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[Notices]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2007-0019]

Privacy Act; Inter-Country Adoptions

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Notice of Privacy Act system of records notice.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) is updating and re-issuing a legacy system of records, Department of Justice DOJ/Immigration and Naturalization (INS)--007 SORN known as Orphan Petitioner Index and Files that was published on July 27, 2001, 66 FR 39199. This system of records will now be referred to as DHS/USCIS-005 Inter-Country Adoptions.

DATES: Written comments must be submitted on or before July 5, 2007.

ADDRESSES:

You may submit comments, identified by DOCKET NUMBER DHS-2007-0019 by one of the following methods:

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

Follow the instructions for submitting comments via docket number DHS 2007-0019. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Fax: 1-866-466-5370.

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

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, please contact: Patrick Kernan, 20 Massachusetts Avenue, NW., Washington, DC 20529, by telephone (202) 272-9522. For privacy issues, please contact: Hugo Teufel III (571-227-3813), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

DHS implements United States immigration law and policy through the USCIS's processing and adjudication of applications and petitions submitted for citizenship, asylum, and other immigration benefits. USCIS also supports national security by preventing individuals from fraudulently obtaining immigration benefits and by denying applications from individuals who pose national security or public safety threats. United States Immigration policy and law is also implemented through Immigration and Customs Enforcement's (ICE) law enforcement activities and Customs and Border Protection's (CBP) inspection process and protection of our borders.

USCIS is embarking on an enterprise-wide ``Transformation Program'' that will transition the agency from a fragmented, form-centric, and paper-based operational environment to a centralized, person-centric, consolidated environment utilizing electronic adjudication. The new operational environment will employ the types of online customer accounts used in the private sector. This ``person-centric'' model will link information related to an individual in a single account in order to facilitate customer friendly transactions, track activities, and reduce identity fraud.

The Secure Information Management Service (SIMS) is a web-based, information and case management service that enables authorized USCIS representatives to perform end-to-end processing of applications while providing the agency with the ability to better associate and manage relationships with those seeking immigration related benefits.

To support this effort, USCIS is deploying a series of pilots to validate key concepts of the program's mission. One of the key functions of the SIMS deployment is to demonstrate the overall benefits of the USCIS Transformation Project. Using the inter-country adoption caseload as a ``proof-of-concept'' of the SIMS, this pilot will demonstrate the case processing capability of the case management system, verify that an enumerator (unique identifier based on biometrics) supports the USCIS person-centric business process, and verify that the case management system can be used to view digitized files.

The SIMS will utilize the Enumeration Services of DHS's US-VISIT Program, when deployed, to establish a unique identity for each individual interacting with USCIS. Enumeration Services will establish an enterprise-wide unique personal identifier, known as the enumerator, based on 10 fingerprints and limited biographic information of an individual. An enumerator is a randomly generated alphanumeric unique identifier that is used to link disparate records associated with an individual for the purpose of identification. Enumeration will allow USCIS to consolidate information on an individual and facilitate identity verification, risk evaluation, and benefit eligibility.

In addition, the SIMS will utilize digitized Alien Registration Files (A-Files) generated through USCIS's Integrated Digitization Document Management Program (IDDMP). System of Records Notice for A-Files and the Central Index System was published on January 16, 2007, 72 FR 1755. IDDMP enables USCIS to scan, store and view immigration paper files and related documents while integrating to person-centric records, making them electronically available to USCIS and other agencies.

Current Adoption Process

The current adoption process is a form-centric approach that focuses on a series of forms and independent processes, rather than a consolidated set of transactions focusing on the customer's primary request. Currently, a customer must file multiple applications to, (1)

obtain parent qualification and approval, (2) adopt a child, and (3) obtain citizenship for a child.

Generally, customers residing in the U.S. must file adoption applications with the local USCIS office with jurisdiction over their place of residence in the U.S. Customers residing outside of the U.S. must contact the nearest American consulate or embassy that will take action on their application. Should a customer move during the adoption process, USCIS must transfer his case to a different jurisdiction, resulting in longer processing times and limiting access to the file to a single adjudicator. Utilizing paper-based files results in high transmittal costs and requires a complex record management system.

Customers may be engaged in the adoption process over a multi-year period depending upon the country from which they seek to adopt because of the differences in legal requirements in each foreign country. USCIS regulations dictate that applications expire in 18 months in order to ensure that home studies are current. As a result, customers may be required to re-file their applications. Currently, re-filing is the same as starting the process all over again. This process results in additional cost and time to complete the filing requirements.

New Operational Concept

The new operational concept will facilitate interactions between USCIS and adoptive parents or their

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representatives. Each adoption application request will link to an existing SIMS account or trigger the creation of a new SIMS account that contains personally identifiable information. All adoption requests related to an individual will be contained in a SIMS case that tracks the actions required to adjudicate the adoption or naturalization request. The priorities of the new concept are as follows:

Establish a person-centric view for individuals associated with a case, utilizing the Enumeration Service of the US-VISIT program to establish a unique identity for each individual that is required by USCIS to be fingerprinted.

Provide a centralized, web-based repository for the data that provides access to all the documents related to a case, thereby eliminating the need for a paper application or a case file. However, for purposes of this pilot and to ensure continuity of operations, USCIS will maintain the paper file as a backup to the newly created electronic file.

If it is determined that this new operational concept is valid, USCIS will consider adding additional application types and functionality to the SIMS and as appropriate, update the relevant system of records notices for those programs that use this new technology. As part of DHS's ongoing efforts to increase transparency and update legacy system of records notices, USCIS reviewed and is updating and re-issuing Department of Justice DOJ/Immigration and Naturalization (INS)-007 SORN, known as Orphan Petitioner Index and Files that was published on July 27, 2001, 66 FR 39199 to account for the new capabilities that SIMS offers that were not previously covered by the legacy SORN. The legacy SORN will be retired and replaced with the DHS/USCIS-005 Inter-country Adoptions system of records.

Consistent with DHS's information sharing mission, information stored in the Adoptions portion of SIMS may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will only

take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

Types of information sharing that may result from the routine uses outlined in this notice include: (1) Disclosure to social worker or federal, state, or local government agency to determine the applicants' suitability for adopting a child; (2) disclosure to individuals who are working as a contractor or with a similar relationship working on behalf of DHS; (3) sharing when there appears to be a specific violation or potential violation of law, or identified threat or potential threat to national or international security, such as criminal or terrorist activities, based on individual records in this system; (4) sharing with the National Archives and Records Administration (NARA) for proper handling of government records; (5) sharing when relevant to litigation associated with the Federal government; and (6) sharing to protect the individual who is the subject of the record from the harm of identity theft in the case of a data breach affecting this system.

II. The 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 personally identifiable information. 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 from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Individuals may request 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 5.21.

The Privacy Act requires that each agency publish in the Federal Register a description denoting the type and character of each system of records in order to make agency recordkeeping practices transparent, to notify individuals about the use to which personally identifiable information is put, and to assist the individual to more easily find files within the agency.

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

System of Records: DHS-USCIS-005

System name:

The Department of Homeland Security (DHS), Inter-country Adoptions

Security Classification:

Sensitive; Unclassified.

System location:

The Inter-country Adoptions information is maintained in the SIMS database, which is physically located within USCIS's data center in the Washington, DC metropolitan area. Backups are maintained in an undisclosed offsite location. Inter-country Adoptions will be accessible world-wide from designated USCIS domestic and international field offices and service centers that are part of the DHS Network.

Categories of individuals covered by the system:

A. All individuals seeking an inter-country adoption pursuant to the Immigration and Nationality Act, 8 U.S.C. Section 1101(b) (1) (F);

B. All individuals over the age of 18 residing in a prospective adoptive parent's household whose principal or only residence is the home of the prospective adoptive parents pursuant to 8 CFR Section 204.3.

C. Representatives of the adoptive parents may be contained in this system of records;

D. Minors being adopted pursuant to the Immigration and Nationality Act, 8 U.S.C. Section 1101(b) (1) (F); and

E. Biological mothers, fathers, or custodians of adopted minors.

Categories of records in the system:

A. Applicant/Petitioner information includes biographic information associated with each applicant/petitioner including, but not limited to; name, date of birth, country of birth, address, phone numbers, family member names, citizenship status, marital status, employment status, gender, height, biometrics, and results of background investigations (inclusive of home study checks, Federal Bureau of Investigation (FBI) checks, Treasury Enforcement Communication System (TECS)/Interagency Border Inspection System (IBIS) Name Checks, and FBI Fingerprint Checks). The applicant/petitioner information also includes uniquely identifiable numbers, including but not limited to: Alien Number, Receipt Number, and Social Security Number.

B. Information related to other individuals over the age of 18 residing in a prospective adoptive parent's household would be derived from newly created inter-country adoption applications. The information collected about these individuals includes: full name and date of birth.

C. Information related to the representatives of the adoptive parents may include: full name, date of birth, and place of birth.

D. Information related to the minor(s) being adopted may include full name, date of birth, country of birth, and Social Security Number.

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E. Information related to the minor's biological mother, father, or custodian may include full name, date of birth, and country of birth.

Authority of maintenance for the system:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1360), and the regulations issued pursuant thereto; and section 451 of the Homeland Security Act of 2002 (Pub. L. 107-296).

Purpose(s) :

USCIS collects the information on adoptive parents and other associated individuals in order to assess the physical, mental, and emotional capabilities of the prospective adoptive parents and those residing in the house. USCIS also collects information pertaining to the minor to be adopted so that he or she can complete the naturalization process. Information will be collected on organizations that have facilitated the adoption process to include law firms, adoption home study providers, adoption placement agencies and adoption non-profit organizations so that USCIS will be able to track and verify those entities that are authorized to participate in the adoption process. Finally, where available USCIS collects biographic information relating to the biological parents and the custodians of the minor being adopted so that USCIS will be able to identify potential incidence of fraud.

The Inter-country Adoptions SORN stores information on individuals and organizations associated with the following activities:

Filing of the Office of Management and Budget (OMB)-
approved versions of USCIS adoption related forms and applications:

Form I-600, Petition to Classify Orphan as an Immediate
Relative.

Form I-600A, Application for Advance Processing of Orphan
Petition.

Form N-600, Application for Certificate of Citizenship.

Form N-600K, Application for Citizenship and Issuance of
Certificate under Section 322.

Account setup data for each individual seeking to adopt
and organization involved in an adoption case.

FBI Name Checks, TECS/IBIS Name Checks, and FBI
Fingerprint Checks on other individuals over the age of 18 residing in
a prospective adoptive parent's household.

Consistent with DHS's information sharing mission, information
stored in SIMS may be shared with other DHS components, as well as
appropriate federal, state, local, tribal, foreign, or international
government agencies. This sharing will only take place after DHS
determines that the receiving component or agency has a need to know
the information to carry out national security, law enforcement,
immigration, intelligence, or other functions consistent with the
routine uses set forth in this system of records notice.

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.
Section 552a(b) of the Privacy Act, all or a portion of the records or
information contained in this system may be disclosed to authorized
entities, as is determined to be relevant and necessary, outside DHS as
a routine use pursuant to 5 U.S.C. Section 552a(b) (3) as follows:

A. To clerks and judges of courts exercising naturalization
jurisdiction for the purpose of filing petitions for naturalization and
to enable such courts to determine eligibility for naturalization or
grounds for revocation of naturalization.

B. To the Department of State (DoS) in the processing of visas,
applications, or petitions for benefits under the Immigration and
Nationality Act, and all other immigration and nationality laws
including treaties and reciprocal agreements.

C. To appropriate federal, state, tribal, and local government law
enforcement and regulatory agencies, foreign governments, and
international organizations, for example the Department of Defense, the
DoS, the Department of the Treasury, the Central Intelligence Agency,
the Selective Service System, the United Nations, and INTERPOL, and
individuals and organizations during the course of an investigation by
DHS or the processing of a matter under DHS's jurisdiction, or during a
proceeding within the purview of the immigration and nationality laws,
when necessary to elicit information required by DHS to carry out its
functions and statutory mandates.

D. To an appropriate federal, state, tribal, local, or foreign
government agency or organization, or international organization,
lawfully engaged in collecting law enforcement intelligence, whether
civil or criminal, or charged with investigating, prosecuting,
enforcing or implementing civil or criminal laws, related rules,
regulations or orders, to enable these entities to carry out their law
enforcement responsibilities, including the collection of law
enforcement intelligence and the disclosure is appropriate to the
proper performance of the official duties of the person receiving the
disclosure.

E. To the United States Department of Justice (DOJ) (including
United States Attorneys' offices) or other Federal agency conducting

litigation or in proceedings before any court, adjudicative or administrative body, or to the court 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) Any employee of DHS in his/her official capacity; (2) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent said employee; or (3) the United States or any agency thereof.

F. To an appropriate federal, state, local, tribal, territorial, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

G. To an attorney or representative (as defined in 8 CFR 1.1(j)) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before USCIS or the Executive Office for Immigration Review.

H. To a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual.

I. To NARA or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906.

J. To a Federal, state or local government agency seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law.

K. 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. Those provided information under this routine use are subject to the

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same Privacy Act limitations as are applicable to DHS officers and employees.

L. To the appropriate federal, state, local, tribal, territorial, or foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where DHS becomes aware of, or in conjunction with other information determines, that a violation or potential violation of civil or criminal law has occurred.

M. To the Social Security Administration (SSA) for the purpose of issuing a Social Security number and card to an alien who has made a request for a Social Security number as part of the immigration process and in accordance with any related agreements in effect between the SSA, DHS, and the DoS entered into pursuant to 20 CFR 422.103(b) (3); 422.103(c); and 422.106(a), or other relevant laws and regulations.

N. To Federal and foreign government intelligence or counterterrorism agencies or components where DHS becomes aware of an indication of a threat or potential threat to national or international security, or when the information is needed to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure;

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

(1) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised;

(2) It is 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) that rely upon the compromised information; and

(3) The disclosure is made to such agencies, entities, and persons when reasonably necessary to assist in connection with efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

P. To officials of other federal, state, and local government agencies and adoption agencies and social workers to elicit information required for making a final determination of the petitioner's ability to care for a beneficiary.

Disclosure to Consumer Reporting Agencies:

None.

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

Records in the system will be stored in an electronic database repository housed in USCIS's data center.

Retrievability:

The following data elements may be used to initiate a query in order to retrieve data from the Inter-country Adoptions System of Records within SIMS. These data elements include an individual's Name and Date of Birth, Enumerator, SIMS Account Number, and SIMS Case Number.

Safeguards:

USCIS offices are located in secure, guarded buildings and access to premises requires official identification. Information in this system is also safeguarded in accordance with applicable laws, rules and policies including the DHS Information Technology Security Programs Handbook. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards including restricting access to authorized personnel who require information in the records for the performance of their official authorized duties, using locks, and password protection identification features.

Information in this system is safeguarded in accordance with applicable laws and policies, including the DHS information technology security policies and the Federal Information Security Management Act (FISMA). All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know through the use of locks and password protection features. The system is also protected through a multi-layer security approach. The protective strategies are physical, technical, administrative and environmental in nature, which provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

Retention and Disposal:

USCIS is working with NARA to develop a retention and disposal schedule for data contained within SIMS. USCIS's proposal for retention and disposal of these records is to store and retain adoption related records for 75 years, during which time the records will be archived. The 75 year retention period is derived from the length of time USCIS may interact with a customer. The proposed retention and disposal schedule is based upon a holistic adoption ``case'' which will contain each of the USCIS adoption related applications and supporting documentation. It should be noted that for purposes of the SIMS pilot a hardcopy record of all adoption related applications and supporting documentation will be maintained by USCIS. The SIMS retention and disposal schedule will be reviewed and updated accordingly as additional USCIS applications and system functionalities are added to SIMS.

System manager(s) and address:

Robert Genesoni, Pilot Branch Chief, Transformation Program Office, U.S. Citizenship and Immigration Services (USCIS) Transformation Program Office, Department of Homeland Security, 111 Massachusetts Avenue, NW., Fifth Floor, Washington, DC 20529.

Notification procedure:

In order to gain access to one's information stored in the Inter-country Adoptions portion of the SIMS database, a request for access must be made in writing and addressed to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at USCIS. Individuals who are seeking information pertaining to themselves are directed to clearly mark the envelope and letter ``Privacy Act Request.'' Within the text of the request, the subject of the record must provide his/her account number and/or the full name, date and place of birth, and notarized signature, and any other information which may assist in identifying and locating the record, and a return address. For convenience, individuals may obtain Form G-639, FOIA/PA Request, from the nearest DHS office and used to submit a request for access. The procedures for making a request for access to one's records can also be found on the USCIS Web site, located at www.uscis.gov.

An individual who would like to file a FOIA/PA request to view their USCIS record may do so by sending the request to the following address:

U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010.

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Record access procedures:

See procedures as stated in the ``Notification procedure'' section above.

Contesting records procedures:

See procedures as stated in the ``Notification procedure'' section above.

Record source categories:

Information contained in this system of records is primarily supplied by individuals, seeking to adopt, on the OMB-approved versions of the following USCIS applications and forms:

Form I-600, Petition to Classify Orphan as an Immediate Relative.

Form I-600A, Application for Advance Processing of Orphan Petition.

Form N-600, Application for Certificate of Citizenship.

Form N-600K, Application for Citizenship and Issuance of Certificate under Section 322.

Information contained in this system of records is also obtained from:

SIMS account registration data obtained from each individual seeking to adopt, representatives of prospective adoptive parents and other organizations involved in an adoption case;

Home study reports prepared by State-certified home study providers submitted to USCIS in furtherance of the adoption process;

Memorializations of interviews performed by authorized USCIS personnel of individuals seeking to adopt; and

Data obtained from other DHS and non-DHS Federal agency's systems and databases including the FBI, DoS, ICE, and CBP.

Exemptions claimed for the system:

None.

Dated: May 25, 2007.

Hugo Teufel III,
Chief Privacy Officer.

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