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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2008-0092]

Privacy Act of 1974; Department of Homeland Security Mailing and
Other Lists System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security is giving notice that it proposes to update one record system titled, DHS/ALL-002 Department of Homeland Security Mailing and Other Lists System. Categories of records have been changed to reflect the removal of emergency contact information which has been moved to the Emergency Personnel Location System of Records (October 17, 2008). The routine uses of this system of records have been updated to include the ability to share information for audits; for breach mitigation; with Federal, State and local agencies; with the Department of Justice; and with the news media. This updated system will be included in DHS's inventory of record systems.

DATES: Written comments must be submitted on or before December 26, 2008.

ADDRESSES: You may submit comments, identified by docket number DHS-2008-0092 by one of the following methods:

Federal e-Rulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

Fax: 1-866-466-5370.

Mail: Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at <http://www.regulations.gov>, including any personally identifiable information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues please contact: Hugo Teufel III (703-235-0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Homeland Security (DHS) is updating and reissuing an agency-wide system of records under the Privacy Act (5 U.S.C. 552a) for DHS mailing and other lists. These lists are used to facilitate mailings to multiple addressees and other activities in furtherance of DHS duties. DHS and its components and offices use the system to account for all persons appearing on mailing lists collected and maintained throughout DHS to facilitate mailings to multiple addressees and other activities in furtherance of DHS duties.

In accordance with the Privacy Act of 1974, DHS is giving notice that it proposes to update one record system titled, DHS/ALL-002 Department of Homeland Security Mailing and Other Lists System (69 FR 70460 December 9, 2004). Categories of records have been changed to reflect the removal of emergency contact information which has been moved to Emergency Personnel Location System of Records (73 FR 61888 October 17, 2008). The routine uses of this system of records have been changed to reflect the addition of information sharing for audits of the Department and its components; for breach mitigation to prevent the unauthorized use or disclosure of information and to prepare for privacy related incidents; with Federal, State and local agencies related to tracking and completion of training; with the Department of Justice; with the news media. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR Part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS Mailing and Other Lists System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this updated system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS
DHS/ALL-002

System name:

Department of Homeland Security Mailing and Other Lists System of Records.

Security classification:

Unclassified.

System location:

This system of records is located in the Department of Homeland Security,

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Washington, DC 20528, as well as in the component DHS offices.

Categories of individuals covered by the system:

All persons appearing on mailing lists maintained throughout DHS to facilitate mailings to multiple addressees and other activities in furtherance of DHS duties. These lists include persons who have requested DHS material; members of the news media who have provided contact information; persons who serve on DHS boards and committees other than those covered by the Federal Advisory Committee Act which are covered under DHS/ALL 009 Advisory Committees (73 FR 57639), and other individuals having business with DHS who have provided contact information; individuals who enter contests sponsored by DHS; contractors or other individuals who work or attend meetings at DHS; and other persons who attend or have an interest in DHS programs, contests, exhibits, conferences, training courses, and similar events.

Categories of records in the system:

Categories of records in this system include:

Individual's name;

Age;

School grade; (where appropriate)

School name; (where appropriate)

Telephone numbers;

E-mail address;

Mailing address;

Position/title;

Business affiliation (where appropriate);

Other contact information provided to DHS by individuals covered by this system of records; and

Computer-generated identifier or case number where created in order to retrieve information.

Authority for maintenance of the system:

5 U.S.C. 301; 44 U.S.C. 3101.

Purpose(s) :

The system is maintained for the purpose of mailing informational literature or responses to those who request it; maintaining lists of individuals who attend meetings; maintaining information regarding individuals who enter contests sponsored by DHS; and for other purposes for which mailing or contact lists may be created.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside Department of Homeland Security (DHS) as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

A. To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee of DHS in his/her official capacity;
3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either

on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Information typically will be retrieved by an identification number assigned by computer or case number where created for tracking purposes, by e-mail address, or by name of an individual.

Safeguards:

Records in this system are safeguarded in accordance with

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applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

Some records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 12 (Communications Records). Other records are retained and disposed of in accordance with General Records Schedule 1. Files may be retained for up to three years or less depending on the record. For records that may be used in litigation, the files related to that litigation will be retained for three years after final court adjudication.

System Manager and address:

For Headquarters components of the Department of Homeland Security, the System Manager is the Director of Departmental Disclosure, Department of Homeland Security, Washington, DC 20528. For components of the Department of Homeland Security, the System Manager can be found

at <http://www.dhs.gov/foia> under ``contacts.''

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under ``contacts.''. If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP-0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, <http://www.dhs.gov> or 1-866-431-0486. In addition you should provide the following:

An explanation of why you believe the Department would have information on you,

Identify which component(s) of the Department you believe may have the information about you,

Specify when you believe the records would have been created,

Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See ``Notification procedure'' above.

Contesting record procedures:

See ``Notification procedure'' above.

Record source categories:

Information contained in this system is obtained from affected individuals/organizations, public source data, other government agencies and/or information already in other DHS records systems.

Exemptions claimed for the system:

None.

Dated: November 18, 2008.

Hugo Teufel III,
Chief Privacy Officer, Department of Homeland Security.

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