

**PROCEDURES FOR ESTABLISHING AND MANAGING  
PRIVACY ACT SYSTEMS OF RECORDS**

- 1. REASON FOR ISSUE:** This handbook revises Department-wide procedures that implement policies contained in VA Directive 6300, Records and Information Management, for establishing and managing systems of records under the Privacy Act.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook updates procedures relating to the establishment and management of Privacy Act systems of records.
- 3. RESPONSIBLE OFFICE:** The Assistant Secretary for Information and Technology (005), Deputy Assistant Secretary for Information Protection and Risk Management (005R), Associate Deputy Assistant Secretary for Privacy and Records Management (005R1), and Privacy Service (005R1A).
- 4. RELATED DIRECTIVE AND HANDBOOKS:** VA Directive 6300, Records and Information Management; VA Directive 6502, VA Enterprise Privacy Program; VA Handbook 6300.4, Procedures for Processing Requests for Records Subject to the Privacy Act; VA Handbook 6300.7, Procedures for Computer Matching Programs; and VA Handbook 6502.4, Privacy Act Reviews; and VA Handbook 6300.1, Records Management Procedures.
- 5. RESCISSIONS:** VA Handbook 6300.5, Procedures for Establishing and Managing Privacy Act Systems of Records, dated January 12, 1998, and VA Handbook 6300.5/1, Procedures for Establishing and Managing Privacy Act Systems of Records, dated October 5, 2000.

**CERTIFIED BY:**

/s/

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**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

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## PROCEDURES FOR ESTABLISHING AND MANAGING PRIVACY ACT SYSTEMS OF RECORDS

### 1. PURPOSE

a. This handbook revises procedures for establishing and managing systems of records under the Privacy Act. The Privacy Act of 1974 requires agencies to publish in the *Federal Register* upon establishment or revision a "notice of the existence and character of the system of records" subject to the Act (5 U.S.C. 552a(e)(4)). The Privacy Act also requires agencies to send reports to Congress and the Office of Management and Budget (OMB) on the agency's intention to establish any new system of records and, under certain specified circumstances, the agency's intention to alter an existing system of records. This handbook provides guidance on the report and notice content, format, and distribution. It also describes the responsibilities of System Managers and situations when a report and notice are required.

b. In addition, OMB Circular A-130 requires Federal agencies to conduct regularly scheduled reviews of the implementation and administration of certain provisions of the Privacy Act. Please refer to Handbook 6502.4, Privacy Act Reviews.

**2. RESPONSIBILITIES OF THE SYSTEM MANAGER.** The Privacy Act requires that each agency designate an agency official who is responsible for each system of records. This individual is known as the System Manager. The System Manager is an official with statutory or operational authority for specified information and responsibility for establishing the controls for its generation, collection, processing, dissemination, and disposal. The System Manager is responsible for:

a. Ensuring that the policies, practices, and procedures governing the maintenance of records in a system are being followed.

b. Ensuring that appropriate physical, administrative, and technical safeguards are in place to prevent unauthorized disclosure or alteration of information in the system.

c. Confirming that records contain only such information about an individual that is relevant and necessary to accomplish a purpose of the agency to be accomplished by statute or by Executive Order of the President.

d. Making sure that the information in the system is accurate, timely, complete, relevant and necessary to accomplish a VA mission.

e. Maintaining an accounting of disclosures.

f. Ensuring that the routine uses are compatible with the purposes for which the information was collected.

g. Working with the Privacy Officer or designee to ensure that procedures for access, correction, or amendment of records conform to the requirements of this handbook, VA Handbook 6300.4, and VHA Handbook 1605.1, and that VA regulations governing the Privacy Act are being followed.

- h. Participating as needed in Privacy Act reviews.
- i. Preparing new or altered system reports and related documents and ensuring that systems of records are not operated without first publishing the required notices and reports.
- j. Ensuring that the description of recordkeeping practices in the retention and disposal portion of the system notice reflects the retention and disposal of records approved by the Archivist of the United States. In the event there is no approved retention and disposal period for the records, immediate action must be initiated to obtain the approval of the Archivist of the United States. No record within the system of records may be destroyed until a records schedule is issued by the Archivist.
- k. Determining whether the system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a(j) and (k)) and taking the necessary steps to invoke the exemptions. If the system of records is exempt, the exemption must be reviewed every three years to determine if the exemption is still needed.
- l. Conducting detailed risk assessments of new or altered systems of records to ensure that appropriate administrative, technical, and physical safeguards are established to protect records in the system from unauthorized disclosure, alteration or access.

### 3. SITUATIONS REQUIRING A REPORT AND *FEDERAL REGISTER* NOTICE

a. **New System.** A report of intent and a *Federal Register* Notice must be prepared when a new system of records subject to the Privacy Act is proposed or amended. This report is submitted to OMB and Congress (see paragraph 4.a.(1) for more information). A "new" system is one for which no public notice is currently published in the *Federal Register*. If a public notice for any specific system of records is withdrawn, suspended, canceled, or terminated and is subsequently proposed for reinstatement, the system of records will be considered a "new" system and subject to the reporting and notice requirements of this handbook.

b. **Altered Systems of Records.** All changes to notices of systems of records must be published in the *Federal Register*. A report to OMB and Congress is required when adding a new routine use for the records or the change meets the criteria for being major, as described below.

(1) **Minor change.** A minor change is one that is administrative in nature or does not meet the criteria for being a major change. For example, a change in the designation of the system manager due to a reorganization does not require a report as long as an individual's ability to gain access to his or her records is not affected. Other examples include changing applicable safeguards as a result of a risk analysis or deleting a routine use when there is no longer a need for the authorized disclosure. These examples are not intended to be all-inclusive.

(2) **Major change.** A major change is:

(a) A significant increase or change in the number, types or categories of individuals about whom records are maintained. For example, if a system that originally covered only residents

of public housing in major cities is expanded to cover such residents nationwide, the change is major and a report is required. Another example is a system covering physicians that has been expanded to include other types of health care providers, e.g., nurses or technicians.

(b) A change that expands the types or categories of information maintained. For example, a personnel file that has been expanded to include medical records would require a report.

(c) A change that alters the purpose for which the information is used.

(d) A change to equipment configuration (either hardware or software) that creates substantially greater access to the records in the system. For example, locating interactive terminals at field offices for accessing a system formerly accessible only at Central Office would require a report.

(e) The addition of an exemption pursuant to Section (j) or (k) of the Privacy Act. (Note: In examining a rulemaking for a Privacy Act exemption as part of a report of a new or altered system of records, OMB will also review the rule under applicable regulatory review procedures and agencies need not make a separate submission for that purpose.)

(f) The addition of a routine use pursuant to 5 U.S.C. 552a(b)(3).

(3) When a change is made that affects more than one system of records, a single, consolidated new or altered report (with changes to existing notices and supporting documentation included with the report) may be prepared.

#### 4. REPORT CONTENT, FORMAT, AND DISTRIBUTION

a. **Content.** The report for new or altered systems of records has three elements: a transmittal letter, a narrative statement, and supporting documentation that includes a copy of the proposed *Federal Register* notice. The report is distributed to the following:

##### (1) **Transmittal Letters.**

(a) Transmittal letters will be prepared to send three copies of the narrative statement and supporting documentation to each of the following addressees:

1. Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate;
2. Ranking Minority Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate;
3. Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives;
4. Ranking Minority Member, Committee on Oversight and Government Reform, U.S. House of Representatives; and
5. Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 262, Washington, DC 20503.

(b) The transmittal letters will be prepared by the System Manager for the signature of the VA Chief Information Officer (CIO). The letters should contain the name, title (if appropriate), office title and telephone number of the individual who can best answer questions about the system. The letter will state that written inquiries and comments may be addressed to the Director, Office of Regulation Policy and Management, Office of the General Counsel (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. The letters should contain the assurance that the proposed system does not duplicate any existing VA systems. They should also state that a copy of the report and *Federal Register* notice have been distributed to the congressional committees and OMB, as required by the Privacy Act. The letters may also include a request for waiver of the reporting time period, as described in paragraph 4b(1)b, of this handbook.

(2) **Narrative Statement.** The narrative statement should be brief, normally not exceeding four pages. It will make reference, as appropriate, to information in the supporting documentation rather than restating such information. The narrative statement should contain the following information:

(a) Description of the purpose for which VA is establishing (or altering) the system of records.

(b) Identification of the authority under which the system is maintained. Every effort should be made to avoid citing housekeeping or general statutes; instead, cite the underlying programmatic authority for collecting, maintaining, and using the information. When the system is being operated to support a housekeeping program, for example, a carpool locator, a general statute that authorizes the Department to keep such records may be cited.

(c) An evaluation of the probable or potential effects of the proposed system on the privacy of individuals.

(d) A brief description of the steps taken to minimize the risk of unauthorized access to the system of records, including a discussion of higher- or lower-risk alternatives that were considered for meeting the requirements of the system. A detailed assessment of the risks and specific administrative, technical, procedural, and physical safeguards established will be made available to give to the VA Privacy Service and OMB if requested.

(e) An explanation of how each proposed routine use satisfies the requirement that they be compatible with the purpose for which the information is collected. For altered systems, this requirement pertains only to any new proposed routine uses not already published.

(f) Identification of OMB control numbers, expiration dates, and titles of any OMB- approved information collection requests (*e.g.*, forms, etc.) contained in the system of records. (See VA Directive 6309, Collection of Information, and VA Directive 6310, Forms Management.) If the request for OMB clearance of an information collection is pending, simply state the title of the collection and the date it was submitted for OMB clearance.

(3) **Supporting Documentation.** The following documents will be attached to the narrative document for each new or altered system.

(a) An advance copy of the new or revised system notice, consistent with the provisions of 5 U.S.C. 522a(e)(4), proposed for publication for the new or altered system. For a proposed alteration of an existing system, the documentation will be in the same form as the public notice of the change. If the change will be in the form of a revision to the public notice, the supporting documentation will be a copy of the proposed notice of revision and a copy of the original system of records notice to ensure that reviewers can understand the changes proposed. If the change will be a resubmission of the entire existing notice, changes from the currently published notice will be highlighted by underlining all new or revised portions. If the sole change to an existing system of records is to add a routine use, either republish the entire system of records or a condensed description of the system of records, or a citation to the last full text Federal Register publication.

(b) An advance copy of any new or amended regulations or procedures, consistent with the provision of 5 U.S.C. 552a(f), proposed for publication for the new or altered system. If no change to existing regulations or procedures is required, the report will so state. Proposed changes to existing regulations or procedures will be provided in the same manner as prescribed for the system notices.

(c) An advance copy of any proposed regulation setting forth the reasons why the system is to be exempted from any specific provision of the Act, consistent with the provisions of 5 U.S.C. 552a(j), (k) or both, if any exemptions for the new or altered systems are to be invoked.

(d) If no changes to existing rules are required, a statement to that effect will be included in the narrative portion of the report. Proposed changes to existing rules shall be provided in the same form as VA proposed to publish for formal notice and comment.

**b. Timing, Routing for Concurrence, Distribution of the Report and Publication of the *Federal Register* Notice**

**(1) Timing**

(a) The report on new or altered systems of records will be prepared and distributed no later than 40 days prior to establishment of a new system of records. This 40 day period is established to provide Congress and OMB an opportunity to review the proposed new or altered system and to provide comments, if desired. The 40 day period commences on the day the transmittal letter with attachments, is signed and dispatched.

(b) The 40-day advance notification period may be waived by the Director, OMB, provided that:

1. The transmittal letter specifically requests a waiver; and

2. The Department can demonstrate compelling reasons for not waiting the 40-day period to establish the system or to implement the altered system. To establish compelling reasons, the System Manager must show or state how the public interests would be adversely affected if a waiver were not granted, such as veterans or beneficiaries will be denied timely action on claims, delivery of benefits will be delayed, or a statutorily imposed date must be met. When a waiver is granted by OMB, VA is not relieved of any other responsibility or liability under the

Act. The Department must still meet the statutory notice and comment periods required for establishing a routine use or claiming an exemption. OMB cannot waive the statutory 30-day notice and comment period for new routine uses.

(c) VA may assume that OMB concurs in the Privacy Act aspects of the proposed new or altered systems of records if OMB has not commented within 40 days from the date of the transmittal letter. Likewise, VA will assume Congress has not objections or comments if correspondence is not received within the 40-day time period.

(d) If comments are received from either OMB or Congress, the comments will be reviewed and a determination made whether to change the proposed new or altered system. After this determination is made, a reply will be prepared, routed for concurrence, and distributed in the same manner as the original transmittal letter and narrative report. The reply will be prepared and dispatched within a 30-day period after receipt of the comments. If the issues raised by OMB or congress cannot be resolved in that time period, an interim reply will be sent. If the comments received are of such a nature as to impact the operation of the new or altered system, the new or altered system will not be implemented until the concerns or issues raised by OMB or Congress have been resolved.

(2) **Routing for Concurrence.** The transmittal letter, narrative report, and supporting documentation will be prepared by the System Manager and submitted through routine concurrence channels using VAF 4265, Concurrence and Summary Sheet and VAF 0907, Strategic Communication Review. The selection of concurring offices will be determined by the System Manager, except that the concurrences of the General Counsel, the VA (CIO), and the Office of Congressional Affairs are required.

(3) **Publication in the *Federal Register*.** System and routine use notices, as well as exemption rules, may be published in the Federal Register at the same time that the new or altered system report is sent to OMB and Congress. The 40-day period for OMB and Congressional review and the 30-day notice and comment period for routine uses and exemptions will then run concurrently. To expedite the review, concurrence, and approval process, a single package may be prepared containing both the new or altered system reports and the Federal Register Notice.

(c) All notices, reports, and correspondence relating to new or altered systems of records will be prepared by Central Office elements and approved by the Secretary of Veterans Affairs or his/her designee. Any systems of records established by field stations/activities and not covered by an existing notice will be reported to the VACO element which supervises the field station activity. The VACO element will prepare the necessary notices and reports required by this handbook. Under the Privacy Act it is illegal to maintain any system of records for which a notice has not been published in the Federal Register. Consequently, all field stations and Central Office elements must exercise extreme care in creating any record system that may be subject to the Act, without first reporting its existence as described herein.

## 5. NOTICE OF SYSTEM OF RECORDS

a. The Privacy Act requires the publication of specific information concerning systems of records. The Office of the Federal Register's *Federal Register Document Drafting Handbook* prescribes the format that must be followed for notices published in the *Federal Register*.

(1) **System Number.** This is a sequential number assigned by the Office of Privacy and Records Management, Enterprise Records Service, and consists of the Department identification "VA," and the office symbol of the System Manager. For example, 55VA26 is sequential system number "55" and is the responsibility of the Director, Loan Guaranty Service (office system 26).

(2) **System Name.** The name is descriptive of the records maintained in the system or the individuals on whom the records are maintained, for example, "Individual Correspondence Records-VA," or "Blood Donor File-VA." The designated title is always followed by "-VA."

(3) **System Location.** Specifically identify each address or location at where records are maintained. For a system with many locations, the list of addresses and locations may be included in an Appendix.

(4) **Categories of Individuals Covered by the System.** This section identifies each category of individuals covered by the system. This identification must be specific and be stated in a manner clearly understood by the general public. For example, use the term "Veterans" rather than "individuals covered by Title 38." (NOTE: Review current system notices for examples of how to describe categories of individuals.)

(5) **Categories of Records in the System.** This section specifically identifies each type of record or information maintained in the system. This must be an all-inclusive list and the record description must be clear and understandable to the general public. Acronyms, abbreviations, and references to public laws and regulations should be avoided.

(6) **Authority for Maintenance of the System.** This section identifies the specific statutory provision(s) that authorizes the solicitation and maintenance of the information in the system of records (see paragraph 4.a.(2)(b) of this handbook). The authority must be statutory, not regulatory; that is, cite the United States Code or a public law, rather than the Code of Federal Regulations.

(7) **Purpose(s).** Describe the reason(s) for which VA intends to use information in the system.

(8) **Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses.** These are brief, concise, clear statements of the disclosures of the information maintained in the system of records. The term "routine use" means the disclosure of a record or information from the system for a purpose that is compatible with the purpose for which it was collected. The statement of a routine use must identify, as specifically as possible, the information that may be disclosed under the routine use, to whom the record(s) or information may be given, and the purpose(s) or use(s) for which information may be disclosed. Routine use statements will be numbered sequentially. (NOTE:

This paragraph is the most critical portion of the notice. If there is no routine use statement or the statement is not written precisely, the Department may not be able to disclose information from the system of records when it wishes to initiate a disclosure or when disclosure is requested by a third party.)

(9) **Disclosure to Consumer Reporting Agencies.** This item is optional only if the agency does not disclose information from the system of records to consumer reporting agencies. If the agency discloses information to consumer reporting agencies, the System Manager must describe in this part of the system notice the records disclosed to consumer reporting agencies and the situations in which VA will disclose the records.

(10) **Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System.**

(a) **Storage.** Specifically describe the medium and manner in which the records are maintained, which may include, but are not limited to, microfilm, magnetic tape, floppy disk, CD, DVD, or paper file folders. If medium and/or manner vary by location, explain the storage at each location.

(b) **Retrievability.** Describe how the records are indexed and retrieved. For example, "Paper claims file folders are indexed by name of Veteran and VA file number. Automated folders are indexed by name, VA file number, payee name, and type of benefit."

(c) **Safeguards.** Briefly describe measures taken to prevent unauthorized access and disclosure of records, such as physical security, personnel screening, or technical safeguards. Safeguards from natural disasters, such as tornadoes, and backup and offsite storage and operations if the site is damaged or destroyed, as well as the estimated time to return the system to operation should be included. A statement such as "Standard security procedures will be followed" is not sufficient.

(d) **Retention and Disposal.** Describe how long the records are maintained and how VA disposes of them.

1. Only the Archivist of the United States may authorize the retention and disposal of the records of the Federal Government. Approved retention and disposal periods are found in VA's Records Control Schedules (RCS) or in the General Records Schedules (GRS) published by the National Archives and Records Administration. The information in this subparagraph must reflect the same information in the RCS or the GRS. If the information is not in those documents, or if multiple retention periods apply, the following statement will be used: "Records are maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States."

2. If the Archivist has not approved disposition authority for any records covered by the system notice, the System Manager will take immediate action to have the disposition of records in the system reviewed and paperwork initiated to obtain an approved records disposition authority in accordance with VA Handbook 6300.1, Records Management Procedures. The records may not be destroyed until VA obtains an approved records disposition authority.

(11) **System Manager(s) and Address.** Provide the title, office symbol and address of the VA official responsible for the policies and practices governing the system of records. Do not include the individual's name.

(12) **Notification Procedure.** Provide the address(es) of the VA office(s) to which inquiries should be sent and address(es) of the location at which the individual may present a request as to whether a system contains records pertaining to himself or herself. Include any identifying information that an individual is required to provide in order to permit the Department to determine if a system contains a record about the individual. "Notification" is the "where and how" of determining if a system contains records pertaining to the individual; whereas, a "System Manager" is the official responsible for the system of records' policies and procedures. Where there are several locations for a single system of records, there should be a single System Manager in charge of the entire system and different VA employees handling notification inquiries at each location. If a System Manager performs the notification function as well as System Manager duties, then the duties should be identified separately.

(13) **Record Access Procedures.** Provide the name(s) and address(es) of the VA office(s) to which the individual may go or write in order to obtain information from records pertaining to him or her.

(14) **Contesting Records Procedures.** Provide the address(es) of the VA office(s) to which an individual may go or write to contest (correct or amend) a record. If this information is the same as in Record Access Procedures, the statement "Same as Records Access Procedures" may be used.

(15) **Record Source Categories.** Describe as specifically as possible the source of the records or information in the system. For example, did the information come from an individual, employees, informants, or some other entity or government unit?

(16) **Exemptions Claimed for the System.** State the specific provisions of the Privacy Act from which the system is being exempted and the specific reason(s) for exempting the system from those provisions. (NOTE: This item is optional. The only time an entry may be made in this paragraph is if VA regulations have been amended to identify the system as exempt.)

b. Once a system notice is published in the *Federal Register*, it must be kept current by publishing a notice of any changes that are made to the system. Except for changes to routine use statements, no public comment on the changes is required. When routine use statements are added to a system notice or existing statements are changed, a 30-day period for public comment is required. If comments are received during the comment period, a second notice must be published. The second notice will briefly state the nature of the comment(s) received; give the reason(s) for changing or not changing the routine use statement; and indicate how the statement is changed, if appropriate.

c. It is VA's policy to publish system notices that cover the entire complex of records used by VA in administering a particular program, and for those that have a common purpose. For example, all medical centers and outpatient clinics maintain medical records on individuals. One notice covering all patient medical records is published, and there is one System Manager for this broad record system.

d. Although system notices may be broad in scope, the practice of using system notices that cover multiple systems does not change the requirement for publishing notices for systems of records maintained by only one office or field activity. The primary consideration in defining systems of records is the purpose(s) of the system.

## 6. DEFINITIONS

a. **Disclosure.** Providing information from a system of records, by any means, to anyone other than the individual by whose name or other identifier the record is retrieved.

b. **Individual.** A living citizen of the United States or an alien lawfully admitted for permanent residence. The definition of "individual" for Privacy Act purposes differs from the definition of "individual" for Freedom of Information Act (FOIA) purposes. Deceased persons, non-resident aliens, businesses, and organizations are not "individuals" under the Privacy Act.

c. **Maintain.** To collect, keep, use, disseminate, or any combination of these recordkeeping functions. As used in the Privacy Act, VA regulations, and this handbook, this word connotes control over and, therefore, responsibility and accountability for systems of records.

d. **Record.** Any item, collection, or grouping of information about an individual that is maintained by the Department, such as, but not limited to, individuals her education, financial transactions, personal history, or medical history, and that contains individuals name or identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voice print or a photograph. The definition does not distinguish between data and information. Both are within the scope of the definition.

e. **Routine Use.** This term is unique to the Privacy Act and means the disclosure of a record for a reason that is compatible with the purpose for which it was collected. A routine use is one that is relatable and necessary to a purpose for collecting the record. To be effective, a routine use must be properly published in the *Federal Register*.

f. **System Manager.** An official who is responsible for the management, operation, and release of information from a system of records subject to the Privacy Act. The System Manager is an official with statutory or operational authority for specified information and responsibility for establishing the controls for its generation, collection, processing, dissemination, and disposal.

g. **System of Records.** Any group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. A record in a system of records must contain two elements: a personal identifier and at least one item of personal information. If a retrieval of personal information is possible, but not actually done, or if it depends on memory or a sequential search, the collection of records is not a system of records. However, creating a retrieval method or cross-index arranged by personal identifier for randomly filed records makes that record collection a system subject to the provisions of the Act.