



**The Department of the Treasury
Semiannual 2017 Report on Privacy and
Civil Liberties Activities Pursuant to
Section 803 of the Implementing
Recommendations of the 9/11 Commission
Act of 2007**

**For the reporting period
October 1, 2016 to March 31, 2017**

1. Introduction

The Assistant Secretary for Management (ASM) is the Department of the Treasury's (Treasury) Privacy and Civil Liberties Officer (PCLO). As the PCLO, the ASM is responsible for implementing the 9/11 Commission Act of 2007's privacy and civil liberties requirements.

To assist the ASM with these responsibilities, Treasury Directive (TD) 25-04, "The Privacy Act of 1974, as amended," designates the Deputy Assistant Secretary for Privacy, Transparency, and Records (DASPTR) as the ASM's principal advisor on issues related to privacy and civil liberties. The DASPTR leads the Office of Privacy, Transparency, and Records (PTR) and provides the ASM with day-to-day support in executing his PCLO duties.

Section 803 of the 9/11 Commission Act, 42 U.S.C. § 2000ee-1, sets forth the following requirements:

(f) Periodic Reports –

(1) In General –

The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than semiannually; submit a report on the activities of such officers—

(A)(i) to the appropriate committees of Congress, including the [Committee on the Judiciary of the Senate](#), the [Committee on the Judiciary of the House of Representatives](#), the [Committee on Homeland Security and Governmental Affairs of the Senate](#), the [Committee on Oversight and Government Reform of the House of Representatives](#), the [Select Committee on Intelligence of the Senate](#), and the [Permanent Select Committee on Intelligence of the House of Representatives](#);

(ii) to the head of such department, agency, or element; and

(iii) to the [Privacy and Civil Liberties Oversight Board](#).

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents –

Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

- (A) information on the number and types of reviews undertaken;
- (B) the type of advice provided and the response given to such advice;
- (C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and
- (D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

The Intelligence Authorization Act for Fiscal Year 2014, Pub. L. No. 113-126 (July 7, 2014), changed the reporting period from quarterly to semiannually.

2. Privacy Reviews

Treasury reviews programs and information technology (IT) systems that may have privacy implications. Reviews include the following Treasury activities:

- a) Privacy and Civil Liberties Threshold Analyses, which are the Treasury mechanism for reviewing IT systems, programs, and other activities for privacy protection issues to determine whether a more comprehensive Privacy and Civil Liberties Impact Assessment (PCLIA) is required;
- b) Privacy and Civil Liberties Impact Assessments as required by the E-Government Act of 2002;¹
- c) System of Records Notices, as required under the Privacy Act and any associated Final Rules for Privacy Act exemptions;²
- d) Privacy Act Statements, as required under the Privacy Act,³ to provide notice to individuals at the point of collection;
- e) Computer Matching Agreements, as required under the Privacy Act;⁴
- f) Data Mining Reports, as required by Section 804 of the 9/11 Commission Act of 2007;⁵
- g) Privacy Compliance Reviews;
- h) Privacy reviews of IT and program budget requests, including Office of Management and Budget Exhibit 300s and Enterprise Architecture Alignment Requests through the Department of Homeland Security Enterprise Architecture Board; and,
- i) Other privacy reviews, such as implementation reviews for information sharing agreements.

¹ 44 U.S.C. § 3501 note.

² 5 U.S.C. § 552a(j),(k).

³ 5 U.S.C. § 552a(e)(3).

⁴ 42 U.S.C. § 2000ee-3.

⁵ 6 U.S.C. § 142.

3. Privacy and Civil Liberties Impact Assessments (PCLIA)

The PCLIA process is one of Treasury's key mechanisms to ensure that programs and technologies sustain, and do not erode, privacy protections. During the reporting period, Treasury published 100 new, updated, or renewed PCLIA's. All published Treasury PCLIA's are available at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>. One example of a new PCLIA is summarized below:

On October 17, 2016, the Internal Revenue Service (IRS) published a PCLIA for the Affordable Care Act (ACA) Information Returns (AIR). The AIR system processes information returns and reports required by the ACA. The ACA AIR adds the following functions to the existing system:

- a) Processes reports from pharmaceutical companies on Branded Prescription Drugs (BPD) to facilitate the assessment of the BPD fee required 26 U.S.C. § 9008.
- b) Processes reports from health insurers to facilitate the assessment of the Insurance Provider Fee (IPF) on health insurance policies required by 26 U.S.C. § 9010.
- c) Collects and processes Form 1095A Information Returns from Federal/State Exchanges.
- d) Submits and processes Form 1095-B Health Coverage, 1095-C Employer Provided Health Insurance Offer and Coverage, 1094-B Transmittal of Health Coverage Information Returns, and 1094-C Transmittal of Employer-provided Health Insurance Offer and Coverage Information Returns.
- e) Validates additional business rules for paper and electronic returns.
- f) Processes information related to the Transmitter Control Code (TCC) that identifies the transmitter of the electronic forms.
- g) Processes forms associated with the Achieving Better Life Experience (ABLE) Act.

4. System of Records Notices

During the reporting period, Treasury published 58 new and updated SORNs. All Treasury SORNs, Notices of Proposed Rulemaking, and Final Rules for Privacy Act Exemptions are available at <http://www.treasury.gov/privacy/issuances/Pages/default.aspx>. Treasury has determined that the information contained in its systems of records is accurate, timely, relevant, complete, and necessary to maintain the proper performance of a documented agency function. Please consult our website or the Federal Register for the full text of our SORNs.

Treasury published its inventory of 16 Treasury-wide systems of records and 41 Departmental Offices systems of records in the Federal Register (FR) on November 7, 2016, at 81 FR 78266 and 81 FR 78298.

Treasury's Bureau of Engraving and Printing (BEP) published one new SORN. BEP .051, Chief Counsel Files System, contains records necessary for BEP attorneys to provide legal advice to BEP management on various matters. Additionally, the system manages the workload of BEP legal staff, tracks the status, progress, and disposition of matters assigned to the legal staff in matters such as litigation and/or administrative proceedings in which BEP is a party, and matters in which the Office of the Chief Counsel must provide advice. The Office of the Chief Counsel is responsible for collecting, reviewing, redacting, and producing BEP records, in support of processing and resolving BEP legal matters. This system has an effect on individual privacy that

is balanced by the need to collect and maintain information related to legal matters. This new system of records was last published on November 4, 2016, at 81 FR 77003.

5. Computer Matching Programs

Treasury participates in 14 active computer matching programs in accordance with the Privacy Act of 1974, as amended. The computer matching provisions of the Privacy Act improve oversight of the disclosure of automated Privacy Act records in inter-agency information sharing arrangements known as matching programs and protect the due process rights of individuals whose records are exchanged in such programs. To comply with the Act, as well as all relevant regulations and guidance, Treasury has established a Data Integrity Board to review and approve associated matching agreements. All Treasury Computer Matching Program Agreements are available at: <https://www.treasury.gov/privacy/Computer-Matching-Programs/Pages/default.aspx>.

During the reporting period, the Data Integrity Board reviewed and approved two re-established 18-month agreements and one 12-month renewal agreement. Those computer matching programs are listed below:

- a) The Fiscal Service (FS) and Department of Housing and Urban Development (HUD) matching program is a part of the Do Not Pay Initiative (DNP)⁶, which seeks to reduce improper federal payments. This matching program allows Treasury/FS to provide information to HUD that allows the agency to determine a party's eligibility to participate in federal procurement and/or assistance programs or benefits. On December 23, 2016, HUD published notice in the Federal Register of the re-established agreement, effective January 23, 2017. It is available at 81 FR 94402.
- b) The IRS and Treasury Inspector General for Tax Administration (TIGTA) matching program assists in the detection and deterrence of fraud, waste, and abuse in the programs and operations of the IRS and related entities. On February 3, 2017, Treasury published notice of an 18-month re-establishment of the matching program, effective March 10, 2017. It is available at 82 FR 9277.
- c) The IRS and Social Security Administration (SSA) matching program allows the IRS to disclose specific return information to SSA about taxpayers whose Medicare Part B and/or prescription drug coverage insurance premium(s) may be subject to premium subsidy adjustments. On March 9, 2017, Treasury approved a 12-month renewal of the matching program, effective March 31, 2017. The original agreement is available at 80 FR 48950.

6. Privacy Compliance Reviews

Treasury conducts Privacy Compliance Reviews (PCR) to ensure that programs and technologies implement and maintain appropriate protections for personally identifiable information (PII). The PCR is a collaborative effort that helps improve a program's ability to comply with existing privacy requirements by identifying and remediating gaps in compliance documentation,

⁶ More information about DNP is available here: <https://www.donotpay.treas.gov/>.

including PCLIA, SORNs, and formal agreements, such as memoranda of understanding and memoranda of agreement. Treasury conducts informal PCRs with its bureaus when necessary.

During this reporting period, the IRS Privacy Office (PO) worked with stakeholders on the pilot program Identity Theft Refund Fraud (IDTTRF) Information Sharing and Analysis Center (ISAC). The PO worked with the ISAC team to resolve issues relating to limiting PII, the contractor data center, and the development of an internal review process prior to posting on the ISAC site. The PO also worked with the IRS project office to prepare, complete and post PCLIA about three Private Collection Agencies (PCA). The PO assigned a senior manager and an analyst to the project office to address any privacy issues before the program was implemented in April of 2017. This resulted in the elimination of Social Security number collection on notices, an authentication stage, and replaced it with a unique account number. The unique account number will be used by the taxpayer and collection agency to authenticate taxpayers, contractors' safeguards, testing, and data sharing.

Furthermore, the IRS continues to improve the PCLIA process by incorporating all PCLIA types into the Privacy Impact Assessment Management System (PIAMS). PIAMS is now the IRS's single repository for all PCLIA/PIAs (System, SharePoint, Survey, Social Media, Qualifying Questionnaire, and Major Change Determinations) that allows the IRS to better manage, track, and report on these programs. It also reduces customer burden by making it easier for the customers to create, submit, and track these documents.

The IRS continues to perform quality measurement reviews that observe accuracy, completeness, and adherence with the plain language requirements in submitted PCLIA. The outcomes indicate average accuracy rates between 93% and 95% for each measure, and are used to improve the PCLIA process through additional training of both submitters and reviewers.

Lastly, the IRS began an innovative review of pre-award contract solicitations that involve PII to address the insertion of the correct privacy and disclosure clauses. Any concerns identified during the reviews will be addressed through communications and training for contracting officers and contracting officer's representatives.

7. Advice and Responses

Treasury provides privacy advice throughout the year to its bureaus and offices. Two examples of guidance are included below:

- a) Treasury updated and implemented the following templates to comply with the new Office of Management and Budget (OMB) Circular No. A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, guidance⁷ issued in December 2016:
 - Office of Federal Register SORN Template Full Notice,
 - Office of Federal Register Matching Notice Template Full Notice, and

⁷ <https://obamawhitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m17120.pdf>

- Office of Federal Register Matching Notice Template Notice Revision.
- b) The Office of the Comptroller of the Currency Privacy Program Office provided advice and guidance to the following teams regarding the new OMB M-17-12, *Preparing for and Responding to a Breach of Personally Identifiable Information* requirements⁸:
- The Data Breach Response Team, regarding new requirements in OMB M-17-12.
 - The Large Bank Supervision group, regarding updates to language in guidance documents related to the identification and access control to PII owned by the group.
 - The Acquisitions Management Group, regarding required updates to contract language.
 - The SharePoint system administrators, regarding a new process requiring site administrators to obtain privacy program office approval before creating any new SharePoint site used for the collection or storage of PII.

In each of the situations described above the advice was accepted and acted upon as required.

8. Privacy Complaints and Dispositions

For purposes of Section 803 reporting, complaints are written allegations of harm or violation of privacy compliance requirements filed with Treasury's privacy and civil liberties programs. The categories of complaints reflected in Appendix A are aligned with the categories detailed in the OMB Memorandum 08-21, *FY 2008 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management*. U.S. citizens, Legal Permanent Residents, visitors, and aliens may submit complaints.

9. Conclusions

As required by the 9/11 Commission Act, and in accordance with the Intelligence Authorization Act for Fiscal Year 2014, Pub. L. No. 113-126 (July 7, 2014), this semiannual report summarizes Treasury's privacy activities from October 1, 2016, through March 31, 2017. Treasury will continue to work with the Congress, colleagues in other federal departments and agencies, and the public to protect privacy in all of our efforts.

Attachments

⁸ https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12_0.pdf



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Reviews	
Type	Number
Privacy Threshold Analyses (PTAs)/Privacy Impact Assessments (PIAs)	PTA/59 PIA/100
System of Records (SOR) Routine Use/ SOR Notices (SORNs)	58
SSN Elimination or Redaction on Forms	25
Computer Matching Agreements (CMAs)	3
Section 508 Internet Website Scan	98%
Treasury-requested Non-Commerce/Commerce Site Scan	Non-Comm/ 26 Comm/ 26

Advice and Response		
Type	Number	Response
Provide advice to the Data Breach Response group on the new OMB M-17-12 order.	1	Accepted
Provide advice to update the contract language related to the issuance of OMB M-17-12.	1	Accepted
Provide advice to update the guidance language related to ID and access control to PII.	1	Accepted.
Provide advice to obtain Privacy Program approval for SharePoint site that collects and stores PII.	1	Accepted
Provide guidance on notices, letters, forms or systems to eliminate/reduce use of SSN.	1	Accepted
Provide advice on ways to reduce privacy risks by removing PII at the end of a contract.	1	Accepted

Complaints		
Type	Number	Dispositions
PRIVACY: Claims improper release of emails by staffs & union members	1	Resolved in favor of the Government
PRIVACY: Claims refusal to provide authority for PII collection; observe 1st & 14th rights.	1	Resolved in favor of the Government
CIVIL LIBERTIES: Claims violation of 5th amend Rights.	1	Resolved in favor of the Government
CIVIL LIBERTIES: Assertion for violating their 1, 4, 5, 8, 14 and 18 th Amendments rights.	9	Pending court date and final decision.
CIVIL LIBERTIES: District Court affirmed disallowing penalty against the debtor for failure to register a tax shelter	1	Resolved in favor of the plaintiff