



**Privacy Impact Assessment Update
for the
Electronic System for Travel
Authorization - Internet Protocol Address
and System of Records Notice Update**

DHS/CBP/PIA-007(b)

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Abstract

U.S. Customs and Border Protection (CBP) is publishing this update to the Privacy Impact Assessment (PIA) for the Electronic System for Travel Authorization (ESTA), last updated July 18, 2011.¹ ESTA is a web-based application and screening system used to determine whether certain aliens are eligible to travel to the United States under the Visa Waiver Program. This update will evaluate the privacy impacts of including the Internet Protocol (IP) address associated with a submitted ESTA application for vetting purposes. This PIA will also evaluate the privacy impacts of various updates to the ESTA System of Records Notice (SORN), including updates and clarifications to the routine uses and a new routine use permitting the sharing of information in connection with judicial proceedings.

Overview

ESTA is a web-based system that DHS/CBP developed in 2008 to determine the eligibility of aliens to travel by air or sea to the United States under the Visa Waiver Program (VWP) pursuant to Section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53, codified at 8 U.S.C. § 1187(a)(11), (h)(3). This eligibility determination is made prior to an alien boarding a carrier en route to the United States, and includes making a determination as to whether the alien's travel poses a law enforcement or security risk. Applicants submit their biographical information and answer eligibility questions using the ESTA website. This allows CBP to make a determination about the applicant's eligibility to travel to the United States under the VWP after vetting the information against selected security and law enforcement databases, using CBP TECS² and the Automated Targeting System (ATS).³ In addition, ATS retains a copy of ESTA application data to identify potential high-risk ESTA applicants.

CBP allows applicants to access their ESTA account to modify their travel itinerary information without incurring an additional fee. Applicants must provide their ESTA application number, date of birth, and passport number to update their ESTA information. If an applicant has forgotten his or her application number, the applicant will

¹ For detailed information about the ESTA program, please see DHS/CBP/PIA-007(a) - Electronic System for Travel Authorization (ESTA) Fee and Information Sharing Update, available at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_cbp_estafee_update.pdf.

² DHS/CBP/PIA-009 TECS System: CBP Primary and Secondary Processing, December 22, 2010, available at <http://www.dhs.gov/xlibrary/assets/privacy/privacy-pia-cbp-tecs.pdf>.

³ DHS/CBP/PIA-006b Automated Targeting System Update, June 1, 2012, available at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_cbp_ats006b.pdf.



be able to retrieve the ESTA application number by providing his or her name, passport number, date of birth, and passport-issuing country.

Internet Protocol Address

When the user has entered all the required information and is ready to make payment, ESTA will take the applicant through a series of screens where he/she enters the payment information, which is forwarded to the Department of Treasury's Pay.gov. As a new feature of the application submission process, CBP will now collect the Internet Protocol address (IP address) of the computer used to submit the application or any application updates for targeting and vetting purposes. The IP address will be vetted along with the rest of the application data through CBP's TECS and Automated Targeting System.

System of Records Notice Update

DHS/CBP is also updating the SORN for ESTA. DHS/CBP is updating the categories of records to permit the collection and use of the IP address associated with an ESTA application. DHS/CBP is also updating the legal authorities to provide specific citations; clarifying the retention of records in ESTA and the Non-Immigrant Information System (NIIS); updating and clarifying the notification procedures to explain the extension of access procedures to international travelers, allow limited direct access and amendment of ESTA application data, and add the CPB access request address; eliminating unnecessary language from the record source categories describing the use of payment information between ESTA, Pay.gov, and the CBP Credit and Debit Card Data System for payment reconciliation purposes; and clarifying that the Department is exempting the system from sections (c)(3), (e)(8), and (g) of the Privacy Act pursuant to 5 U.S.C. § 552a(j)(2), and is exempting the system from (c)(3) of the Privacy Act pursuant to 5 U.S.C. § 552a(k)(2).

CBP is updating the routine uses to add general language ensuring that "[a]ny disclosure of information must be made consistent with the official duties of the person making the disclosure." Routine uses A, D, E, and J are being reworded to provide greater clarity and make non-substantive grammatical changes. Routine use C is being updated to change "other federal government agencies" to "General Services Administration" to better reflect the statutory authorities, and that records will be shared where National Archives and Records Administration (NARA) maintains them as permanent records. Routine uses G, K, and M are being reworded to provide greater clarity and to remove the now superfluous condition that the "disclosure is appropriate to the proper performance of the official duties of the person making the disclosure." Finally, a new routine use P is being inserted to permit DHS to share this information with a court, magistrate, or administrative tribunal in the course of presenting evidence,



including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings.

Reason for the PIA Update

DHS/CBP is updating the existing PIA (DHS/CBP/PIA-007 and DHS/CBP/PIA-007(a)), first published on June 3, 2008, and updated on July 18, 2011, to account for the collection, use, and sharing of the IP address associated with an ESTA application and the updates to the published system of records notice.

Privacy Impact Analysis

Authorities and Other Requirements

The authority to collect information required in an ESTA application may be found in Title IV of the Homeland Security Act of 2002, 6 U.S.C. § 201, et seq.; the Immigration and Nationality Act (INA), as amended, including 8 U.S.C. § 1187 (h)(3), which authorizes the Secretary of Homeland Security, in consultation with the Secretary of State, to “develop and implement a fully automated electronic travel authorization system to collect such biographical and other information as the Secretary of Homeland Security determines necessary to determine, in advance of travel, the eligibility of, and whether there exists a law enforcement or security risk in permitting, the alien to travel to the United States.” Implementing regulations for ESTA are contained in Part 217, title 8, Code of Federal Regulations. CBP collects a fee per travel authorization pursuant to section 217 (h)(3)(B) of the INA (U.S.C. 8 § 1187 (h)(3)(B)) and provides part of the fee to the Corporation for Travel Promotion pursuant to the Travel Promotion Act of 2009, Pub. L. 111-145, 22 U.S.C. § 2131(d).

The SORN for ESTA, last published on November 2, 2011 (76 Fed. Reg. 67751), is being updated to reflect the collection of IP address in the categories of records, the inclusion of the routine use as part of judicial proceedings, updates to other routine uses, and to provide non-substantive changes to enhance the clarity of the legal authorities, categories of individuals, retention, notification procedures, record source categories, and exemptions. The OMB control number for this collection is 1651-0111.

Characterization of the Information

The IP address is collected from the browser session information when an individual submits or updates an ESTA application. The IP address is included with the rest of the ESTA application information for storage, use, retrieval, sharing, and other lawful purposes.



Uses of the Information

Authenticating the identity of an individual is an important step in determining an applicant's eligibility to travel to the United States under the VWP. The IP address provides a useful data point to identify possible fraudulent applications and/or ineligible applicants. ESTA collects the IP Address to assist CBP in determining which applicants are eligible to travel to the United States under the VWP. The IP address will be provided along with the rest of the ESTA application information to ATS for vetting, targeting, and law enforcement purposes. CBP will use the same security and control measures to protect the IP address as it uses for the rest of the application data.

CBP is updating the ESTA SORN to provide greater clarity and to permit the sharing of ESTA data as part of a judicial proceeding.

Notice

CBP is editing the Privacy Act Statement and Privacy Policy page on the ESTA website to notify the public that IP addresses will now be collected as part of the ESTA application process. Further, the IP address will be presented on the application review page before submission.

Data Retention by the Project

NARA guidelines for retention and archiving of certain data will apply to ESTA. However, CBP is still in the process of seeking NARA approval for the ESTA data retention and archiving plan. CBP retains ESTA application data (including the IP address) for no more than three years in an active database (one year beyond the expiration date of the travel authorization) and twelve years in archive status. However, data linked at any time during the 15 year retention period (generally 3 years active, 12 years archived) to active law enforcement lookout records, CBP matches to enforcement activities, and/or investigations or cases, including ESTA applications that are denied authorization to travel, will remain accessible for the life of the law enforcement activities to which they may become related.

In those instances where a VWP traveler's ESTA data is used to process his/her application for admission to the United States, a corresponding admission record, incorporating data from the ESTA application (excluding the IP address), will be created in the DHS/CBP-016 Non-Immigrant Information System (NIIS).⁴ This corresponding admission record will be retained in accordance with the NIIS retention schedule, which is 75 years to support claims for benefits and requests to change status under the INA.

⁴ [DHS/CBP-016 - Nonimmigrant Information System](#), December 19, 2008 73 FR 77739.



Payment information will be maintained in the Credit and Debit Card Data System⁵ (CDCDS) for nine months in an active database to reconcile accounts, and six years and three months archived in conformance with NARA General Schedule 6, Item 1, Financial Records management requirements. The nine-month active status is necessary to handle the majority of reconciliation issues (including charge-back requests and retrievals), which may be initiated by the applicant's bank up to 18 months after the transaction. CBP must respond to these issues within 10 to 15 days or lose the payment. Following the archived period, this information will be destroyed by deletion from CBP Information Technology (IT) systems, unless it has become associated with a law enforcement activity, in which case it will be retained for the duration of that law enforcement activity and any related enforcement activities. Pay.gov will maintain the payment information for 7 years per their requirements for financial records (See 68 FR 5691).

Information Sharing

IP addresses may be shared along with the rest of the ESTA application data pursuant to the routine uses in the ESTA SORN.

The routine uses are being updated to add general language ensuring that "[a]ny disclosure of information must be made consistent with the official duties of the person making the disclosure." Routine uses A, D, E, and J are being reworded to provide greater clarity and make non-substantive grammatical changes. Routine use C is being updated to change "other federal government agencies" to "General Services Administration" to better reflect the statutory authorities, and that records will be shared where NARA maintains them as permanent records. Routine uses G, K, and M are being reworded to provide greater clarity and remove the now superfluous condition that the "disclosure is appropriate to the proper performance of the official duties of the person making the disclosure." Finally, a new routine use P is being inserted to permit DHS to share this information with a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, or in connection with criminal law proceedings.

Redress

CBP is not changing the access or redress processes for ESTA. While the IP address associated with an ESTA application will not be amendable through the ESTA website, individuals may still seek access, amendment, and redress for the information they provide which is maintained in the applicable CBP system of records, including the

⁵ [DHS/CBP-003 - Credit/Debit Card Data System](#), November 2, 2011 76 FR 67755.



IP address. Under the Privacy Act and Freedom of Information Act (FOIA), individuals may request administrative access to the information they provide, including IP address, which is maintained in the applicable CBP system of records. Proper written requests under the Privacy Act and FOIA should be addressed to:

U.S. Customs and Border Protection (CBP)
Freedom of Information Act (FOIA) Division
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Applicants denied a travel authorization to the United States via ESTA may apply for a visa from the U.S. Department of State. General complaints about treatment or requests for redress can be made to the DHS Traveler Redress Inquiry Program (TRIP), 601 South 12th Street, TSA- 901, Arlington, VA 22202-4220 or online at www.dhs.gov/trip. Generally, if a traveler believes that CBP actions are the result of incorrect or inaccurate information, then inquiries should be directed to:

CBP INFO Center
OPA - CSC - Rosslyn
U.S. Customs and Border Protection
1300 Pennsylvania Ave, NW
Washington, DC 20229
Phone - (877) 227-5511



Auditing and Accountability

DHS/CBP internal user access to data in ESTA is controlled through passwords and restrictive rules pertaining to user rights. Internal users are limited to roles that define authorized use of the system. Procedural and physical safeguards are utilized such as accountability audits, receipt records, and site security. Management oversight is in place to ensure appropriate assignment of roles and access to information. All users are subject to annual privacy training as part of their employment.

Responsible Officials

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Approval Signature

Original signed and on file with the DHS Privacy Office.

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