

FEDERAL REGISTER a brief public notice describing the matching program. The notice should include:

(1) The legal authority under which the match is being conducted;

(2) A description of the matching program including whether the program is one time or continuing, the organizations involved, the purpose or purposes for which the program is being conducted, and the procedures to be used in matching and following up on the "hits";

(3) A complete description of the personal records to be matched, including the source or sources, system of records identifying data, date or dates and page number of the most recent FEDERAL REGISTER full text publication when appropriate;

(4) The projected start and ending dates of the program;

(5) The security safeguards to be used to protect against unauthorized access or disclosure of the personal records; and

(6) Plans for disposition of the source records and "hits."

7. Agencies should send a copy of this notice to the Congress and to OMB at the same time it is sent to the FEDERAL REGISTER.

a. Agencies should report new or altered systems of records as described in paragraph E.5.b., above, as necessary.

b. Agencies should also be prepared to report on matching programs pursuant to the reporting requirements of either the Privacy Act or the Paperwork Reduction Act. Reports will be solicited by the Office of Information and Regulatory Affairs and will focus on both the protection of individual privacy and the government's effective use of information technology. Reporting instructions will be disseminated to the agencies as part of either the reports required by paragraph (p) of the Privacy Act, or Section 3514 of Pub. L. 96-511.

8. *Use of Contractors.* Matching programs should, as far as practicable, be conducted "in-house" by federal agencies using agency personnel, rather than by contract. When contractors are used, however,

a. The matching agency should, consistent with paragraph (m) of the Privacy Act, cause the requirements of that Act to be applied to the contractor's performance of the matching program. The contract should include the Privacy Act clause required by Federal Personnel Regulation Amendment 155 (41 CFR 1-1.337-5);

b. The terms of the contract should include appropriate privacy and security provisions consistent with policies, regulations, standards, and guidelines issued by OMB, GSA, and the Department of Commerce;

c. The terms of the contract should preclude the contractor from using, disclosing, copying, or retaining records associated with the matching program for the contractor's own use;

d. Contractor personnel involved in the matching program shall be made explicitly aware of their obligations under the Act and of these guidelines, agency rules, and any special safeguards in relation to each specific match performed.

e. Any disclosures of records by the agency to the contractor should be made pursuant to a "routine use" (5 U.S.C. 552a(b)(3)).

F. Implementation and Oversight. OMB will oversee the implementation of these guidelines and shall interpret and advise upon agency proposals and actions within their scope, consistent with section 6 of the Privacy Act.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57801, Nov. 14, 1991]

PART 311—OSD PRIVACY PROGRAM

Sec.

311.1 Reissuance and purpose.

311.2 Applicability and scope.

311.3 Definitions.

311.4 Policy.

311.5 Responsibilities.

311.6 Procedures.

311.7 Procedures for exemptions.

311.8 Information requirements.

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§311.1 Reissuance and purpose.

This part reissues Administrative Instruction No. 81 to update and implement basic policies and procedures outlined in Privacy Act of 1974, DoD 5400.11-R, OMB Circular No. A-108 (TM No. 4) and to provide guidance and procedures for use in establishing the Privacy Program in the Office of the Secretary of Defense (OSD) and those organizations assigned to OSD for administrative support.

§311.2 Applicability and scope.

(a) This part applies to the OSD, Joint Staff, Defense Advanced Research Projects Agency (DARPA), Uniformed Services University of the Health Sciences (USUHS) and other activities assigned to OSD for administrative support (hereafter referred to collectively as "OSD Components").

(b) This part covers record systems maintained by OSD Components and

governs the maintenance, access, change, and release of information contained in OSD Component record systems, from which information pertaining to an individual is retrieved by a personal identifier.

[51 FR 7070, Feb. 28, 1986, as amended at 54 FR 2101, Jan. 19, 1989. Redesignated at 56 FR 55631, Oct. 29, 1991]

§311.3 Definitions.

Access. Any individual's review of a record or a copy of a record or parts of a system of records.

Disclosure. The transfer of any personal information from a system of records by any means of oral, written, electronic, mechanical, or other communication, to any person, private entity, or Government agency, other than the subject of the record, the subject's designated agent, or the subject's legal guardian.

Individual. A living citizen of the United States or an alien lawfully admitted to the United States for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf.

Individual access. Access to information pertaining to the individual or his or her designated agent or legal guardian.

Maintain. Includes maintenance, collection, use or dissemination.

Personal information. Information about an individual that is intimate or private, as distinguished from information related solely to the individual's official functions or public life.

§311.4 Policy.

(a) It is DoD policy to protect the privacy of individuals involved in any phase of the personnel management process and to permit any individual to know what existing records pertain to him or her in any OSD Component covered by this part.

(b) Each office maintaining records and information about individuals shall ensure that their privacy is protected from unauthorized disclosure. These offices shall permit individuals to have access to, and to have a copy made of, all or any portion of records pertaining to them (except those referred to in Chapters 3 and 5, DoD

5400.11-R and to have an opportunity to request that such records be amended as provided by the Privacy Act of 1974. Individuals requesting access to their records shall receive concurrent consideration under the Privacy Act of 1974 and the Freedom of Information Act as amended, if appropriate.

(c) The heads of OSD Components shall maintain any record of an identifiable personal nature in a manner that is necessary and lawful. Any information collected must be as accurate, relevant, timely, and complete as is reasonable to ensure fairness to the individual. Adequate safeguards must be provided to prevent misuse or unauthorized release of such information.

§311.5 Responsibilities.

(a) The Director of Administration and Management (DA&M) shall:

(1) Direct and administer the DoD Privacy Program for OSD Components.

(2) Establish standards and procedures to ensure implementation of and compliance with the Privacy Act of 1974, OMB Circular No. A-108 (TM No. 4), and DoD 5400.11-R.

(3) Serve as the appellate authority within OSD when a requester appeals a denial for amendment of a record or initiates legal action to correct a record.

(4) Evaluate and decide, in coordination with the General Counsel (GC), DoD, appeals resulting from denials of correction and/or amendments to records by OSD Components.

(5) Designate the Records Management Division, Correspondence and Directives Directorate, Washington Headquarters Services (WHS), as the office responsible for all aspects of the Privacy Act, except that portion pertaining to receiving and acting on public requests for personal records. As such, the Records Management Division, shall:

(i) Exercise oversight and administrative control of the Privacy Act Program in OSD and those organizations assigned to OSD for administrative support.

(ii) Provide guidance and training to organizational entities as required by the Privacy Act of 1974 and OMB Circular A-108 (TM No. 4).