[Federal Register Volume 75, Number 35 (Tuesday, February 23, 2010)]

[Notices]

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[FR Doc No: 2010-3362]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2009-0041]

Privacy Act of 1974; Department of Homeland Security/ALL--023

Personnel Security Management System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

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SUMMARY: In accordance with the Privacy Act of 1974, the Department of

Homeland Security proposes to update and reissue Department of Homeland

Security/ALL--023 Personnel Security Management System of Records to

include record systems within the Federal Protective Service and

records of federal, state, local and foreign law enforcement personnel

who apply for and/or are granted authority to enforce federal laws on

behalf of the Department. Categories of individuals, categories of

records, purpose, and routine uses of this system have been reviewed

and updated to reflect the personnel security management record systems

of the Department, including the Federal Protective Service. The

activities performed by the Department's personnel security program

often overlap with other security-related activities such as access

control and investigatory records. Accordingly, data within each of the

categories of individuals, categories of records, purpose and routine

uses may have similarities with other security-related systems of

records, but each system is distinct based on its purpose.

 Further, this system of records is separate from Department of

Homeland Security/ALL 026--Personal Identity Verification Management

System of Records, June 25, 2009, which supports the administration of

the Homeland Security Presidential Directive--12 program, directing the

use of a common identification credential for both logical and physical

access to federally controlled facilities and information systems while

enhancing security, increasing efficiency, reducing identity fraud, and

protecting personal privacy.

 There will be no change to the Privacy Act exemptions currently in

place for this system of records and therefore remain in effect. This

updated system will continue to be included in the Department of

Homeland Security's inventory of record systems.

DATES: Written comments must be submitted on or before March 25, 2010.

This updated system will be effective March 25, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS-

2009-0041 by one of the following methods:

 Federal e-Rulemaking Portal: [http://www.regulations.gov](http://www.regulations.gov/).

Follow the instructions for submitting comments.

 Fax: 703-483-2999.

 Mail: Mary Ellen Callahan, 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](http://www.regulations.gov/), including any personal information provided.

 Docket: For access to the docket to read background

documents or comments received, go to [http://www.regulations.gov](http://www.regulations.gov/).

FOR FURTHER INFORMATION CONTACT: For general questions and privacy

issues please contact: Mary Ellen Callahan (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) and its components and

offices rely on DHS/ALL--023 Personnel Security Management System of

Records (74 FR 3084, January 16, 2009) for the collection and

maintenance of records that pertain to personnel security management.

 DHS is updating and reissuing this Department-wide system of

records under the Privacy Act (5 U.S.C. 552a), for DHS personnel

security management records, to include records systems within the

Federal Protective Service (FPS) and records of federal, state, local,

and foreign law enforcement personnel

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who apply for and/or are granted authority to enforce federal laws on

behalf of DHS. The DHS/ALL--023 Personnel Security Management System of

Records is the baseline system for personnel security activities, as

led by the DHS Office of the Chief Security Officer, for the

Department. This will ensure that all DHS components follow the same

privacy rules for collecting and handling personnel security management

records.

 The purpose of this system is to maintain processing records of

personnel security-related clearance actions, to record suitability

determinations, to record whether security clearances are issued or

denied, and to verify eligibility for access to classified information

or assignment to a sensitive position. Also, records may be used by the

Department for adverse personnel actions such as removal from sensitive

duties, removal from employment, and denial to a restricted or

sensitive area, and revocation of security clearance. The system also

assists in capturing background investigations and adjudications;

directing the clearance process for granting, suspending, revoking and

denying access to classified information; directing the clearance

process for granting, suspending, revoking and denying other federal,

state, local, or foreign law enforcement officers the authority to

enforce federal laws on behalf of DHS; managing state, local, and

private-sector clearance programs and contractor suitability programs;

determining eligibility for unescorted access to DHS facilities or

information technology systems; and other activities relating to

personnel security management responsibilities at DHS. The Department's

authority for this collection is primarily 5 U.S.C. 301; 44 U.S.C.

3101; 8 U.S.C. 1357(g); 19 U.S.C. 1401(i); Executive Order (EO) 9397;

EO 10450; EO 12968; 5 CFR part 731; 5 CFR part 732; 5 CFR part 736; 32

CFR part 147; and DCID 6/4. This system will collect individuals'

personal information to support the Department's efforts related to

their personnel security activity. Efforts have been made to safeguard

records in accordance with applicable rules and policies, including all

applicable DHS automated systems security and access policies. Strict

controls have been imposed to minimize 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. The

routine uses posted are unchanged from the previous publishing and

consistent with the purpose for collection. This system of records is

collecting information under the Paperwork Reduction Act using the

following forms: (1.) Questionnaire for Non-Sensitive Positions--SF-

85--OMB No. 3206-0005; (2.) Questionnaire for Public Trust Position--

SF-85P--OMB No. 3206-0191; (3.) Supplemental Questionnaire for Selected

Positions--SF-85P-S OMB No. 3206-0191; (4.) Questionnaire for National

Security Positions--SF-86--OMB No. 3206-0005; and (5.) Continuation

Sheet for Questionnaires--SF-86A--OMB No. 3206-0005. Further reviews

are being conducted to determine if the system of records collects

other information under the Paperwork Reduction Act. Categories of

individuals, categories of records, the purpose, and routine uses of

this system have been reviewed and updated to reflect the personnel

security management record systems of the Department, including the

FPS. The Privacy Office has updated the categories of individuals

covered by the system to include DHS-covered individuals, such as

federal employees, applicants, excepted service federal employees,

contractor employees, retired employees, past employees providing

support to DHS and who require unescorted access to DHS-secured

facilities, and federal, state, local, and foreign law enforcement

personnel who apply for or are granted authority to enforce federal

laws on behalf of DHS. The categories of records have been updated to

include facial photographs and criminal background investigations. The

purpose has been revised to reflect that the system assists in

directing the clearance process for granting, suspending, revoking and

denying other federal, state, local, or foreign law enforcement

officers the authority to enforce federal laws on behalf of DHS and

eligibility for unescorted access to DHS secured facilities. An

existing routine use (Routine Use H) was modified to permit the sharing

of information from this system of records with agencies where it is

relevant and necessary to the agencies' decision concerning the

delegation or designation of authority. Lastly, a new routine use was

added to permit sharing of information with 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 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.

 Privacy Impact Assessments (PIAs) have been conducted and are on

file for the (1.) Personnel Security Activities Management System; (2.)

Integrated Security Management System; (3.) DHSAccessGate System; (4.)

Automated Continuing Evaluation System (ACES) Pilot; (5.) Personal

Identity Verification System; (6.) Federal Protective Service

Information Support Tracking System (FISTS) Contract Suitability

Module; and (7.) Federal Protective Service Dispatch Incident Records

Management Systems along with other related component specific PIAs and

can be found at <http://www.dhs.gov/privacy>.

 Consistent with DHS's information sharing mission, information

stored within the DHS/ALL--023 Personnel Security Management System of

Records 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.

 The Office of the Chief Security Officer is implementing a new web-

based personnel and information security application, Integrated

Security Management System (ISMS). ISMS has replaced many of the

existing case management systems currently in use at the Department's

Headquarters, U.S. Customs and Border Protection (CBP), the Federal Law

Enforcement Training Center (FLETC), and the Federal Emergency

Management Agency (FEMA). ISMS will replace the existing case

management systems currently in use at the U.S. Citizenship and

Immigration Services (USCIS), U.S. Immigration and Customs Enforcement

(ICE), and the U.S. Coast Guard (USCG) in the near future.

 There will be no change to the Privacy Act exemptions currently in

place for this system of records and therefore remain in effect. This

updated system will continue to be included in DHS's inventory of

record systems.

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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 an individual's 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 from which information is stored and retrieved

by the name of the individual or by some identifying number such as

property address, mailing address, or symbol assigned to the

individual. In the Privacy Act, an individual is defined to encompass

United States citizens and lawful permanent residents. DHS extends

administrative Privacy Act protections to all individuals where

information is maintained on both U.S. citizens, lawful permanent

residents, and visitors. 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

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 record keeping

practices transparent, to notify individuals regarding the uses of

their records, and to assist individuals to more easily find such files

within the agency. Below is a description of DHS/ALL--023 Personnel

Security Management System of Records.

 In accordance with 5 U.S.C. 552a(r), DHS has provided a report of

this new system of records to the Office of Management and Budget (OMB)

and to Congress.

System of Records

 DHS/ALL-023

System name:

 Department of Homeland Security (DHS)/ALL--023 Personnel Security

Management System of Records.

Security classification:

 Unclassified, sensitive, for official use only, and classified.

System location:

 Records are maintained at several DHS Headquarters locations and

component offices in Washington, DC and field locations; and the

Department of Treasury (DTR), Bureau of Public Debt for Office of

Inspector General employees and applicants. For background

investigations adjudicated by the Office of Personnel Management (OPM),

OPM may retain copies of those files pursuant to their records

retention schedules.

Categories of individuals covered by the system:

 Categories of individuals covered by this system include federal

employees, applicants, excepted service federal employees, contractor

employees, retired employees, and past employees providing support to

DHS who require: (1.) Unescorted access to DHS-owned facilities, DHS-

controlled facilities, DHS-secured facilities, or commercial facilities

operating on behalf of DHS; (2.) access to DHS information technology

(IT) systems and the systems' data; or (3.) access to national security

information including classified information.

 Also covered are: (1.) State and local government personnel and

private-sector individuals who serve on an advisory committee or board

sponsored by DHS; (2.) federal, state, local, and foreign law

enforcement personnel who apply for or are granted authority to enforce

federal laws on behalf of DHS; and (3.) individuals, including state

and local government personnel and private-sector individuals, who are

authorized by DHS to access Departmental facilities, communications

security equipment, and/or information technology systems that process

sensitive or classified national security information.

Categories of records in the system:

 Categories of records in the system include:

 Individual's name;

 Date and place of birth;

 Social security number;

 Citizenship;

 Access Control Pass or Credential number;

 Facial photograph;

 Records relating to the management and operation of DHS

personnel security program, including but not limited to:

 [cir] Completed standard form questionnaires issued by the Office

of Personnel Management;

 [cir] Originals or copies of background investigative reports;

 [cir] Supporting documentation related to the background

investigations and adjudications including criminal background, medical

and financial data;

 [cir] Information related to congressional inquiry; and

 [cir] Other information relating to an individual's eligibility for

access to classified or sensitive information.

 Records relating to management and operation of DHS

programs to safeguard classified and sensitive but unclassified

information, including but not limited to:

 [cir] Document control registries;

 [cir] Courier authorization requests;

 [cir] Non-disclosure agreements;

 [cir] Records of security violations;

 [cir] Records of document transmittals; and

 [cir] Requests for secure storage and communications equipment.

 Records relating to the management and operation of DHS

special security programs, including but not limited to:

 [cir] Requests for access to sensitive compartmented information

(SCI);

 [cir] Contact with foreign officials and foreign travel registries;

and

 [cir] Briefing/debriefing statements for special programs,

sensitive positions, and other related information and documents

required in connection with personnel security clearance

determinations.

 Records relating to the management and operation of the

DHS security program, including but not limited to:

 [cir] Inquiries relating to suspected security violation(s);

 [cir] Recommended remedial actions for possible security

violation(s);

 [cir] Reports of investigation regarding security violations;

 [cir] Statements of individuals;

 [cir] Affidavits;

 [cir] Correspondence;

 [cir] Documentation pertaining to investigative or analytical

efforts by DHS Security program personnel to identify threats to DHS

personnel, property, facilities, and information; and

 [cir] Intelligence reports and database results relating to DHS

personnel, applicants, or candidates for DHS employment or access to

DHS facilities or information.

Authority for maintenance of the system:

 5 U.S.C. 301; 44 U.S.C. 3101; 8 U.S.C. 1357(g); 19 U.S.C. 1401(i);

Executive Order (EO) 9397; EO 10450; EO 12968; 5 CFR part 731; 5 CFR

part 732; 5 CFR part 736; 32 CFR part 147; and DCID 6/4.

Purpose(s):

 The purpose of this system is to collect and maintain records of

processing of personnel security-related clearance actions, to record

suitability determinations, to record whether security clearances are

issued or denied, and to verify eligibility for access to classified

information or assignment to a sensitive position. Also, records may be

used by the Department for adverse

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personnel actions such as removal from sensitive duties, removal from

employment, denial to a restricted or sensitive area, and/or revocation

of security clearance. The system also assists in capturing background

investigations and adjudications; directing the clearance process for

granting, suspending, revoking and denying access to classified

information; directing the clearance process for granting, suspending,

revoking and denying other federal, state, local, or foreign law

enforcement officers the authority to enforce federal laws on behalf of

DHS; managing state, local and private-sector clearance programs and

contractor suitability programs; determining eligibility for unescorted

access to DHS owned, occupied or secured facilities or information

technology systems; and/or other activities relating to personnel

security management responsibilities at DHS.

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 DHS as a

routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

 A. To the Department of Justice (including United States Attorney

Offices) 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

written 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 who relies 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.

 H. To an appropriate federal, state, local, tribal, 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, delegation or designation of authority, 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, delegation

or designation of authority, or other benefit and disclosure is

appropriate to the proper performance of the official duties of the

person making the request.

 I. To an individual's prospective or current employer to the extent

necessary to determine employment eligibility.

 J. To a court, magistrate, or administrative tribunal in the course

of presenting evidence, including disclosures to opposing counsel or

witnesses in the course of civil discovery, litigation, or settlement

negotiations or in connection with criminal law proceedings or pursuant

to the order of a court of competent jurisdiction in response to a

subpoena from a court of competent jurisdiction.

 K. To third parties during the course of a law enforcement

investigation to the extent necessary to obtain information pertinent

to the investigation, provided disclosure is appropriate to the proper

performance of the official duties of the officer making the

disclosure.

 L. To a public or professional licensing organization when such

information indicates, either by itself or in combination with other

information, a violation or potential violation of professional

standards, or reflects on the moral, educational, or professional

qualifications of an individual who is licensed or who is seeking to

become licensed.

 M. 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

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facilities in a locked drawer behind a locked door. The records are

stored on servers, magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

 Records may be retrieved by individual's name, date of birth,

social security number, if applicable, or other unique individual

identifier such as access control pass or credential number.

Safeguards:

 Records in this system are safeguarded in accordance with

applicable rules and policies, including all applicable DHS automated

systems security and access policies. Strict controls have been imposed

to minimize 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:

 Pursuant to GRS 18, Item 21 through 25, records relating to alleged

security violations are destroyed two years after completion of final

action or when no longer needed, whichever is sooner; records relating

to alleged violations of a sufficient serious nature that are referred

for prosecutive determinations are destroyed five years after the close

of the case; personnel security clearance files are destroyed upon

notification of death or not later than five years after separation or

transfer of employee or no later than five years after contract

relationship expires, whichever is applicable.

System Manager and address:

 For Headquarters components of DHS: Chief, Personnel Security

Division (202-447-5010), Office of Security, Department of Homeland

Security, Washington, DC 20528. For components of DHS, the System

Manager can be found at <http://www.dhs.gov/foia> under ``contacts.''

Notification procedure:

 The Secretary of Homeland Security has exempted this system from

the notification, access, and amendment procedures of the Privacy Act

because it is a law enforcement system. However, DHS will consider

individual requests to determine whether or not information may be

released. Thus, 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 Headquarters or

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

and Chief Freedom of Information Act 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 Chief Privacy

Officer and Chief Freedom of Information Act Officer, [http://www.dhs.gov](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;

and

 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) may 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:

 Records are generated from sources contacted during personnel and

background investigations.

Exemptions claimed for the system:

 The Secretary of Homeland Security has exempted this system from

the following provisions of the Privacy Act, subject to the limitation

set forth in (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and

(f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(1), (k)(2),

(k)(3), and (k)(5) of the Privacy Act.

 Dated: February 1, 2010.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010-3362 Filed 2-22-10; 8:45 am]

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