



PRIVACY ACT STATEMENT/E(3) NOTICE GUIDANCE AND TEMPLATE

The Privacy Act of 1974, 5 U.S.C. 552a, provides protection to individuals by ensuring that personal information collected by federal agencies is limited to that which is legally authorized and necessary and is maintained in a manner which precludes unwarranted intrusions upon individual privacy.

Pursuant to 5 U.S.C. §552a(e)(3), agencies are required to provide what is commonly referred to as a “Privacy Act Statement” to all persons asked to provide personal information about themselves, which will go into a system of records (i.e., the information will be stored and retrieved using the individual’s name or other personal identifier such as a Social Security number).

Submission Process

All Privacy Act Statements must be reviewed and approved by the DHS Privacy Office. Components may request a delegation to review and approve their own Privacy Act Statements. Components must still submit approved Privacy Act Statements to the DHS Privacy Office for reporting purposes.

Please submit Privacy Act Statements to the Privacy Office for review and approval at pia@hq.dhs.gov.

Drafting a Privacy Act Statement

Privacy Act Statements should be written in plain English, while still adhering to the requirements of 5 U.S.C. §552a (e)(3). When drafting a Privacy Act Statement for review by the Privacy Office, include the following elements:

- **Authority:** The legal authority for collecting the information – statute, executive order, regulation.
- **Purpose:** The purpose(s) for collecting the information and how DHS will use it.
- **Routine Uses:** To whom DHS may disclose the information outside of the Department and for what purposes.
- **Disclosure: *Mandatory or Voluntary:*** Whether providing the information is mandatory or voluntary. DHS can only make collection mandatory when a Federal statute, executive order, regulation, or other lawful order specifically imposes a duty on the person to provide the information; and the person is subject to a specific penalty for failing to provide the requested information. The effects, if any, of not providing the information – for example the loss or denial of a privilege, benefit, or entitlement sought as a consequence of not furnishing the requested information.

Privacy Act Statement versus a Privacy Notice

Privacy Act Statements should only be used for information collections that will be stored in a Privacy Act System of Records. To include a “Privacy Act Statement” on an information collection that is not covered by the Privacy Act is misleading.

However, any time information is collected from a form, DHS encourages a Privacy Notice that describes the same requirements above, in a less formal format.

Collection of SSNs

If the program or form collects Social Security numbers, specific notice regarding the collection, use, and authorization of Social Security Numbers must be incorporated into the Privacy Act Statement. This is addressed by adding a sentence to the Privacy Act Statement regarding the collection of the SSN.

DHS cannot deny a legal right, benefit, or privilege if individuals refuse to provide their SSN unless the law requires disclosure or, for systems operated before 1 January 1975, a law or regulation adopted prior to that date required disclosure in order to verify the identity of the individual.

Before requesting a Social Security number (SSN), *even if it will not go into a system of records*, the agency must provide notice to the individual which includes:

- The law or authority for collecting the SSN.
- How DHS will use the SSN.
- Whether disclosure is mandatory or voluntary.

The information requested is being requested and may be shared externally as a “routine use” to facilitate the OCPO awards program, and in accordance with [DHS/ALL-011 Biographies and Awards System of Records](#). Providing this information to is voluntary.

DHS Privacy Act Statement **SAMPLE**

ESTA Privacy Act Statement

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act Statement serves to inform you of the following concerning the collection of the information on this form.

A. AUTHORITY:

Collection of the information solicited on this form is authorized by Title 8 of the United States Code, whether or not codified. Specifically, Section 711 "Modernization of the Visa Waiver Program" of the "Implementing Recommendations of the 9/11 Commission Act of 2007" ("9/11 Act") (110 PL 53) modifies the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) to authorize this collection of information. The Secretary of Homeland Security is authorized to create the electronic travel authorization system and require aliens under the program to "electronically provide to the system biographical information and such other information as the Secretary of Homeland Security shall determine necessary." (8 U.S.C. 1187(a)(11) as amended by 110 PL 53 sec. 711(d)). Collection of this information is mandatory for people from Visa Waiver Program countries who wish to travel to the United States.

B. PURPOSE:

The primary purpose for soliciting this information is "to determine the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States. Upon review of such biographical information, the Secretary of Homeland Security shall determine whether the alien is eligible to travel to the United States under the program." 8 U.S.C. 1187(a)(11).

C. ROUTINE USES:

The information solicited on this form may be made available as a "routine use" to other government agencies to assist the Department of Homeland Security in making determinations about the alien's eligibility to travel without a visa and for law enforcement and administration purposes. The information may be made available to the Department of State in the event the application is not approved, so that a determination can be made for issuance of a visa. Finally, the information may be made available to the carrier for verification of authorization to travel. A complete list of the routine uses can be found in the system of records notice associated with this form, "Department of Homeland Security/U.S. Customs and Border Protection - DHS/CBP-009 Electronic System for Travel Authorization (ESTA) System of Records." The Department's system of records notices can be found on the Department's website at <http://www.dhs.gov/system-records-notices-sorns>

D. CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION:

Providing this information is not legally required to gain admission to the United States. However, aliens traveling without an electronic travel authorization will require a visa to gain admission to the United States.