

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

1. **REASON FOR ISSUE:** To revise VA Handbook 6300.5, Procedures for Establishing and Managing Privacy Act Systems of Records.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook updates organizational titles and responsibilities.
3. **RESPONSIBLE OFFICE:** Information Management Service (045A4), Office of Information and Technology.
4. **RELATED DIRECTIVE AND HANDBOOKS:** VA Directive 6300, Records and Information Management, VA Handbooks 6300.1, Records Management Procedures, and 6300.4, Procedures for Processing Requests for Records Subject to the Privacy Act.
5. **RESCISSION:** None.

CERTIFIED BY:

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



Acting Principal Deputy Assistant Secretary
for Information and Technology

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(e) The addition of an exemption pursuant to Section (j) or (k) of the Act. Note that in submitting a rulemaking for an exemption as part of a report of a new or altered system, the reporting requirements of Executive Order No. 12291 will be met and a separate submission under that order is not necessary.

(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 system report (with changes to existing notices and supporting documentation included with the report) may be prepared. This instruction applies to information technology installation, telecommunication network, or any other general changes in information collection, processing, dissemination or storage.

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.

(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 Governmental Affairs, U.S. Senate;
2. Ranking Member, Committee on Governmental Affairs, U.S. Senate;
3. Chairman, Committee on Government Reform, U.S. House of Representatives;
4. Ranking Member, Committee on Government Reform, U.S. House of Representatives;
and
5. Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, NEOB Room 10236, 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 letters will state that written inquiries and comments may be addressed to the [Office of Regulations Affairs (02D)], 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 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 Director, Information Management 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 requirements contained in the system of records. (See VA Directive 6310, Forms, Information Collections and Reports Management, and VA Handbook 6310.2, Information Collections Procedures.) 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 statement 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. 552a(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 provisions 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 proposes 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 interest 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. The transmittal letter will contain a clear, concise statement of the reason for requesting a waiver. When a waiver is granted by OMB, VA is not relieved of any other responsibility or liability under the Privacy Act, including the requirement to file a New System Report in accordance with the procedures in this handbook. OMB cannot waive time periods specifically established by 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 no 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 time 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. 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 Deputy Assistant Secretary for 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 Office of the Federal Register prescribes the format that must be followed for notices published in the *Federal Register*. (See the *Federal Register Document Drafting Handbook*.) The Privacy Act requires the publication of specific information concerning systems of records described below:

(1) **SYSTEM NUMBER.** This is a sequential number assigned by the Office of Policy and Program Assistance, Information Management Service, 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.

(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, "Secretary's Official 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.** Identify 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.** Identify as specifically as possible 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 will be avoided.

(6) **AUTHORITY FOR MAINTENANCE OF THE SYSTEM.** Identify the specific statutory provision(s) that authorizes the solicitation and maintenance of the information in the system of records. (See paragraph 4a(2)(b) of this handbook.) The authority must be statutory,

SCHEDULE OF PRIVACY ACT REVIEWS

Review Item	Action Office(s)	Frequency of Review	Action Required
6. Privacy Act Training	Office of AS/Human Resources and Administration	Annually	<ol style="list-style-type: none"> 1. Ensure that training in all matters relating to the administration and implementation of the Privacy Act is incorporated into VA's overall training program. 2. Provide certification that the above requirement has been accomplished as part of the Biennial Privacy Act Report.
	Each VACO organizational element	Annually	<ol style="list-style-type: none"> 1. Develop plans and procedures to review training program. Objective is to ensure that all personnel are familiar with the Privacy Act, implementing regulations, and the provisions of this handbook. 2. Perform review and report results as part of the Biennial Privacy Act Report.
7. Violations	[VA CIO]	Annually	<ol style="list-style-type: none"> 1. Obtain reports of any violations. 2. Review reports and, as necessary, develop or change procedures to prevent a recurrence.
8. System of Records Notice	Each VACO organizational element that manages a system of records	Annually	<ol style="list-style-type: none"> 1. Review each system notice for which responsible. 2. Provide results of review as part of the Biennial Privacy Act Report. Identify any system that needs to be changed and describe what the changes are. 3. Prepare Federal Register Notice and related paperwork.

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