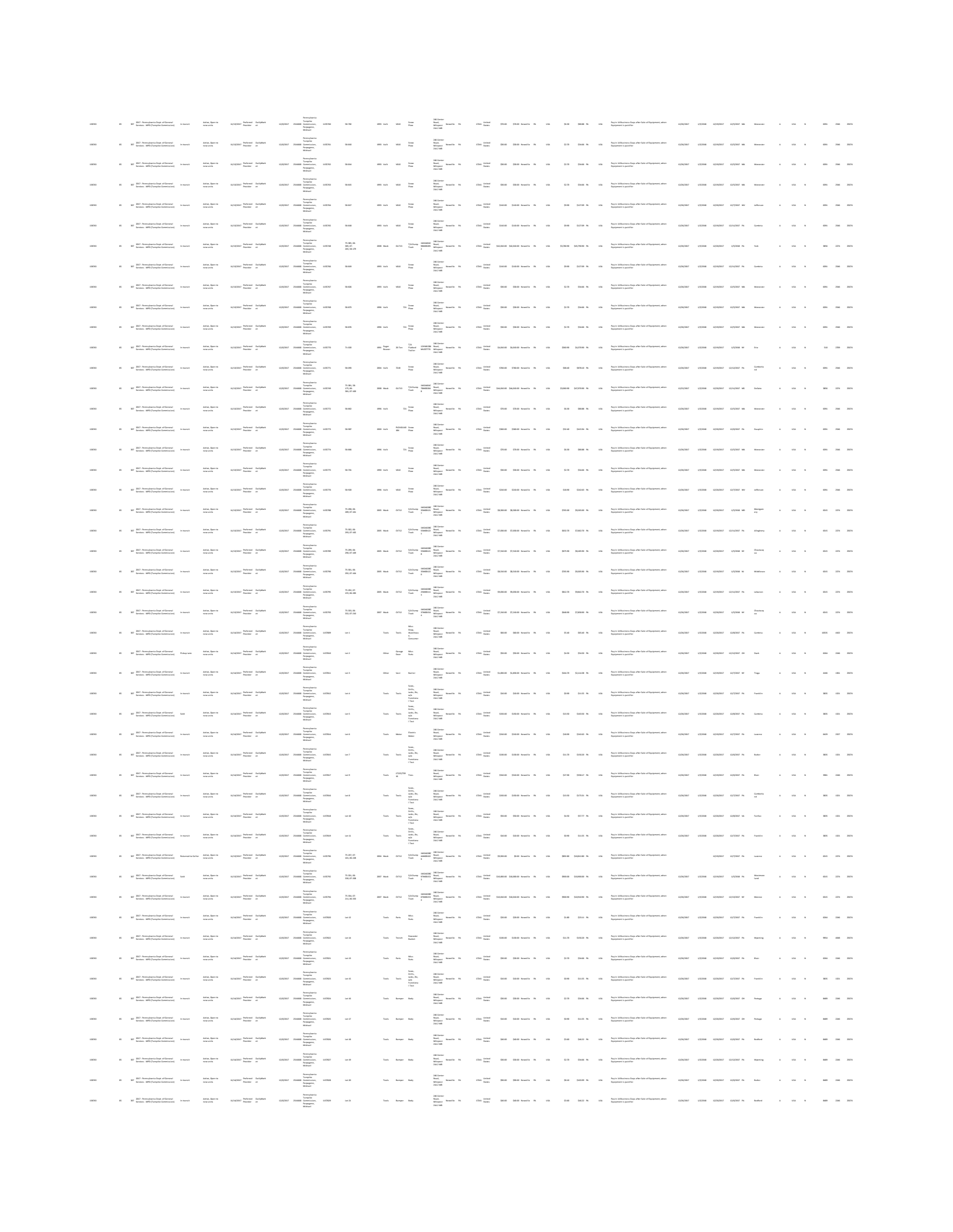


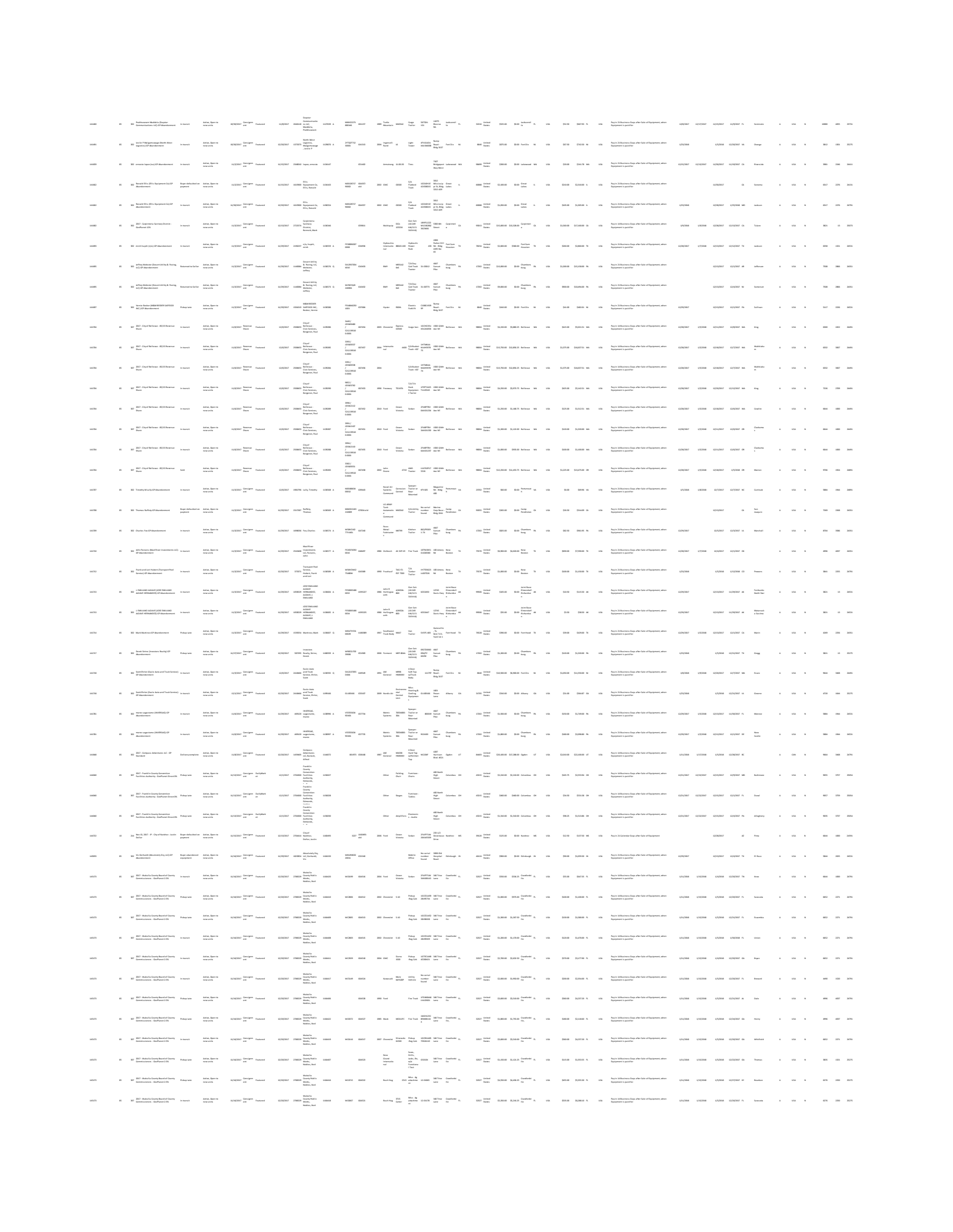
| | | |

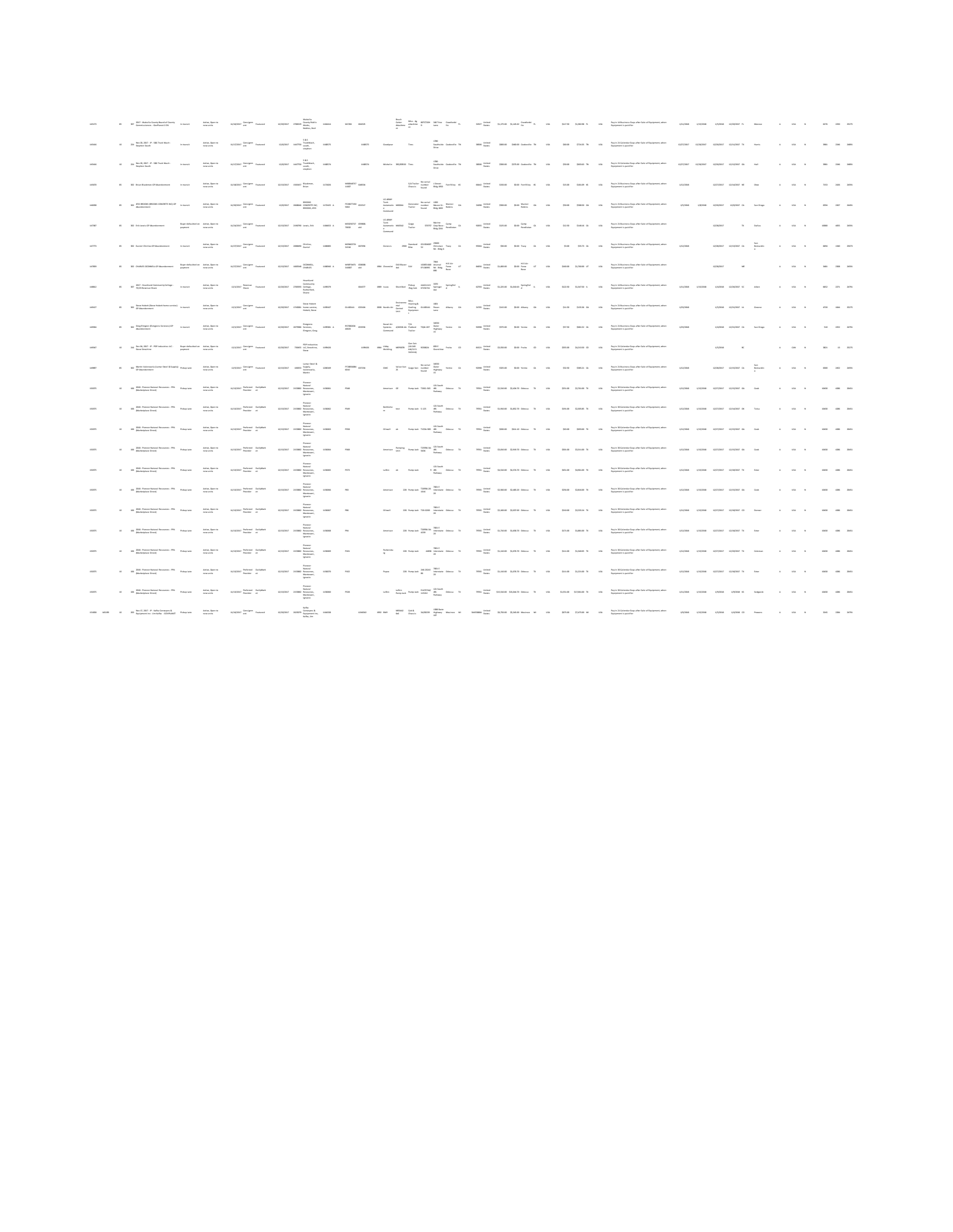












LAUREN E. BIBLE

Account/Program Management | Sales/Customer Support

REDACTED PERSONAL ADDRESS AND PHONE NUMBER

PROFESSIONAL EXPERIENCE

Ritchie Bros. Auctioneers (America), Inc, Pittsburgh, PA

Program/Account Manager – Government, Sales — April 2016 – Present

- Build and maintain strong relationships with established government customers ($13MM GTV/year) while actively chasing new business through RFPs, renewing contracts and updating addendums.
- Write and prepare extensive proposals for potential new government business while working with various departments to gather required information for submissions.
- Assist with day-to-day operations and provide sales support while communicating statuses of auctions throughout the build process to our customers.
- Handle all customer inquiries, communication and finding a fair resolution for both parties for buyer disputes on behalf of our company.
- Act as the main point of contact for our government accounts and manage all internal functions to create and execute an auction, while coordinating with sales, operations, finance and customer service departments through auction completion.
- Compile and handle post-sale reporting on auction results and follow through on pending items for the duration of the auction.
- Provide on-site auction support for PennDOT $4M sales twice a year; travel to locations to perform data validation for approximately 500 lots, take photos and load into the system.
- Travel to various locations to provide auction day support and/or attend meetings for customers, trade shows, RBA sites and other locations for training.
- Cross-train with our affiliate company IronPlanet, Inc. to help promote assets and transition our core government business to a government specific platform.

EquipmentOne (AssetNation, Inc.), a Ritchie Bros. Company, Pittsburgh, PA

Content Specialist Supervisor – Strategic Accounts, Operations — June 2015 – April 2016

- Led the gathering, review, interpretation, organization and assembly of asset information for the team to ensure accurate online auction listings for Strategic Accounts, Insurance, Finance, Rental and Government customers.
- Monitored the quality and efficiency of listing content production and mentor team to meet or exceed company standards.
- Prioritized team workload and reassign work as needed to balance the category submissions while meeting customer needs.
- Assisted with training the Ritchie Bros. Territory Managers and Territory Sales Support team during the 2015 launch of pilot programs to integrate the onsite and online auction platforms while enforcing standard policies and procedures.
- Communicated with Strategic Accounts Program Managers and sellers to build relationships and educate on EquipmentOne.
- Performed all Content Specialist duties across all categories with focus on transportation while assisting other team members.

EquipmentOne (AssetNation, Inc.), a Ritchie Bros. Company, Pittsburgh, PA
Content Specialist – Strategic Accounts & Other Sectors, Operations March 2012 – June 2015

- Responsible for organizing daily and monthly online auction events that result in transfer of over $25.8 million worth of transportation and utility assets annually.
- Participate in strategic discussions and provide feedback based on past sales, market activity, category knowledge, buyer bidding histories and hit counts.
- Accountable for compiling, managing and executing asset data across the company's online marketplaces with focus on the transportation and utility industries.

- Design and maintain a build template for all asset categories that has helped achieve great efficiencies with the correspondence between sellers, services and the operations team.
- Knowledgeable of other industries, such as heavy equipment, mining, energy, pipe, government entities, insurance, agriculture and their contracts.
- Participate in extensive database and website testing to fix errors/bugs and improve user experience and product development.
- Collect and evaluate data for accuracy and completeness and write up online listings to facilitate the negotiation and sale of surplus, end-of-life or salvage assets.
- Pioneered a seller's first pilot program with use of an API feed to accommodate their auction needs and provided a quick business solution.
- Manage data in our backend system to support our websites and display information properly.

AssetNation, Inc., a Ritchie Bros. Company, Seven Fields, PA
Customer Service Coordinator, Operations October 2009 - February 2012

- Answered incoming calls, created seller statements, coordinated item removal and finalized auction after all payments/voids were collected.
- Created and sent buyer invoices and manually processed incoming payments.
- Provided buyer and seller feedback to product development team for website improvements and user experience.
- Reported unpaid invoices and claim disputes to Category Managers and Finance to initiate contact with the back-up buyer to negotiate a sale.

PLS Logistics Services, Cranberry Township, PA
Load Audit Specialist, Billing August 2008 - October 2009

- Audited eleven major accounts to accurately bill customers and followed ISO 9000 procedures.
- Handled invoicing, sorted paperwork, processed adjustments, and interacted with transportation carriers.
- Drafted and compiled a standard operating procedure manual for the billing team to accurately bill customers effectively and efficiently.

Beaver County Chamber of Commerce, Beaver, PA
Marketing Intern January 2008 - May 2008

- Conducted market research in Beaver County and surrounding areas to update the 2008-2009 Directory for the Chamber while planning annual events.

- Composed and mass-mailed various letters and fliers for their 600+ members.

EDUCATION

The Pennsylvania State University, 3.34 GPA
B.S. in Business Administration-Management/Marketing, May 2008

SKILLS/TECHNICAL PROFICIENCIES

- Proficient in Microsoft Office Suite, Google Docs/Drive, Content Management Platforms, Skype, CRM Software, Adobe, Salesforce, Photo Editing Software, GoTo Meeting, Sharefile, Pentaho
- Experience with all browsers: Internet Explorer, Google Chrome, Mozilla Firefox, Safari • Strong business acumen, drive for results, and high sense of urgency.
- Outstanding customer service with the ability to communicate effectively and develop relationships at all levels.
- Team player with problem-solving mindset; works proactively to support and assist our customers.

January 4, 2017

The Procurement Department of the Ohio Turnpike and Infrastructure Commission is primarily responsible for completing the disposal of Commission surplus property. One method of disposal includes auction sales. So, we partnered with Ritchie Brothers / Equipment One several years ago to assist us with thinning our equipment and property supplies. Due to the nature of the work that is performed along the roadway, we experience a regular turnover in vehicles, heavy equipment, and inventory. In recent years, our maintenance buildings, and their respective stockrooms, have placed an emphasis on trying to declutter storage areas, sheds, and garage bays.

I have been a member of the Commission's Procurement Department for just over four (4) years and have worked consistently with Ritchie Brothers throughout my employment. I've had the pleasure of working with our primary contact, Clint Francis, for much of this time. More recently, I have worked more directly with Lauren Bible, who works in the same liaison capacity to the Commission as Clint.

The greatest compliment I can give them is that there has been a seamless transition to Lauren. Clint's customer care and professionalism and prompt response times led me to believe that there would be a drop-off in the level of care we've experienced. Clint set the bar very high; we utilized Ritchie Brothers frequently, we experienced great ease of communication, and we experienced fantastic results along with exceptional customer care. Lauren has taken the baton and exceeded my expectations. We continue to receive the fabulous customer care that we appreciated from Clint, and it is our hope to maintain this relationship for years to come.

I, personally, applaud this team's efforts in delivering great results and superior customer service. I wish that I had the good fortune of working with more organizations that put forth such quality work and attention to detail.

Frank LaRiccia III

Procurement Coordinator, Ohio Turnpike and Infrastructure Commission

SHARON H. BERRY

REDACTED PERSONAL ADDRESS AND PHONE NUMBER

KEY QUALIFICATIONS:

Five years of functional experience in project coordination, including:

- Envisioning information for proposals and project documentation
- Facilitate kickoff, scheduling, budgeting, tracking, reporting, analyzing
- Interface with all stakeholders from contract through operations
- Easily adapts to on-site, manufacturing, office and C-suite situations

RELEVANT SKILLS:

- Self-motivated with strong multi-tasking skills
- Demonstrated ability to research and consolidate information
- Exceptional analysis, problem-solving and communication skills
- Excellent organizational and time management skills
- Proficient with Microsoft Office Suite, Viso and several CRM packages

WORK EXPERIENCE:

Ritchie Brothers Auctioneers (America) Inc. / Iron Planet / AssetNation
Field Services -- Onsite Locations — May 2009 – Present (Excluding Feb. to Dec. 2013)

- Consistently delivered on-time, marketing-ready equipment and site specifications, photos and project schedule
- Liaised with client, vendors, buyers and internal resources on project fulfillment – on-site / remotely
- Ensured safety and best practices during write-up, equipment inspection and removal

Stuart B. Millner & Associates ("SBMA")
Project Coordinator - Onsite/Chester Springs, PA — February 2013 – December 2013
St. Louis, MO — August 2005 – December 2008
September 1991 – November 1993

Operations:

- Prepared and submitted site-related project events, schedules and budgets
- Identified resources and hired local temporary labor and contractors via RFQ/bid/other

- Established inventory guidelines for capturing equipment specs
- Created and maintained Excel database of liquidation inventories
- Designed and created process flow or step diagrams as needed for internal or client documentation
- Tracked and adjusted project budget utilizing MS-Project and/or Excel
- Effectively identified and remedied site project risks
- Liaised with client, vendors, buyers and internal resources on project fulfillment – on-site / remotely
- Created client or internal reports on safety, site inspections, marketing, sales, scheduling/time-line, contractors removing equipment, payment reconciliations

Sales:

- Qualified and developed leads via calls and correspondence to prospective manufacturing facilities
- Prepared PowerPoint proposals and responded to RFP/RFQs, drafted contracts tailored to proposal
- Developed process mapping for hand-off to operations and implementation

ACCOMPLISHMENTS:

- Designed and implemented company's first customer relationship management database (SBMA)
- Exceeded monthly sales goals for six months while managing a $12M liquidation project (SBMA)
- Accident-free project history seven years (Ritchie Bros.)

EDUCATION/OTHER:

Former Certified Paralegal, National Association of Legal Assistants
Webster University, St. Louis, MO – Business Emphasis

Pennsylvania Turnpike Commission
PO Box 67676
Harrisburg PA 17106-7676
717.939.9551

January 9, 2017

Our relationship with Equipment One/Ritchie Bros. has proven to be quite rewarding. The staff is excellent to work with and we feel very confident in their abilities and service. If ever there is an issue with auction business, we can count on them to handle it promptly. Thank you to everyone that handles our account.

Michael E. Deveney
Asset Management Supervisor

Pennsylvania Turnpike Commission
700 S Eisenhower Blvd | Middletown PA 17057
Office: 717-831-7330 | Fax: 717-986-9678
mdeveney@paturnpike.com
www.paturnpike.com

Commonwealth of Pennsylvania Department of State
Bureau of Professional and Occupational Affairs
Licensed Auction Company

License Number
AY000208L

Expiration Date
02/28/2019

Registration Code
233138WT

License Status
Active

RITCHIE BROS AUCTIONEERS (AMERICA) INC
4000 PINE LAKE ROAD
LINCOLN NE 68516

2033

OFFICIAL DOCUMENT

READ THE FOLLOWING INFORMATION CAREFULLY CONCERNING YOUR LICENSE:

1. SIGN THE WALLET CARD AND CERTIFICATE WHERE INDICATED.
2. DETACH THE WALLET CARD AND CERTIFICATE AT PERFORATION.

RITCHIE BROS AUCTIONEERS (AMERICA) INC
4000 PINE LAKE ROAD
LINCOLN NE 68516

Registration Code

Your **registration code** is found on the attached wallet card.

Use this **registration code** online to: renew your license, change your personal or license address, or order duplicate licenses.

Visit our website at: www.mylicense.pa.gov

First time users will be required to use this **registration code** to create a user ID and password.

DISPLAY THIS CERTIFICATE PROMINENTLY • NOTIFY AGENCY WITHIN 10 DAYS OF ANY CHANGE

17 0220797

Commonwealth of Pennsylvania
Department of State
Bureau of Professional and Occupational Affairs
PO Box 2649 Harrisburg PA 17105-2649

License Type

Licensed Auction Company

License Status

Active

Initial License Date

06/04/1999

RITCHIE BROS AUCTIONEERS (AMERICA) INC
4000 PINE LAKE ROAD
LINCOLN NE 68516

License Number

AY000208L

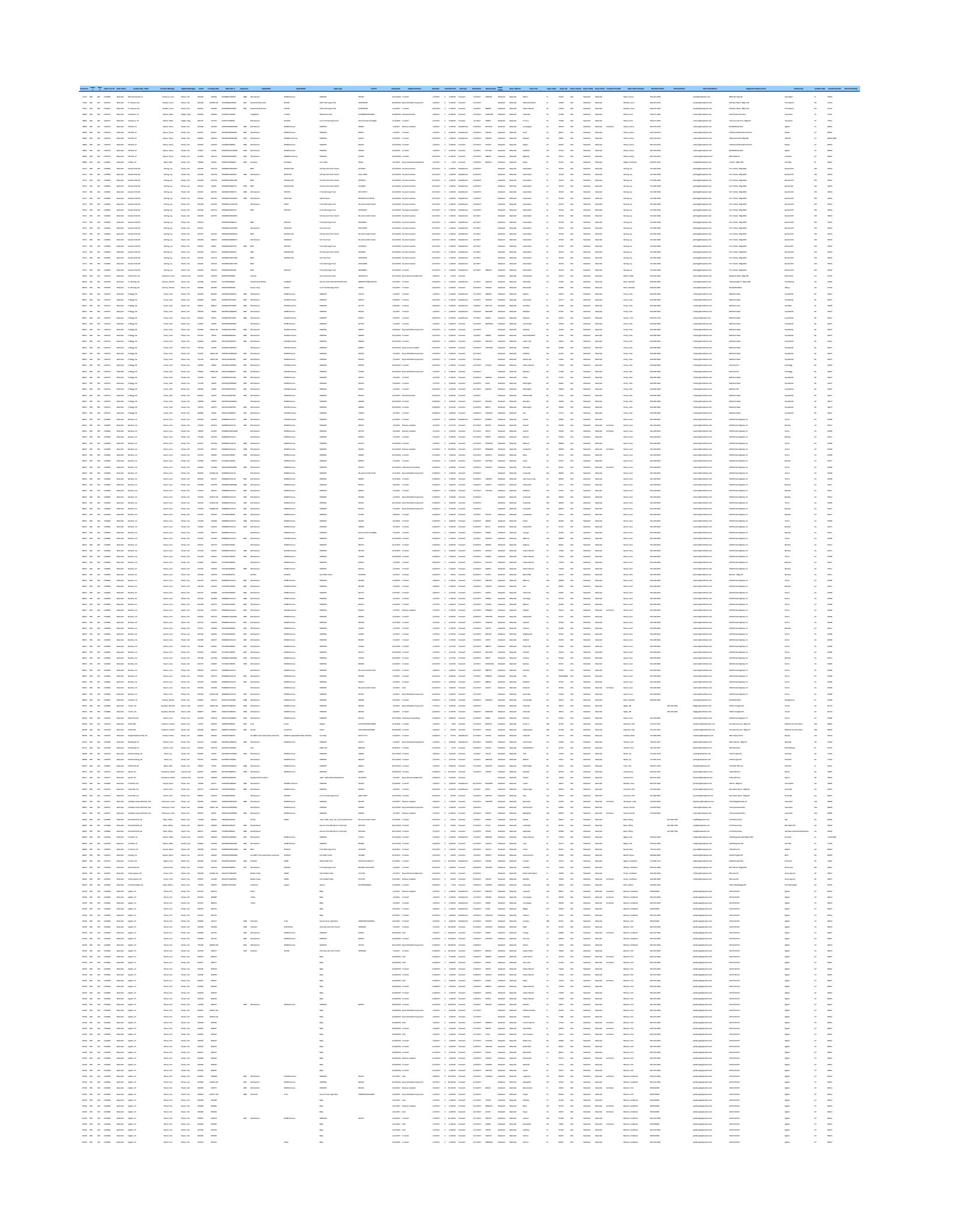
Expiration Date

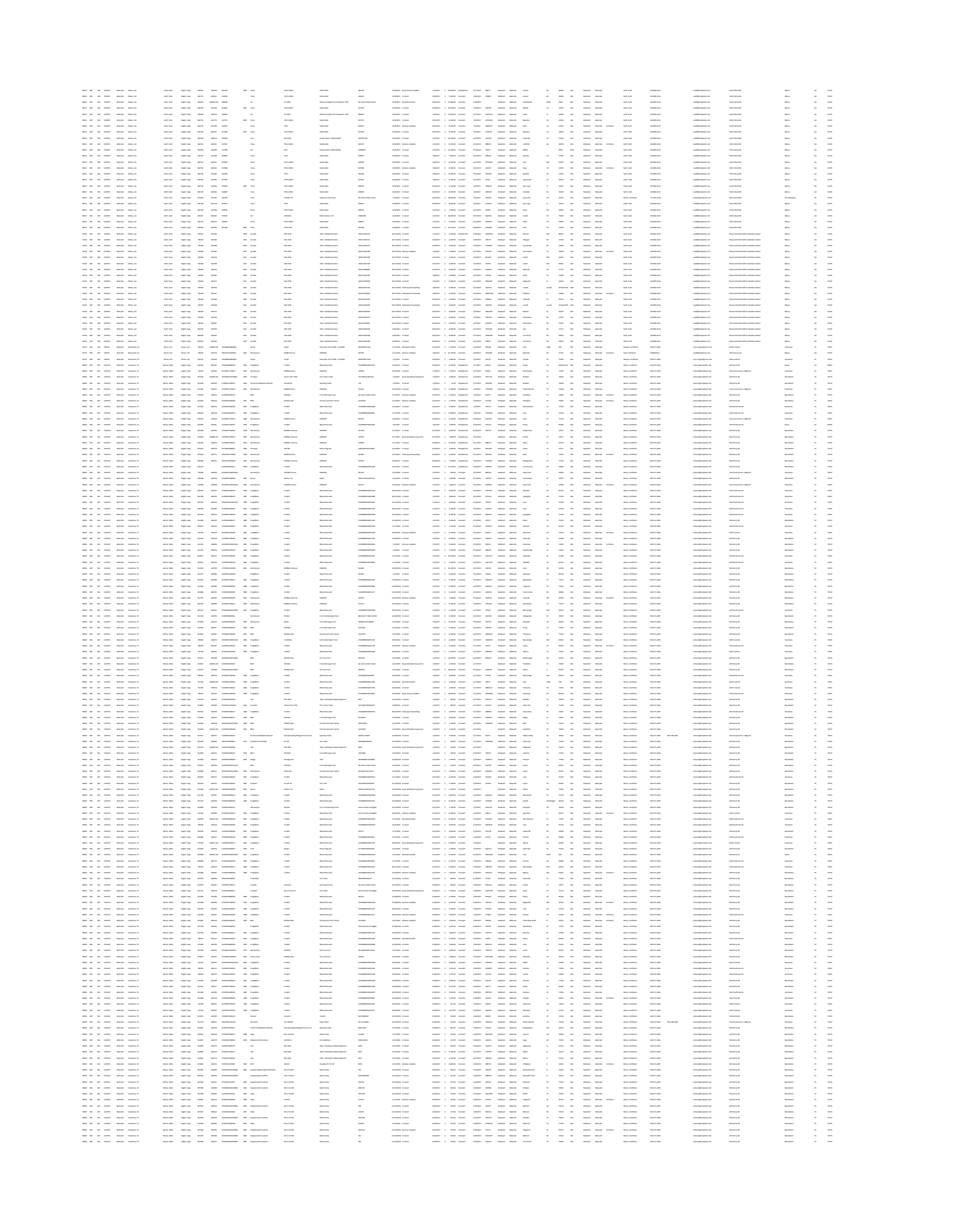
02/28/2019

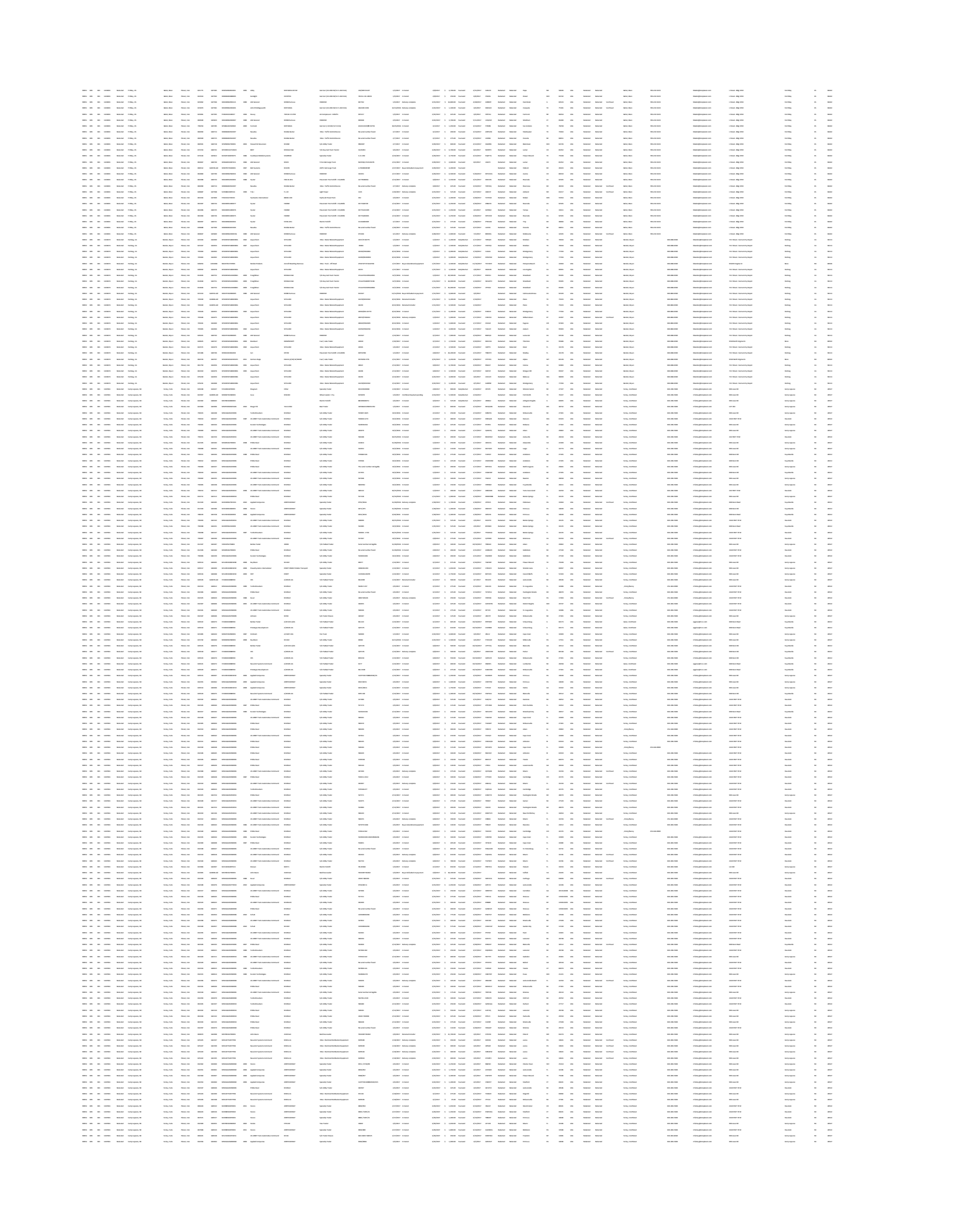
Commissioner of Professional and Occupational Affairs

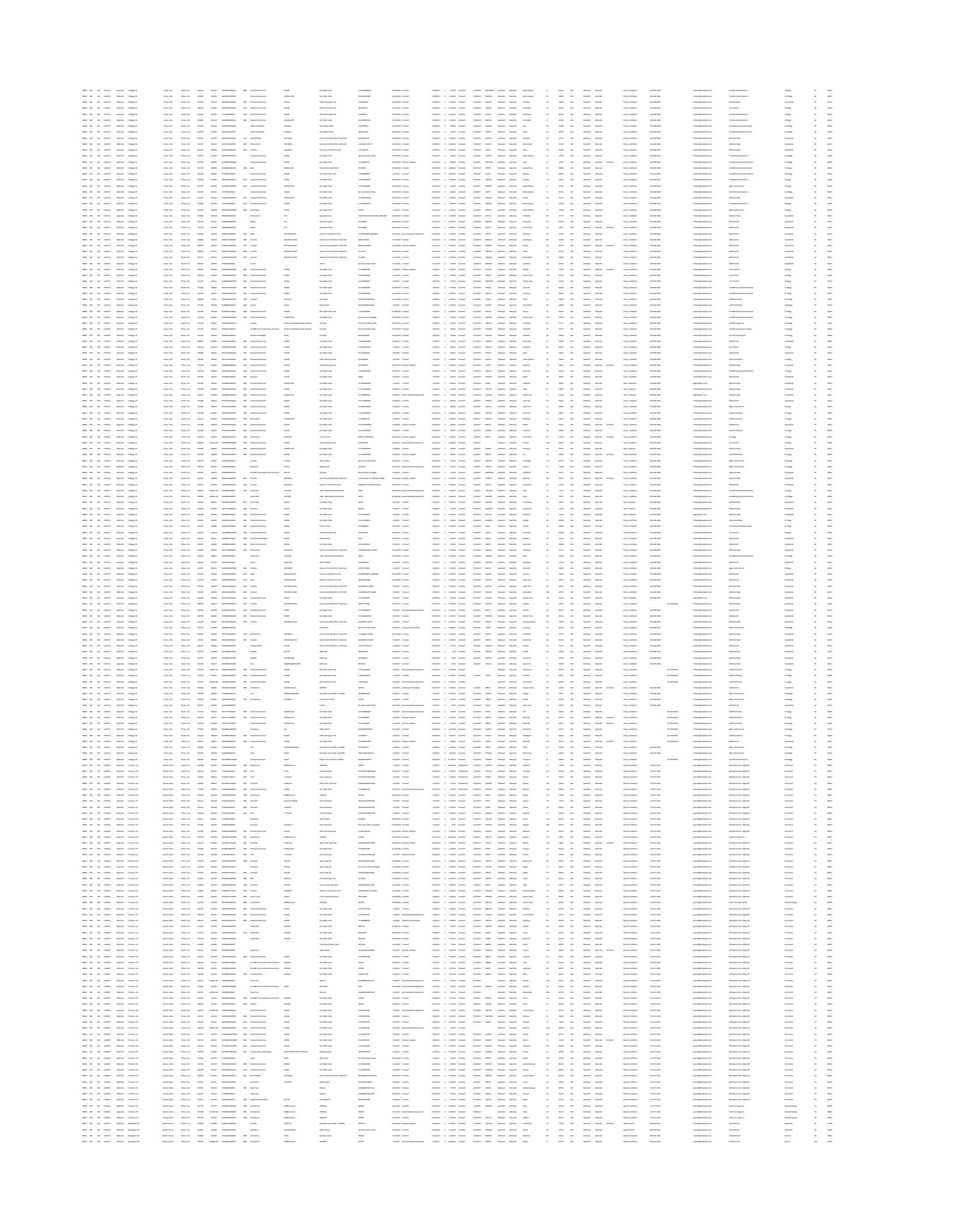
Signature

ALTERATION OF THIS DOCUMENT IS A CRIMINAL OFFENSE UNDER 18 PA.C.S.A. 911









Contract Description	Equipment Status	Listing Date	Sale Type	Sale Date (America/Los_Angeles)	Seller	Equip ID	Seller's Ref #	Tracking Label	Equip Year	Equip Make	Equip Model	Equip Type	Equip Serial	Eq. Location - City	Eq. Location - State	Eq. Location - Zip Code	Final Sale Price	Title Fee	Seller Transport Fee Markup	Seller Total	Buyer Trans. Fee	Buyer Total	Tax collected for State	Buyer Accepted at	Buyer Payment Date	Buyer	Buyer Email	Buyer State	Buyer County
2017 - Comonwealth of PA	In transit	9/21/2016	Private	11/2/2016	PADGS	786771	1071	G43979	2009	Dodge	Charger	Sedan	2B3KA43T89H642317	Harrisburg	PA	17025	$11,000.00	$0.00	$0.00	$10,285.00	$1,100.00	$12,100.00	PA	11/17/2016	11/4/2016	Doe, John		NJ	Camden
2017 - Comonwealth of PA	In transit	10/21/2016	Private	11/3/2016	PADGS	788041	1070	G41211	2009	Dodge	Charger	Sedan	2B3KA43T89H642316	Harrisburg	PA	17025	$10,000.00	$0.00	$0.00	$9,350.00	$1,000.00	$11,000.00	PA	11/18/2016	11/14/2016	Doe, John		NJ	Camden
2017 - Comonwealth of PA	Returned to Seller	11/10/2016	Private	11/11/2016	PADGS	806146	7001	G38840-old	1988	Chevrolet	Step Van	Cargo Van	1GBHP33K8J3304809	Harrisburg	PA	17025	$2,000.00	$0.00	$0.00	$0.00	$200.00	$2,200.00	PA	11/29/2016		Doe, John		OH	Licking
2017 - Comonwealth of PA	In transit	11/11/2016	Private	11/11/2016	PADGS	806943	7001	G38840	1988	Chevrolet	Step Van	Cargo Van	1GBHP32K8J3304809	Harrisburg	PA	17025	$2,000.00	$0.00	$0.00	$1,870.00	$200.00	$2,200.00	PA	11/29/2016	11/14/2016	Doe, John		OH	Licking
2017 - Comonwealth of PA	In transit	5/1/2017	Private	5/1/2017	PADGS	896274	8852	U226114	UNK	Stihl		Power Auger	4305	Harrisburg	PA	17025	$400.00	$0.00	$0.00	$374.00	$40.00	$473.00	PA	5/10/2017	5/1/2017	Doe, John		PA	Lackawanna
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786778	8844	G43954	2005	GMC	Sierra 1500	Extended Cab Pickup	1GTEC19V55E316442	Harrisburg	PA	17025	$8,800.00	$0.00	$0.00	$8,228.00	$880.00	$9,680.00	PA	11/16/2016	11/4/2016	Doe, John		OH	Franklin
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786768	1073	G43951	2010	Dodge	Charger	Sedan	2B3AA4CT9AH212313	Harrisburg	PA	17025	$9,000.00	$0.00	$0.00	$8,415.00	$900.00	$9,900.00	PA	11/17/2016	11/4/2016	Doe, John		NJ	Camden
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786770	1076	G43952	2012	Dodge	Charger	Sedan	2C3CDXAT2CH282908	Harrisburg	PA	17025	$6,250.00	$0.00	$0.00	$5,843.75	$625.00	$6,875.00	PA	11/17/2016	11/9/2016	Doe, John		NJ	Camden
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786772	1063	G43953	2009	Dodge	Charger	Sedan	2B3KA43T29H538518	Harrisburg	PA	17025	$4,250.00	$0.00	$0.00	$3,973.75	$425.00	$4,675.00	PA	11/17/2016	11/4/2016	Doe, John		NJ	Camden
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786773	774	G38849	UNK	LeeBoy	635	Motor Grader: ≤14'	85	Harrisburg	PA	17025	$23,500.00	$0.00	$0.00	$21,972.50	$2,350.00	$25,834.00	PA	11/17/2016	12/7/2016	Doe, John		VRNA	
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786775	484	G38845	UNK	Toro		Aerator	09110-00519	Harrisburg	PA	17025	$1,850.00	$0.00	$0.00	$981.75	$105.00	$1,241.62	PA	11/3/2016	11/2/2016	Doe, John		OH	Geauga
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786776	9187	G38847	UNK	Exmark	TT23KAE	Mower	776037	Harrisburg	PA	17025	$1,800.00	$0.00	$0.00	$1,683.00	$180.00	$1,980.00	PA	11/9/2016	11/7/2016	Doe, John		TX	Collin
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786781	25	G38843	UNK	Club Car		Gas Powered Cart	AG0518-502250	Harrisburg	PA	17025	$1,525.00	$0.00	$0.00	$1,425.88	$152.50	$1,803.32	PA	11/16/2016	11/8/2016	Doe, John		OH	Morrow
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786782	32	G38842	UNK	Club Car		Gas Powered Cart	AG0518-502351	Harrisburg	PA	17025	$1,050.00	$0.00	$0.00	$981.75	$105.00	$1,241.62	PA	11/16/2016	11/8/2016	Doe, John		OH	Morrow
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786780	188	G38844	UNK	Land Pride	BB2572	Box Blade	316527	Harrisburg	PA	17025	$325.00	$0.00	$0.00	$303.88	$32.50	$384.32	PA	11/16/2016	11/2/2016	Doe, John		IL	Cook
2017 - Comonwealth of PA	In transit	9/21/2016	Featured	11/2/2016	PADGS	786774	594	G38841	UNK	Alkota		Pressure Washer		Harrisburg	PA	17025	$125.00	$0.00	$0.00	$116.88	$12.50	$147.82	PA	11/16/2016	11/8/2016	Doe, John		OH	Morrow
2017 - Comonwealth of PA	In transit	2/29/2017	Featured	4/19/2017	PADGS	880961	4072	U226113	UNK	Toro	41105	Sprayer: Self Propelled	50179	Harrisburg	PA	17025	$2,450.00	$0.00	$0.00	$2,290.75	$245.00	$2,897.12	PA	5/3/2017	4/21/2017	Doe, John		GA	Effingham
2017 - Comonwealth of PA	In transit	5/2/2017	Featured	5/10/2017	PADGS	896420	186	U226112	1978	GMC		Van	TPL2JB3505337	Harrisburg	PA	17025	$3,650.00	$0.00	$0.00	$3,412.75	$365.00	$4,165.00	PA	5/15/2017	5/10/2017	Doe, John		CA	Los Angeles
2017 - Comonwealth of PA	Payment overdue	6/30/2017	Featured	7/19/2017	PADGS	917783	798	G51102	2000	Chevrolet	C2500	Utility Truck: Light Duty	1GBGC24R9YE500407	Harrisburg	PA	17025	$1,550.00	$0.00	$0.00	$1,449.25	$155.00	$1,705.00	PA	8/2/2017	7/21/2017	Doe, John		MI	Genesee
2017 - Comonwealth of PA	Pickup pending	6/30/2017	Featured	7/19/2017	PADGS	917785	7036	G51103	2007	Ford	F-450 XL Super Duty 4x4	Snow Plow Truck	1FDXF47Y47EB27651	Harrisburg	PA	17025	$17,900.00	$0.00	$0.00	$16,736.50	$1,790.00	$19,690.00	PA	8/2/2017	7/21/2017	Doe, John		PA	Schuylkill
2017 - Comonwealth of PA	Pickup pending	6/30/2017	Featured	7/19/2017	PADGS	917784	1056	G51101	2007	Dodge	Charger SE	Sedan	2B3KA43G77H838300	Harrisburg	PA	17025	$4,150.00	$0.00	$0.00	$3,880.25	$415.00	$4,565.00	PA	8/2/2017	7/20/2017	Doe, John		WI	Grant
2017 - Comonwealth of PA	In transit	2/29/2017	Featured	5/10/2017	PADGS	880960	4033	G226111	UNK	Toro	Greenmaster 3150	Greens Mower	04357-250000S60	Harrisburg	PA	17025	$325.00	$0.00	$0.00	$303.88	$32.50	$384.32	PA	5/18/2017	5/10/2017	Doe, John		OH	Franklin
2017 - Comonwealth of PA	In transit	4/17/2017	Featured	5/10/2017	PADGS	889454	1788	G32298	UNK	Miller	Spectrum 300 Cutmate	Plasma Cutter	KG195142	Harrisburg	PA	17025	$475.00	$0.00	$0.00	$444.13	$47.50	$561.68	PA	5/18/2017	5/15/2017	Doe, John		VA	Clarke
2017 - Comonwealth of PA	Pickup Late	4/17/2017	Featured	5/10/2017	PADGS	889457	4453	G32299	UNK	Thermal Dynamics	Pak Master 50	Plasma Cutter	A628114A18640BE	Harrisburg	PA	17025	$800.00	$0.00	$0.00	$748.00	$80.00	$946.00	PA	5/24/2017	5/10/2017	Doe, John		TX	Winkler
2017 - Comonwealth of PA	In transit	4/17/2017	Featured	5/10/2017	PADGS	889455	53	G45072	UNK	Miller	251	Electric Welder	LF248546	Harrisburg	PA	17025	$1,200.00	$0.00	$0.00	$1,122.00	$120.00	$1,419.00	PA	5/18/2017	5/15/2017	Doe, John		VA	Clarke
2017 - Comonwealth of PA	Pickup Late	4/17/2017	Featured	5/10/2017	PADGS	889456	779	G32297	2004	Snap-On	EELR33BA	:Saws, Drills, Etc, w/ Functional Test	MI19069	Harrisburg	PA	17025	$1,200.00	$0.00	$0.00	$1,122.00	$120.00	$1,320.00	PA	5/24/2017	5/11/2017	Doe, John		OH	Butler
2017 - Comonwealth of PA	In transit	4/17/2017	Featured	5/24/2017	PADGS	889458	144	G32300	UNK	Ammco	4100	Lathe	4328	Harrisburg	PA	17025	$1,300.00	$0.00	$0.00	$1,293.50	$130.00	$1,537.26	PA	6/8/2017	5/25/2017	Doe, John		KY	Warren
																	$118,075.00			**$108,530.15**									

Please identify the individual responsible for conducting public on-site auctions as required by the RFP and provide a copy of their active PA auctioneers license.

Frederick R. Vilsmeier
License # AU002014L
Expiration date 2/28/19

Active PA auctioneers license information:

Commonwealth of Pennsylvania Department of State
Bureau of Professional and Occupational Affairs
Auctioneer

License Number
AU002014L

Expiration Date
02/28/2019

Registration Code
28xk5030

License Status
Active

FREDERICK R VILSMEIER
4000 PINE LAKE ROAD
LINCOLN NE 68516

1965

OFFICIAL DOCUMENT

READ THE FOLLOWING INFORMATION CAREFULLY CONCERNING YOUR LICENSE.

1. SIGN THE WALLET CARD AND CERTIFICATE WHERE INDICATED.
2. DETACH THE WALLET CARD AND CERTIFICATE AT PERFORATION.

FREDERICK R VILSMEIER
4000 PINE LAKE ROAD
LINCOLN NE 68516

Registration Code

Your **registration code** is found on the attached wallet card.

Use this **registration code** online to: renew your license, change your personal or license address, or order duplicate licenses.

Visit our website at: www.mylicense.pa.gov

First time users will be required to use this **registration code** to create a user ID and password.

DISPLAY THIS CERTIFICATE PROMINENTLY • NOTIFY AGENCY WITHIN 10 DAYS OF ANY CHANGE

Commonwealth of Pennsylvania
Department of State
Bureau of Professional and Occupational Affairs
PO Box 2649 Harrisburg PA 17105-2649

17 0220729

License Type
Auctioneer

License Status
Active

Initial License Date
08/30/1982

FREDERICK R VILSMEIER
4000 PINE LAKE ROAD
LINCOLN NE 68516

License Number
AU002014L

Expiration Date
02/28/2019

Commissioner of Professional and Occupational Affairs

Signature

August 17, 2018

Jennifer Habowski
Issuing Officer
Pennsylvania Department of General Services
Bureau of Procurement
Forum Place, Floor 6
555 Walnut Street
Harrisburg, PA 17101

Dear Ms. Habowski,

Please find below our written response to your request for clarification regarding our pricing proposed for RFP #6100044453 for Auction Services (Surplus).

QUESTIONS and ANSWERS

Question 1. Please confirm approved Commonwealth administrative users will have access to run auction reports (section E.4., pg. 24-25 of the technical submittal).

Answer 1. Approved Commonwealth administrative users will have access to run auction reports using the tools provided on the marketplace. The marketplace also allows approved users to export the reports to MS Excel with a clink of a button.

Question 2. For the following task, I-4, H., IronPlanet, Inc. described the quality control process for online auctions but did not address the quality control measures in place for on-site auctions. Please use the task below and describe the quality control measures in place for on-site auctions.

(a) Offeror(s) must describe its procedures for monitoring the quality of services for both online auctions and during public (on-site) auction events. The procedures are to include a method for monitoring, identifying and correcting deficiencies in the quality of service provided and its impact on the overall project and on each affected task.

Answer 2 (a). All bidders are registered and issued a bidder number. All of our auctions are professionally staffed with licensed auctioneers, bid catchers, customer service representatives, and clerical and accounting staff, in addition to appropriate security personnel. All auction operations are governed by standard operating procedures and business processes that all personnel are required to adhere to across the organization. The procedures cover all aspects of our auction operations.

Online bidders can get help at any time by calling our Customer Service Representatives. There are specific phone numbers for bidders outside of North America, which are posted on the Customer Service page on our website.

Notifications are made to online bidders in the following ways:
 Confirmation that bid was received: on screen when bid is made
 Notification that the bidder has been out-bid: on screen when bid is made
 Awarded auction notification with payment instructions: by email

Anyone can see real-time online reports of auction statuses, sales made and pending sales by viewing the auction live on our website. The report shows lot number, lot description, serial number, meter reads and a photo. We conduct the auction in real time and there is no need for consignors to take action while items are selling.

Our company employs Regional Operations Managers who are in attendance at all auctions at Ritchie Bros. sites. The Regional Operations Manager will appoint a sale manager who is directly responsible for all the activities at live sales at off-site properties. These managers use various checklists and personal observation to evaluate the performance of auctioneers, bid catchers and vendors to the highest standards. Our office in Burnaby also monitors our website and auction software continuously for optimum performance.

(b) For online auctions or public (on-site) auctions with webcasting, describe how you will ensure a secure and reliable online presence during an auction event and what contingencies are in place should a major technical problem disrupt an auction. Describe how you will ensure that a server failure will not occur in the course of an online auction or during webcasting. Include contingencies and redundancies in your plan.

Answer 2 (b). For public (on-site) auctions with webcasting, all servers, hardware and datacenters that we use for online bidding are redundant and in separate physical locations. We have well documented processes in place to switch over if we need to, and the physical auction will halt and wait for online to come back up in the unlikely event that it should ever go down. Each data center is capable of handling all our online bidding traffic. Our primary data center is located in Seattle and our back up is in Ashburn. Each colocation data center is in a secure facility with redundant infrastructure such as backup electrical power and multiple points of high-speed Internet connectivity. All changes to data, code, image files and log files are replicated in real-time (<100ms latency) from the current primary data center to the standby data center. In the event of a disaster at the active data center, the standby data center can transition to active status within 5 minutes to 8 minutes. The cut over consists of manually pointing all traffic to the back up data center.

Question 3. The cost submittal was discussed on the call on 8/13/18 and the question was raised as to whether IronPlanet would consider lowering the buyer's premium quoted at 20% for public (on-site) auctions.

Answer 3. After discussion with the State regarding the requirements of the public (on-site) auctions, we are comfortable lowering the rate to a "not to exceed" amount of 15% based on the expectation that the public (on-site) auctions will be similar in scope to the upcoming sale in September.

Question 4. It was clarified on the call that the buyer's premium fee for municipal heavy equipment auctions (private) is intended to be a flat fee per invoice NOT per item. Based on this information, the question was raised as to whether the fees quoted by IronPlanet were based upon this assumption.

Answer 4. The buyer's premium quoted for private auctions were originally based on a per item basis. After discussion with the State, IronPlanet agrees to leave the first threshold the same and change the second threshold to $250/item as set forth below:

Municipal Heavy Equipment Auctions (Private)	Buyer's Premium Fee
Aggregate Invoice Total (per invoice) Below $5,000.00	$ 250.00
Aggregate Invoice Total (per piece of equipment) Above $5,000.01	$ 250.00

Please contact me if you have any questions regarding this information or require additional information to evaluate our proposal.

Sincerely,

Kevin O'Donnell
Vice President - Government Business Development

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/18/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA, Inc. 9830 Colonnade Blvd. #400 San Antonio, TX 78230 102314121-ANXM--17-18	**CONTACT NAME:** **PHONE (A/C, No, Ext):** **FAX (A/C, No):** **E-MAIL ADDRESS:**
INSURED IronPlanet, Inc. an Indirect wholly-owned subsidiary of Ritchie Bros. Auctioneers Incorporated 3825 Hopyard Road, Suite 250 Pleasanton, CA 94588	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Zurich American Insurance Company — 16535 **INSURER B :** Liberty Insurance Corporation — 42404 **INSURER C :** Liberty Mutual Fire Insurance Company — 23035 **INSURER D :** N/A — N/A **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** HOU-003330944-04 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			GLO9184666-03	08/01/2017	08/01/2018	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $	1,000,000 1,000,000 5,000 1,000,000 10,000,000 1,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			AS7-641-443635-017	08/01/2017	08/01/2018	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $	1,000,000
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED X RETENTION $ 10,000			AUC918466703	08/01/2017	08/01/2018	EACH OCCURRENCE AGGREGATE	$ $	1,000,000 19,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC2-B71-170848-017	08/01/2017	08/01/2018	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $	1,000,000 1,000,000 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

IronPlanet, Inc.
3825 Hopyard Road, Suite 250
Pleasanton, CA 94588

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE of Marsh USA Inc.

Manashi Mukherjee

© 1988-2016 ACORD CORPORATION. All rights reserved.

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
IRONPLANET INC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
3825 Hopyard Rd STE 250

Requester's name and address (optional)

6 City, state, and ZIP code
Pleasanton CA 94588

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
[ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ]

or

Employer identification number
[redacted]

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ [signature] Date ▶ 1/12/15

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

REVISED 01-17-2017

COSTARS PROGRAM ELECTION TO PARTICIPATE

If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract. Our firm also agrees to pay the applicable Administrative Fee ($1500, or $500 for a Department of General Services Self-Certified Small Business, or $166 for a Department of General Services-verified Small Diverse Business) at the beginning of each contract year and upon each contract renewal date.

If you are a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, you must submit a copy of your active Small Business Contracting Program certificate with your bid response.

IronPlanet, Inc.
Corporate or Legal Entity Name

2/15/18
Signature/Date

Dominique Turnage, Contracts Admin.
Printed Name/Title

DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

I, Contracts Admin [title] of IronPlanet, Inc. [name of Contractor] a Delaware [place of incorporation] corporation or other legal entity, ("Contractor") located at 3815 Hopyard Rd., Ste. 250, Pleasanton, CA 94588 [address], having a Social Security or Federal Identification Number of [redacted], do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check one of the boxes below):

☑ All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

☐ _____ percent (_____%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed: _____

_____

[Use additional sheets if necessary]

The Department of General Services [or other purchasing agency] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

Molly Parks 2/15/18
Signature/Date

Molly Parks / Sales Support Representative
Printed Name/Title

IronPlanet, Inc.
Corporate or Legal Entity's Name

2/15/18
Signature/Date

Dominique Turnage | Contracts Admin.
Printed Name/Title

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

LOBBYING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, which can be found at:

http://www.whitehouse.gov/sites/default/files/omb/assets/omb/grants/sflllin.pdf

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code.* Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than **$100,000** for such failure.

SIGNATURE: _____

TITLE: Contracts Administrator DATE: 2/15/18

BOP-1307
Revised 11/7/2013

pennsylvania
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT

IRAN FREE PROCUREMENT CERTIFICATION FORM

(Pennsylvania's Procurement Code Sections 3501-3506, 62 Pa.C.S. §§ 3501-3506)

To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least $1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

To comply with this requirement, please insert your vendor or financial institution name and complete **one** of the options below. Please note: Pennsylvania law establishes penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Section 3503 of the Procurement Code.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is eligible to contract with the Commonwealth of Pennsylvania Sections 3501-3506 of the Procurement Code.

Vendor Name/Financial Institution (Printed)	
IconPlanet Inc.	
By (Authorized Signature)	
Printed Name and Title of Person Signing	*Date Executed*
Dominique Turnage, Contracts Administrator	2/15/18

OPTION #2 – EXEMPTION

Pursuant to Procurement Code Section 3503(e), DGS may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to enter into a contract for goods and services.

If you have obtained a written exemption from the certification requirement, please fill out the information below, and attach the written documentation demonstrating the exemption approval.

Vendor Name/Financial Institution (Printed)	
By (Authorized Signature)	
Printed Name and Title of Person Signing	*Date Executed*