



Privacy Impact Assessment Update
for the

Department Freedom of Information Act and Privacy Act Records Program

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Abstract

The Freedom of Information Act (FOIA) and Privacy Act (PA) process for the Department of Homeland Security (DHS) is maintained by the DHS Privacy Officer (PRIV). The FOIA and PA process allows individuals to request access to federal agency records. PRIV is deploying a new feature, “Public Access Link (PAL),” to enhance the use of its FOIA Information Technology (IT) management software, FOIAXpress. This feature will allow requesters to access the FOIA IT system through a digital portal, enabling them to submit requests or appeals, track the status of their requests or appeals, communicate with FOIA analysts, and receive responses to their requests or appeals. This Privacy Impact Assessment (PIA) Update is being completed to document this new feature and discuss how personally identifiable information (PII) will be impacted.

Overview

The Freedom of Information Act (FOIA) is a federal statute that provides that any person has the right to request access to federal agency records. FOIA also establishes a presumption that records in the possession of the agencies and departments of the Executive Branch of the U.S. Government are accessible to the people, except to the extent those records are protected from disclosure by any of nine exemptions contained in the law or by one of three special law enforcement exclusions. The Department of Homeland Security (DHS) FOIA and Privacy Act (PA) Disclosure Division of the DHS Privacy Office (PRIV) exists to promote transparency of Department Operations. The DHS Chief Privacy Officer serves concurrently as the Chief FOIA Officer to promote efficiency, effectiveness, and statutory compliance throughout the Department.

FOIA provides the public with access rights to government records while the PA grants individuals the right to access records about themselves. FOIA requires federal agencies to disclose any information requested unless it falls under one of nine exemptions, which protect interests such as personal privacy, national security, and law enforcement. The PA provides individuals the right to access information about themselves, request amendment or correction of those records, and request an accounting of disclosures of their records by the Department. The PA ensures proper protections covering records maintained by the agency on individuals.

The DHS FOIA and PA Disclosure Division and most of the Department’s FOIA Service Centers and FOIA offices use FOIAXpress,¹ a commercial-off-the-shelf Information Technology (IT) system, to manage the entire lifecycle of FOIA/PA requests and appeals (requests), from the initial request to the final delivery of records. It enhances the ability of DHS FOIA Service Centers and FOIA offices to receive, track, distribute, and respond to requests. The purposes of FOIAXpress includes: (1) processing access requests and administrative appeals made under FOIA, in addition to access and amendment requests and administrative appeals under the PA; (2)

¹ All DHS Operational Components, with the exception of U.S. Citizenship and Immigration Services (USCIS) and U.S. Customs and Border Protection (CBP) use a version of FOIAXpress to manage the lifecycle of requests within their organization.



participating in litigation regarding agency action on such requests and appeals; and (3) assisting DHS FOIA offices in carrying out any other responsibilities related to FOIA and the PA, such as reporting to the DHS FOIA and PA Disclosure Division of PRIV and other federal executive officials.

The DHS FOIA and PA Disclosure Division is the FOIAXpress System Owner and is responsible for the overall operation and maintenance of the system.

Reason for the PIA Update

This PIA is being updated to outline a new FOIAXpress feature known as the Public Access Link (PAL). The PAL feature is a public-facing web portal that complements the FOIAXpress system by providing efficient and secure communication between agencies and the public. The PAL feature allows members of the public to submit and track the status of requests and receive responses directly through the FOIAXpress web portal.²

PAL enhances functionality, increases productivity, and speeds service delivery through a personalized, secure web portal. PAL is integrated directly with FOIAXpress and offers a centralized location for receiving online requests, delivering responsive records, communicating with requesters, collecting fees, and providing access to released documents in a public reading room in accordance with agency proactive disclosure guidelines.

The PAL is publicly accessible through the Internet; however, requesters do not have the ability to directly access the FOIAXpress system or other data stored in the system. Only authorized DHS FOIA/PA personnel have access to the data supplied by requesters via FOIAXpress.

PRIV is acquiring this feature to satisfy compliance with the FOIA Improvement Act of 2016,³ which requires the Federal Government to create a consolidated online request portal that allows a member of the public to submit a request for records under subsection (a) to any agency from a single website. FOIA.gov was created to serve as the designated website, and federal agencies have been tasked to create a public-facing portal that has interoperability with FOIA.gov.

² This is different from the previous process that required requesters to submit requests to the Department through various methods including U.S. mail, facsimile, email, web form, or via commercial shipping method. The web form is a digital form, located on the DHS.gov website, which any user can use to file a request.

³ FOIA Improvement Act of 2016 (Public Law No. 114-185), available at <https://www.gpo.gov/fdsys/pkg/PLAW-114publ185/content-detail.html>.



Privacy Impact Analysis

In each of the below sections consider how the system has changed and what impact it has on the below fair information principles. In some cases there may be no changes and indicate as such.

Authorities and Other Requirements

The FOIA Improvement Act of 2016 requires the Federal Government to create a consolidated online request portal that allows a member of the public to submit a request for records to any agency from a single website.

Information within the DHS FOIA and PA program is collected, maintained, used, and disseminated in accordance with DHS/ALL-001 Freedom of Information Act and Privacy Act Records System.⁴ The collection of additional information to allow individuals to use and access the PAL feature of FOIAXpress (*e.g.*, username and password) is covered under DHS/ALL-004 General Information Technology Access Account Records System (GITAARS).⁵

Characterization of the Information

FOIAXpress collects and maintains personally identifiable information (PII) for FOIA and PA requests. FOIA requests are required to include basic contact information (*e.g.*, first and last name; home, work, or P.O. Box address; phone number; and email address) in order to respond to the requester appropriately. PA requests are required to include PII for identifying records contained within a specified DHS System of Records, and requesters are required to provide basic contact information to process requests. If a PA requester is seeking information pertaining to him or herself, he or she must sign the request, and the signature must be notarized, or the requester can submit the request under 28 U.S.C. § 1746, which is a law that permits statements to be made under penalty of perjury as a substitute for notarization.

Requesters who use PAL must set up their own accounts to electronically submit requests. In order to set up a PAL user account, a requester may provide his/her full name, phone and/or fax number, home address, email address, job title, and organization name, and his/her fee category.⁶ The data required by the PAL feature to file a FOIA/PA request is the same information previously required to file a request and is covered by DHS/ALL-001 Freedom of Information Act and Privacy Act Records System. The only new information collected through the implementation of PAL will be a username and password that are required to create an account.

Privacy Risk: The central privacy risk associated with using FOIAXpress continues to be the possible over-collection of information, whether through the presence of sensitive PII in the

⁴ DHS/ALL-001 Freedom of Information Act and Privacy Act Records System, 79 FR 6609 (February 4, 2014).

⁵ DHS/ALL-004 General Information Technology Access Account Records System (GITAARS), 77 FR 70792 (November 27, 2012).

⁶ Fees are assessed in accordance with the DHS FOIA/PA regulations, based on three categories of requesters: commercial requesters; news media, educational, and scientific requesters; and all other requesters. For more information, please see <https://www.dhs.gov/foia-fee-structure-and-waivers>.



requests or responsive records saved in the system, or the submission of more information than is necessary.

Mitigation: To mitigate these risks, the DHS FOIA and PA Disclosure Division has taken steps to minimize the amount of information that the agency collects and maintains while processing requests. For example, the PAL feature only asks for the minimum amount of contact information necessary to communicate with requesters and respond to requests; the DHS FOIA offices do not ask requesters to provide sensitive information (*e.g.*, Social Security numbers).

Furthermore, when a FOIA/PA professional provides documents in response to a request, the FOIA staff redacts personal information from the documents when the information, if publicly disclosed, would cause a “clearly unwarranted invasion of personal privacy.”⁷ When a requester is seeking his or her own information under the PA, FOIA staff verifies the individual’s identity.

Privacy Risk: There is a risk that a request, contact information, or any supporting information provided, could be lost, misplaced by a mail service and/or FOIA/PA professional, or entered into the system incorrectly.

Mitigation: This risk has been mitigated. The PAL feature allows users to enter in their own contact information into the FOIAXpress system, and they have the ability to update this information at any time, ensuring accuracy. The PAL feature also allows users to enter their FOIA requests into FOIAXpress, and upload any pertinent documents to help assist in the search. This minimizes the risk that a request and/or any additional materials would be lost or misplaced by a mail service and/or FOIA/PA professional.

All FOIA personnel, including those FOIA/PA professionals who use FOIAXpress, are subject to DHS policies and requirements for safeguarding PII. All FOIA personnel receive annual computer-based privacy and security training, as well as other guidance explaining how to safeguard information. The interactive online training covers topics such as how to properly handle sensitive PII and other data, online threats, social engineering, and the physical security of documents. In addition, all FOIA/PA professionals comply with the Department’s internal procedures for safeguarding sensitive PII, which ensures such information is handled appropriately.

Each FOIA/PA professional also takes periodic training on FOIA and PA issues provided by approved outside sources (*e.g.*, Department of Justice, Department of Agriculture Graduate School, American Society of Access Professionals).

Uses of the Information

The information collected in the FOIAXpress system is used to respond to requests under FOIA or the PA, to track these requests in order to maintain compliance with statutory response times, and to maintain documents responsive to these requests in compliance with legal retention

⁷ See 5 U.S.C. § 552(b)(6).



and disposition schedules, including any records that are exempt from disclosure to the requester under FOIA or the PA. The information is also used to generate annual aggregate reports to the Department of Justice (DOJ) as required by FOIA.

The information now collected through the implementation of the new PAL feature is used to create user accounts for those who wish to submit requests.

Privacy Risk: There is a risk that the information maintained in FOIAXpress could be used or accessed inappropriately.

Mitigation: This risk is mitigated. To avoid unauthorized access or disclosure, FOIA/PA professionals follow agency procedures for storing, sharing, sending, transporting, logging, and destroying sensitive personal information. Access to FOIAXpress, and the information it maintains, is limited (by software licenses) to a small number of specified FOIA/PA professionals who need system access to complete their professional responsibilities. Users may access FOIAXpress only after entering a unique username and password, which they must change every 60 days. Only the user and FOIA/PA professionals with Administrator rights can change these passwords.

Notice

Notice of the new PAL feature and the collection of information (*e.g.*, username and password) will be provided on the DHS Privacy Office public-facing website and accompanied by an updated Privacy Notice. In addition to the website, the DHS FOIA and PA Disclosure Division of PRIV will provide other public outreach efforts to familiarize the public with this new process.

Data Retention by the project

The previous General Records Schedule (GRS) 14, issued by National Archives and Records Administration (NARA), for FOIA, Privacy Act, and classified documents administrative records has been updated since the publication of the last PIA. The old GRS schedule has now been superseded by GRS 4.2, Information Access and Protection Records.⁸ Record responses are now retained for six (6) years rather than three (3) years that the previous scheduled stated.

The Retention Policy Management module in FOIAXpress allows for the creation, safeguarding, and access, archival, and disposal of records according to the GRS. The FOIAXpress retention policy begins when a request is closed. When closing a request, the system will set the retention expiration date based on the retention policy configuration (6 years after final agency action or 3 years after final adjudication by the courts, whichever is later).

Additionally, FOIAXpress will verify whether any open appeal or litigation matters exist for the closed request. In such instances, the system will not allow users to mark the request for deletion.

⁸ See <https://www.archives.gov/files/records-mgmt/grs/grs04-2.pdf>.



Information Sharing

No changes from previous PIAs.

Redress

No changes from previous PIAs.

Auditing and Accountability

No changes from previous PIAs.

Responsible Official

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Approval Signature

Original, signed copy on file with the DHS Privacy Office.

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