



U.S. Department of Justice

Foreign Claims Settlement Commission
of the United States

Washington, D.C. 20579

March 28, 2017

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Re: Proposal to Establish a New Privacy Act
System of Records

Dear Director Mulvaney:

In accordance with subsection (r) of the Privacy Act of 1974, 5 U.S.C. § 552a, this is to inform you of the Foreign Claims Settlement Commission's proposal to establish a new Privacy Act System of Records, to be known as "FCSC-32, Claims Arising under the Guam World War II Loyalty Recognition Act," and to be effective as of June 17, 2017. Please find attached the narrative statement and a copy of the new System of Records Notice.

The Commission hereby certifies that the proposed system does not duplicate any existing agency or government-wide systems of records. Furthermore, the Commission certifies that the proposed system of records fully complies with the Privacy Act and OMB policies.

If there are any questions or further information is required regarding this report, please contact Jeremy LaFrancois at the Commission. Mr. LaFrancois may be reached at (202) 616-6975.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Simkin".

Brian M. Simkin
Chief Counsel

Attachments

Narrative Statement

In Support of the Foreign Claims Settlement Commission's Proposal to Establish a New Privacy Act System of Records

Purpose of the System of Records: To enable the Commission to carry out its statutory responsibility to determine the validity and amount of certain claims.

Authority For Maintenance Of The System: Authority to establish and maintain this system is contained in 5 U.S.C. § 301 and 44 U.S.C. § 3101, which authorize the Chairman of the Foreign Claims Settlement Commission of the United States (Commission) to create and maintain federal records of agency activities, and is further described in 22 U.S.C. § 1622e, which vests all non-adjudicatory functions, powers and duties in the Chairman of the Commission.

Effect of the Proposal on the Privacy of Individuals: Information in this system is appropriately safeguarded with physical and technical protections. Access to the information is limited to Commission employees and contractors. The Commission will maintain these records in its offices, within a limited access building and a further limited access suite, until they are transferred to the Washington Records Center, a secure facility. Any computer records generated will be secured by the Justice Computer Operating Network security protocols.

Compatibility of Routine Uses: Routine uses have been determined to be compatible with the purposes of this system. Routine uses are determined to be compatible where such disclosures are necessary and proper and/or where the purpose of disclosure is functionally equivalent to the purpose for collection.

OMB Control Number, Expiration Date, and title of Any OMB Approved Information Collection Requirement Contained in the System: Statement of Claim for Filing of Claims in the Guam Claims Program Pursuant to the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114-328 (December 23, 2016), FCSC-2, currently under review.

DEPARTMENT OF JUSTICE
FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES
Privacy Act of 1974; System of Records

AGENCY: FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

ACTION: Notice of a New System of Records

SUMMARY: Pursuant to the Privacy Act of 1974 (5 U.S.C. § 552a), the Foreign Claims Settlement Commission of the United States (Commission), Department of Justice, proposes to establish a new system of records to enable the Commission to carry out its statutory responsibility to receive, examine, adjudicate and render final decisions with respect to claims for compensation of individuals pursuant to the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114-328 (December 23, 2016). The claims will include documentation provided by the claimants as well as background material that will assist the Commission in the processing of their claims. The system will also include the final decision of the Commission regarding each claim.

DATES: In accordance with 5 U.S.C. § 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Therefore, please submit any comments by **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Following the 30-day comment period, the routine uses, described below, will be effective.

ADDRESS: The public, OMB, and Congress are invited to submit any comments to the Foreign Claims Settlement Commission, 600 E Street, N.W., Suite 6002, Washington, D.C. 20579.

FOR FURTHER INFORMATION, CONTACT: Jeremy LaFrancois, Chief Administrative Counsel, Foreign Claims Settlement Commission, U.S. Department of Justice, 600 E Street, N.W., Suite 6002, Washington, DC 20579, or by telephone at (202) 616-6975.

SUPPLEMENTARY INFORMATION: On December 23, 2016, President Obama signed into law the Guam World War II Loyalty Recognition Act, Title XVII, Pub. L. No. 114-328, 130 Stat. 2000, 2641-2647 (2016) (the "Guam Loyalty Recognition Act" or "Act"). The Act authorizes the Foreign Claims Settlement Commission of the United States (Commission) to adjudicate claims and determine the eligibility of individuals for payments under the Act, in recognition

of harms suffered by residents of Guam as a result of the occupation of Guam by Imperial Japanese military forces during World War II.

The system of records covered by this notice is necessary for the Commission's adjudication of claims under the Act. These records shall form the basis upon which the Commission will determine an individual's eligibility for and amount of compensation. This system will not have any effect on any other systems of records.

In accordance with 5 U.S.C. § 552a(r), the Commission has provided a report to OMB and the Congress on the new system of records.

Brian M. Simkin
Chief Counsel

Date

JUSTICE/FCSC-32

SYSTEM NAME AND NUMBER: Claims Arising under the Guam World War II Loyalty Recognition Act, JUSTICE/FCSC-32.

SECURITY CLASSIFICATION: Unclassified

SYSTEM LOCATION: Offices of the Foreign Claims Settlement Commission, 600 E Street, N.W., Suite 6002, Washington, DC 20579.

SYSTEM MANAGER(S) AND ADDRESS: Foreign Claims Settlement Commission, 600 E Street, N.W., Suite 6002, Washington, DC 20579. Telephone: (202) 616-6975. Fax: (202) 616-6993.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Authority to establish and maintain this system is contained in 5 U.S.C. § 301 and 44 U.S.C. § 3101, which authorize the Chairman of the Commission to create and maintain federal records of agency activities, and is further described in 22 U.S.C. § 1622e, which vests all non-adjudicatory functions, powers and duties in the Chairman of the Commission.

PURPOSE OF THE SYSTEM: To enable the Commission to carry out its statutory responsibility to determine the validity and amount of claims arising under the Guam World War II Loyalty Recognition Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Persons who file claims pursuant to the Guam World War II Loyalty Recognition Act.

CATEGORIES OF RECORDS IN THE SYSTEM: Claim information, including name and address of claimant and representative, if any; date and place of birth or naturalization; nature of claim; description of loss or injury including medical records; and other evidence establishing entitlement to compensation.

RECORD SOURCE CATEGORIES: Claimant on whom the record is maintained.

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), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected.

- a. To the Department of the Treasury in connection with the negotiation, adjudication, settlement and payment of claims;

- b. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish a Commission function related to this system of records;
- c. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record;
- d. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;
- e. In an appropriate proceeding before the Commission, or before a court, grand jury, or administrative or adjudicative body, when the Department of Justice and/or the Commission determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding;
- f. To a former employee of the Commission for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Commission regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Commission requires information and/or consultation from the former employee regarding a matter within that person's former area of responsibility;
- g. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906;
- h. To appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to the individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

- i. To another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;
- j. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Paper records maintained in file folders at the Commission's office and electronic records located on the Commission's Server.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Information from this system of records will be retrieved by claim number and/or decision number. An alphabetical index may be used by the Commission for identification of a claim by claimants' name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Records are maintained under 5 U.S.C. § 301. Disposal of records will be in accordance with the determination by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: Paper records are under security safeguards at the Commission's office. Such safeguards include storage in a central location within a limited access building and a further limited access suite. Accordingly, access is limited to Commission employees and contractors with appropriate security clearances. The electronic records are safeguarded by the DOJ JCON security procedures. Access to the Commission's data requires a password and is limited to Commission employees and contractors with appropriate security clearances.

RECORD ACCESS PROCEDURE: (a) Upon request in person or by mail, any individual will be informed whether or not a system of records maintained by the Commission contains a record or information pertaining to that individual. (b) Any individual requesting access to a record or information on himself or herself must appear in person at the offices of the Foreign Claims Settlement Commission, 600 E Street, N.W., Room 6002, Washington, DC, between the hours of 9 a.m. and 5:00 p.m., Monday through Friday, and (1) Provide information sufficient to identify the record, e.g., the individual's own name, claim and decision number, date and place of birth, etc.; (2) Provide identification sufficient to verify the individual's identity, e.g., driver's license, Medicare card, or other government issued identification; and (3) Any individual requesting access to records or information pertaining to himself or herself may be accompanied by a

person of the individual's own choosing while reviewing the records or information. If an individual elects to be so accompanied, advance notification of the election will be required along with a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted. (c) Any individual making a request for access to records or information pertaining to himself or herself by mail must address the request to the Privacy Officer, Foreign Claims Settlement Commission, 600 E Street, N.W., Room 6002, Washington, DC 20579, and must provide information acceptable to the Commission to verify the individual's identity. (d) Responses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within that period, an acknowledgment will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

CONTESTING RECORD PROCEDURES: (a) Any individual may request amendment of a record pertaining to himself or herself according to the procedure in paragraph (b) of this section, except in the case of records described under paragraph (d) of this section. (b) After inspection by an individual of a record pertaining to himself or herself, the individual may file a written request, presented in person or by mail, with the Administrative Officer, for an amendment to a record. The request must specify the particular portions of the record to be amended, the desired amendments and the reasons therefor. (c) Not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a request made in accordance with this section to amend a record in whole or in part, the Administrative Officer will: (1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction; or (2) Inform the individual, by certified mail return receipt requested, of the refusal to amend the record, setting forth the reasons therefor, and notify the individual of the right to appeal that determination as provided under 45 C.F.R. § 503.8. (d) The provisions for amending records do not apply to evidence presented in the course of Commission proceedings in the adjudication of claims, nor do they permit collateral attack upon what has already been subject to final agency action in the adjudication of claims in programs previously completed by the Commission pursuant to statutory time limitations.

NOTIFICATION PROCEDURE: The Administrative Officer will inform any person or other agency about any correction or notation of dispute made in accordance with title 45 C.F.R. § 503.7 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

EXEMPTIONS CLAIMED FOR THE SYSTEM: None