



1. **PURPOSE:** This directive establishes TSA policy and assigns responsibilities for carrying out the requirements of the Privacy Act (PA), the Paperwork Reduction Act (PRA), and the Privacy Impact Assessment (PIA) requirements of the E-Government Act of 2002. These three statutes often overlap and special attention must be paid to each before commencing any collection of information.
2. **SCOPE:** This directive applies to all TSA employees and TSA program management offices.
3. **AUTHORITIES:**
 - A. The Privacy Act of 1974, as amended, 5 U.S.C. 552a
 - B. Department of Homeland Security (DHS) Privacy Act Procedures, 6 C.F.R. Part 5
 - C. The Paperwork Reduction Act of 1995, as amended, 44 U.S.C. 3501, et seq.
 - D. Office of Management and Budget (OMB) PRA Implementing Guidance, 5 C.F.R. Part 1320
 - E. The E-Government Act of 2002, Pub. L. 107-347
 - F. OMB E-Gov Act Implementing Guidance, Memorandum 03-22
4. **DEFINITIONS:**
 - A. Individual: A citizen of the United States or an alien lawfully admitted for permanent residence in the United States.
 - B. Information Collection Request (ICR): The process by which TSA obtains or renews an OMB control number for the collection of information from ten or more entities or members of the public pursuant to the PRA.
 - C. Member of the Public: Any non-employee, regardless of citizenship.
 - D. Personally Identifiable Information (PII): Any item, collection, or grouping of information about any person that contains: a person's name; a unique identifying number, such as a Social Security, passport, or driver's license number; or other identifying particular assigned to that person, such as a symbol, fingerprint, or photograph.
 - E. Privacy Act Record: Any item, collection, or grouping of information about an individual that is maintained in an agency system of records, which includes but is not limited to the individual's education, financial transactions, medical history, and criminal or employment history and that contains: a person's name; a unique identifying number, such as a Social Security, passport, or

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

driver's license number; or other identifying particular assigned to that person, such as a symbol, fingerprint, or photograph.

- F. Privacy Act System of Records (SORN): A group of any records about an individual under agency control from which information is retrieved by that individual's name, identifying number, symbol, or other identifying particular assigned to the individual; requires notice in the Federal Register and may also involve rulemaking if any portion of the system is to be exempted from the requirements of the Privacy Act.
- G. Privacy Impact Assessment (PIA): The multi-disciplinary process required under section 208 of the E-Government Act of 2002 by which TSA analyzes and mitigates the privacy risks associated with the development or procurement of any new information technology system that contains personally identifiable information, the alteration of any such existing system, or any new electronic collection of information from ten or more members of the public.
- H. Privacy Officer: TSA official and principle point of contact and representative for the oversight and management of the agency's PA SORNs, PRA, and PIA approvals as well as development of agency privacy policies.
- I. Program Management Office (PMO): Any office within TSA that operates a PA system of records, collects information from ten or more entities or members of the public, and/or has been assigned to procure, develop, or alter an information technology system that contains personally identifiable information.
- J. System Manager: TSA official within a PMO who is responsible for the operation and management of a specified PA system of records.

5. RESPONSIBILITIES:

- A. TSA Employees are responsible for: complying with the PA, the E-Government Act, the PRA, and all TSA privacy policies and procedures outlined below, as well as all DHS privacy policies and procedures.
- B. Privacy Officer is responsible for:
 - (1) Working closely with the DHS Chief Privacy Officer and implementing the policies and directives of that office in carrying out Section 222 of the Homeland Security Act.
 - (2) Formulating and communicating official TSA privacy policies.
 - (3) Coordinating with the Office of Chief Counsel (OCC) on newly created/revised PA systems of records and other notices.
 - (4) Guiding the PIA process and giving final approval to the PIAs.
 - (5) Monitoring compliance with all applicable Federal privacy laws and regulations and implementing corrective, remedial, and preventive actions whenever necessary.

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

- (6) Conducting public outreach programs, to include the formation of a Privacy Advisory Committee under the Federal Advisory Committee Act.
- (7) Developing materials for and overseeing compliance of privacy training for agency employees.
- (8) Establishing and coordinating public redress procedures for all privacy-related TSA activities.
- (9) Evaluating TSA programs involving the collection, use, and disclosure of personally identifiable information.
- (10) Ensuring agency-wide compliance with the PRA, to include assisting PMOs in obtaining OMB control numbers, and providing inputs for the annual Information Collection Budget.
- (11) Ensuring approved systems of records notices and active information collections are posted on the TSA Intranet and Internet.
- (12) Ensuring that the use of technology sustains, and does not erode, privacy protections relating to the use, collection and disclosure of personal information.
- (13) Ensuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices in the Privacy Act of 1974.
- (14) Evaluating regulatory proposals involving collection, use and disclosure of personal information by TSA.
- (15) Conducting a privacy impact assessment of proposed rules of the agency on the privacy of personal information, including the type of personal information collected and the number of people affected.
- (16) Participating in the notices and rulemaking process required to be published by the Privacy Act of 1974, as amended, including the authority to ratify, where necessary, any such rule previously issued.
- (17) Overseeing, within TSA compliance and with DHS agency-wide privacy policies with regard to the collection, the use and dissemination of personally identifiable information and establishing complementary privacy policies for TSA.
- (18) Serving as TSA's principal point of contact and representative for matters related to the PRA.
- (19) Issuing, and revising as needed, TSA notices implementing the PA, and review proposed changes to agency disclosure regulations.
- (20) Coordinating, reviewing, revising, and submitting to appropriate authorities the PA compilation of notices, reports and/or proposed rules for TSA systems of records; new or

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

altered systems of records; minor changes to systems of records; and concerning exempt systems of records.

- (21) Ensuring that all TSA organizational elements provide appropriate guidance to employees and contractors involved in designing, operating, or maintaining TSA PA systems of records; and conducting PA training for employees and contractors who are involved in maintaining DHS PA systems of records or who have access to records contained in such systems.

C. Office of the Chief Information Officer (CIO) is responsible for: providing technical support on any matter that involves information technology systems that contain personally identifiable information and in the development of agency PIAs.

D. OCC is responsible for:

- (1) Conducting legal reviews on PA system of records notices, rulemaking notices seeking to exempt systems of records from the PA, documents related to obtaining or renewing OMB control numbers, and PIA and PRA materials.
- (2) Notifying the Privacy Officer of any rules that require an OMB control number.
- (3) Clearing all rulemaking documents through the TSA, DHS, and OMB approval processes.

E. PMOs are responsible for:

- (1) Appointing a system manager for every PA system of records within their purview.
- (2) Promptly notifying the Privacy Officer when establishing a collection of information from ten or more persons.
- (3) Writing the initial draft of PIAs when required.
- (4) Writing the initial draft of documents required for PRA ICRs.

F. The Office of Workforce Performance and Training is responsible for:

- (1) Assisting the Privacy Officer in the development of privacy training materials.
- (2) Ensuring that all personnel who require privacy training receive it on an annual basis.
- (3) Maintaining records documenting the completion of privacy training by TSA employees.

G. System Managers are responsible for:

- (1) Notifying the Privacy Officer when establishing, revising, or deleting PA systems of records.
- (2) Establishing administrative, technical and physical controls for storing and safeguarding PA records.

**TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY**

- (3) Implementing appropriate means for the accounting of disclosures made pursuant to the PA.
Note: The Privacy Officer will notify OCC of all changes and coordinate those changes with that office.

6. POLICY AND PROCEDURES:

- A. Policy: TSA is fully committed to protecting the personal privacy of all individuals. Certain privacy protections are stated in law; however, TSA recognizes that compliance with the letter of the law is not enough. TSA also has a responsibility to ensure that individuals are treated with fairness and respect. TSA has established a Privacy Officer to ensure that in addition to compliance with the law, TSA's *Privacy Principles* are integral to every policy decision and are observed and followed by all TSA employees.
- (1) TSA employees will be made aware of, and comply with, the PA so that information about individuals is collected, maintained, used, and disseminated in accordance with the PA and DHS regulations. Employees shall further be advised of the possible civil and criminal consequences for violations of the PA.
- (2) PMOs will be made aware of, and comply with, the PRA so that no information is collected from ten or more entities or members of the public without first obtaining a valid OMB control number.
- (3) PMOs will be made aware of, and comply with, Section 208 of the E-Government Act so that a PIA is conducted before the development or procurement of any new information technology system that contains personally identifiable information, the alteration of any such existing system, or the commencement of any new electronic collection of information from ten or more members of the public
- (4) System Managers, PMOs, and agency personnel (e.g, personnel specialists, finance officers, investigators, acquisition officials, attorneys/advisors, public affairs and disclosure officials) who maintain information contained in a system of records incident to the conduct of official business must receive PA training.
- B. Procedures: This section is organized by activities that trigger requirements under the PA, the PRA, and/or Section 208 of the E-Government Act, and describes what must be done in each instance.
- (1) PA Systems of Records. Before operating, altering, or deleting a PA system of records and before claiming any exemptions to such a system, TSA will provide proper notice in the Federal Register.

Note: Operating an unpublished system of records is a criminal violation.

- (a) PMO will consult with the Privacy Officer for initial guidance.
- (b) PMO will appoint a System Manager.

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

- (c) PMO will draft the notice creating or altering the system of records with the Privacy Officer's assistance.
 - (d) PMO will draft the notice of proposed rulemaking for any exemptions with the Privacy Officer's assistance.
 - (e) Privacy Officer will clear the notice and any exemptions through the internal TSA and DHS routing process in coordination with OCC.
 - (f) OCC will clear any exemptions through the rulemaking process.
 - (g) Privacy Officer will coordinate and transmit the appropriate reports to Congress and OMB.
 - (h) Privacy Officer will cause the notice to be published in the Federal Register.
 - (i) OCC will cause any rules to be published in the Federal Register.
- (2) PA Statements. Before collecting any information from an individual that will become part of their PA records, the responsible PMO will ensure the collection instrument provides the individual with a statement that gives the authority, purpose, routine uses, and whether giving the information is mandatory or voluntary, and the effects on the individual, of not providing the information.
- (a) PMO will consult with the Privacy Officer for initial guidance.
 - (b) PMO will draft an appropriate PA statement with the Privacy Officer's assistance.
 - (c) PMO will cause the PA statement to be provided to individuals either on the collection instrument or by a separate handout at the time the information is collected.
- (3) PA Safeguards. At all times while maintaining records subject to the PA, every employee will ensure the DHS Standards of Conduct for Administration of the Privacy Act at 6 C.F.R., Section 5.34, are followed.
- (a) TSA will collect only personal information that is relevant and necessary.
 - (b) TSA will collect information directly from an individual when practicable and when it may result in adverse determinations about rights, benefits, and privileges.
 - (c) TSA will inform each individual from whom information is collected via a PA Statement of the authority to collect, the purpose and routine uses of the data, whether providing it is mandatory or voluntary, and the effects on the individual, if any, of not providing the information.

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

- (d) TSA will maintain no system of records without first giving public notice in the Federal Register.
 - (e) TSA will maintain all records with accuracy, relevance, timeliness, and completeness.
 - (f) TSA will make reasonable efforts, prior to disseminating a record about an individual, to ensure that the record is accurate, relevant, timely, and complete.
 - (g) TSA will maintain no record on how an individual exercises their First Amendment rights, unless expressly authorized by statute or the individual.
 - (h) TSA will maintain an accounting of all disclosures of personal information.
 - (i) TSA will maintain records with care to prevent unauthorized or inadvertent disclosure.
- (4) PA Disclosures. Before disclosing any information from a PA system of records, every employee will ensure the release is authorized under the PA and that a proper accounting is made.
- (a) TSA employees will consult with their supervisors before disclosing any Privacy Act information – supervisors will consult with the Privacy Officer if there is any question as to whether such information may be disclosed;
 - (b) TSA employees making the disclosure will ensure an appropriate cover sheet is attached in the transmission and, except for disclosures made within DHS or those made in accordance with the Freedom of Information Act, will insert in the original records from which the disclosure came an accounting that states the date, nature, purpose and the name/address to whom the disclosure was made.
- (5) PA Requests. All formal requests made by individuals to access or amend their own records that are maintained by TSA will be forwarded to and handled by the TSA Freedom of Information Act Office in accordance with their policies and procedures.
- (6) Information Collection Requests subject to the PRA. Before collecting information from ten or more entities or members of the public, the responsible PMO will ensure the collection has been authorized and that the collection instrument displays a valid OMB control number.
- (a) PMO will consult with the Privacy Officer for initial guidance six months prior to the expiration of any existing collection or conducting any new collection.
 - (b) PMO will research existing information collections to ensure the required data is not already otherwise available.
 - (c) PMO will limit the proposed information collection to the minimum necessary. Where practicable, the information will be collected and stored electronically.

TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY

- (d) PMO will estimate the number of respondents, the annual time burden per respondent, the annual cost to each respondent, and the cost to the Federal government associated with the information collection.
 - (e) PMO will complete the OMB Form 83-I and Supporting Statement with the Privacy Officer's assistance.
 - (f) PMO will draft the "Paperwork Reduction Act" section of any rulemaking notice that results in a collection of information, and draft the "60-day" and "30-day" notices for all other collections.
 - (g) PMO will transmit all documents to the Privacy Officer and OCC for an initial review.
 - (h) The Privacy Officer will clear all documents through the internal TSA routing process with the exception of rulemaking notices, which are cleared separately by OCC.
 - (i) Privacy Officer will cause the "60-day" and "30-day" notices to be published in the Federal Register.
 - (j) OCC will cause any rules to be published in the Federal Register.
 - (k) Privacy Officer will transmit the OMB Form 83-I and Supporting Statement to OMB for approval.
 - (l) Privacy Officer will inform the PMO when OMB takes action on the request.
 - (m) PMO will ensure that the collection instrument displays a valid OMB control number.
- (7) PIAs. Before developing any new information technology system that contains personally identifiable information, altering any such existing system, or commencing any new electronic collection of information from ten or more members of the public, the program management office will ensure a PIA is accomplished.
- (a) PMO will consult with the Privacy Officer and OCC for initial guidance.
 - (b) PMO will organize a PIA planning session that will include the Privacy Officer, and representatives from OCC and CIO to chart out an appropriate course of action.
 - (c) PMO or an appropriately hired contractor will conduct the PIA following OMB's guidelines and with as many consultations with the multi-disciplinary team as required to identify and mitigate risks to personal privacy.
 - (d) PMO will mitigate all identified privacy risks to the fullest extent possible.
 - (e) PMO will follow the procedures outlined in sections 6B(1) and (6), above, if the PIA identifies the need for a PA system of records and/or a collection of information from ten or more members of the public.

**TSA MANAGEMENT DIRECTIVE No. 2100.2
PRIVACY AND INFORMATION COLLECTION POLICY**

- (f) PMO will route the draft PIA through the Privacy Officer, OCC, and CIO for clearance.
- (g) Privacy Officer gives final approval to the PIA and transmits the draft to the DHS Chief Privacy Officer for departmental approval.
- (h) Privacy Officer will cause the PIA approved for public release to be posted on the TSA and DHS Internet sites.

7. EFFECTIVE DATE AND IMPLEMENTATION:

This directive is effective immediately upon signature.

APPROVAL



Chad Wolf
Assistant Administrator for Transportation
Security Policy

7/25/05
Date

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