

Department of Homeland Security

DHS Directives System

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DELEGATION TO THE CHIEF PRIVACY OFFICER / CHIEF FREEDOM OF INFORMATION ACT OFFICER

I. Purpose

This delegation vests the authorities of the Secretary of the Department of Homeland Security (DHS), as described herein, in the Chief Privacy Officer / Chief Freedom of Information Act (FOIA) Officer responsibilities.

II. Delegations

Subject to my oversight, direction, and guidance, I delegate to the Chief Privacy Officer / Chief FOIA Officer the authority and responsibility to:

A. Establish and oversee the implementation of privacy policies (following DHS Directive 112-01, "Directives Systems") and carry out the functions of the DHS regarding:

1. Oversight, coordination, and facilitation of the Department's privacy compliance efforts as required in Title 5, United States Code (U.S.C.) § 552a, Title 6 U.S.C. § 142, and other privacy laws applicable to DHS, and consistent with federal government privacy requirements, in the creation, collection, testing, processing, use, storage, maintenance, dissemination, disclosure, and/or disposal of personally identifiable information (PII), to include:

a. In coordination with Office and Component Heads, review DHS activities to ensure that privacy protections are fully integrated into DHS operations, to the extent consistent with the Chief Privacy Officer's authority under 6 U.S.C. § 142 to request documentation available to the Department that relates to DHS programs and operations considering the Chief Privacy Officer's responsibilities under that section;

b. Providing appropriate oversight, to the extent consistent with 6 U.S.C. 142 and other privacy laws applicable to DHS, and consistent with federal government privacy requirements, of how

the Department and the Components implement federal and DHS privacy laws, policies, and directives issued pursuant to DHS Directive 112-01;

- c. Ensuring DHS meets all reporting requirements mandated by Congress or the Office of Management and Budget (OMB) regarding DHS activities that involve PII or otherwise impact privacy;
- d. Processing DHS privacy complaints from organizations and individuals regarding DHS activities and ensuring and amending DHS Privacy Act (PA) regulations as necessary to implement changes in relevant law and Executive Branch policy;
- e. Processing initial requests for individual redress involving privacy, including amendment and correction of records under the PA, pursuant to Title 6, Code of Federal Regulations (CFR) Part 5, Subpart B;
- f. Determining the need for and approving DHS System of Records Notices (SORN) and other appropriate PA documents; and promulgation in the Federal Register, after review by, or through a process established by, the Regulatory Policy Officer and the General Counsel;
- g. Coordinating with the Chief Information Officer (CIO), Chief Information Security Officer (CISO), and Under Secretary for Intelligence and Analysis to ensure all privacy requirements for information management (IM), new technologies, and information systems are met prior to system authorization in accordance with the Federal Information Security Modernization Act of 2014;
- h. Coordinating with the CIO and CISO to provide guidance regarding information, IM, information technology (IT), and technology-related programs, and to develop and implement policies and procedures to safeguard PII used or maintained by the DHS in accordance with federal law and policy, including responding to privacy incidents and breaches of PII (per OMB M-17-12);

- i. Consulting and coordinating with DHS Chief Records Officer to ensure the retention, management, and disposition of PII is in accordance with 44 U.S.C. Chapter 31 – Records Management by Federal Agencies (The Federal Records Act), corresponding implementing regulations of the National Archives and Records Administration (NARA), and relevant Records Control Schedules approved by the Archivist of the United States;
 - j. Serving as the DHS representative on the Federal Privacy Council;
 - k. Engaging the public and external organizations to provide information about privacy issues in support of the DHS mission; and
 - l. Providing program oversight, technical assistance, and training to DHS employees to ensure compliance with privacy laws and policies.
- 2. Compliance with the privacy requirements of the E-Government Act of 2002 (Public Law 107-347) and the Homeland Security Act, 6 U.S.C. 142, to include approval of Privacy Impact Assessments (PIA) when there are collections of information or new electronic technologies applied to PII.
- 3. In coordination with the CIO, ensure that collections of information [in accordance with 44 U.S.C. Chapter 35 - Coordination of Federal Information Policy (Paperwork Reduction Act of 1980, as amended, Paperwork Reduction Reauthorization Act of 1995, and the Government Paperwork Elimination Act)] and forms contain necessary notices and are appropriately covered by applicable SORNs and PIAs.
- 4. Compliance with the privacy requirements of 5 U.S.C. § 552a(u) to include ensuring that Computer Matching Agreements are reviewed and approved by DHS's Data Integrity Board (Board), as well as serving as the Board's Chair.
- 5. Compliance with the Health Insurance Portability and Accountability Act of 1996, to the extent applicable, to ensure Personal Health Information has effective privacy oversight and to mitigate privacy incidents involving personal health information.
- B. Establish and oversee the implementation of DHS disclosure policies in accordance with the Freedom of Information Act (FOIA) and PA, except as otherwise provided by law, and carry out the FOIA functions of DHS regarding:
 - 1. Any requests for information, documents, and records that are

received from any person or organization under Title 6, Code of Federal Regulations (CFR) Part 5, Subparts A and B;

2. Management and oversight of DHS FOIA programs, including:
 - a. Implementing DHS FOIA regulations and amending those regulations as necessary to reflect changes in relevant law and policy;
 - b. Advising DHS leadership on existing and emerging changes in FOIA and PA requests, disclosure practices and policies, or any Component reorganization that could impact the FOIA functions;
 - c. Ensuring implementation of FOIA programs throughout DHS and keeping the Secretary and the General Counsel informed of the DHS's FOIA performance;
 - d. Recommending such adjustments to DHS practices, policies, staffing, and funding as may be necessary to improve FOIA compliance, efficiency, and effectiveness;
 - e. Engaging the public and external organizations to provide information about FOIA and disclosure responsibilities in support of the DHS mission;
 - f. Serving as the primary DHS liaison with the NARA Office of Government Information Services and the Department of Justice (DOJ) Office of Information Policy;
 - g. Serving as the DHS representative on the Chief FOIA Officer's Council;
 - h. Overseeing the development and implementation of disclosure policies, laws, and any other activity that impacts the disclosure of information, and when necessary, coordinating with appropriate offices;
 - i. Assessing policies for their potential impact on compliance with the FOIA;
 - j. Reviewing, assessing, and providing comment on the disclosure impact of proposed legislation;

- k. Ensuring DHS and Component FOIA offices and FOIA service centers are in compliance with disclosure laws, policies, and guidelines applicable to DHS as well as DHS FOIA disclosure policy;
- l. Preparing all FOIA reports as required by the DOJ, Congress, or other officials;
- m. Providing guidance for FOIA technology investment decisions, including those used in conjunction with services contracts to ensure investments align with Department-wide strategic goals and priorities, while continuing to support the specific needs of the Components;
- n. Overseeing all FOIA offices and programs to ensure compliance with the FOIA, DHS regulations, and disclosure policies;
- o. Coordinating records being produced subject to FOIA litigation, and transferring and processing any FOIA request, and FOIA appeal, that is determined to have departmental equities as appropriate;
- p. Coordinating with the CIO and CISO, and with Component CIOs and CISOs when there are Component equities, to ensure disclosure requirements for new technologies and information systems are met prior to system authorization;
- q. Coordinating with the CIO or Component Chief Information Officers to ensure that electronic records, including email, are accessible and searchable for FOIA requests;
- r. Consulting and coordinating with the Office of the Chief Security Officer to ensure policies and procedures involving the downgrading, sanitization, and/or release and disclosure of classified national security information are developed in compliance with national and DHS policy requirements and that any release meets the appropriate criteria;
- s. Providing program oversight, technical assistance, and training to DHS employees to ensure compliance with the FOIA; and
- t. Developing, conducting, and reviewing all FOIA training for DHS employees.

C. In conjunction with the Chief Human Capital Officer (CHCO) and the relevant Component head, and except as otherwise provided by law, the Chief Privacy Officer retains approval authority over the DHS-hiring of Component Privacy and FOIA Officers, including participating in identifying, recruiting, and hiring these personnel, and exercising concurrence authority for annual performance reviews.

1. In conjunction with CHCO and the Component Head, participate in the hiring process: approve the required knowledge, skills, and abilities, or competencies needed for the positions; approve the identification of candidates for consideration; participate in the interview process when desired; and approve final hiring selections.

2. In conjunction with the CHCO and the relevant Component Head, participate in the employee evaluation process: exercise concurrence authority for written performance objectives, performance plans, appraisals, bonus or award recommendations; qualification standards and/or pay adjustments, and other forms of commendation.

3. To the extent that the law prohibits vesting hiring and appraisal authority in the Chief Privacy Officer, the Chief Privacy Officer provides the Component Head with recommendations regarding performance objectives, performance plans, appraisals, qualification standards, and forms of commendation.

D. Provide input to the Component Heads on organizational placement of privacy functions within the Component.

E. Collaborate with OCHCO to ensure there is an adequate privacy and disclosure professional workforce to meet DHS demands.

F. Nothing in this in this delegation shall in any way impede the statutory authority of the U.S. Secret Service under 18 U.S.C. §§ 3056 and 3056A.

III. Re-delegation

Unless re-delegation is prohibited by law, executive order, regulation, policy, or the provisions herein, the powers, authorities, responsibilities, and functions of the Chief Privacy Officer may be re-delegated by the Chief Privacy Officer in writing, subject to the approval of the Secretary, or his or her designee, to:

- A. Appropriate subordinate officials;
- B. Component Heads; and
- C. Component Privacy and FOIA Officers.

IV. Authorities

- A. Public Law 107-347, Section 208, "E-Government Act of 2002," as codified in Title 44, U.S.C., Chapter 36, "Management and Promotion of Electronic Government Services"
- B. Public Law 110-53, "Implementing Recommendations of the 9/11 Commission Act of 2007", Section 802, "Department Privacy officer"
- C. Public Law 113-283, "Federal Information Security Modernization Act of 2014," as codified in Title 44, U.S.C., Chapter 35, Subchapter II, "Information Security"
- D. Title 6, U.S.C. § 112, "Secretary's Functions"
- E. Title 6 U.S.C. § 142, "Privacy officer"
- F. Title 5, U.S.C. § 552, "The Freedom of Information Act," as amended
- G. Title 5, U.S.C., § 552a, "The Privacy Act of 1974," as amended
- H. Title 42, U.S.C. § 2000ee-1, "Privacy and Civil Liberties Officers"
- I. Title 6, CFR, Part 5, "Disclosure of Records and Information"
- J. OMB Memorandum 17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information"
- K. DHS Designation 00-13001, "Designation to the Chief Privacy Officer as the Department of Homeland Security Senior Agency Official for Privacy"
- L. DHS Designation 00-13002, "Designation to the Chief Privacy Officer as

the Department's Chief Freedom of Information Act Officer"

V. Office of Primary Interest

The Privacy Office has the primary interest in this delegation.

VI. Cancellation

Delegation 13001, Delegation to the Chief Privacy Officer, (8/29/2011) is hereby superseded.



Chad F. Wolf
Acting Secretary of Homeland Security

JUN 02 2020

Date