

**DEPARTMENT OF HOMELAND SECURITY**

[DHS-2005-0055]

**Privacy Act of 1974; System of Records****AGENCY:** United States Department of Homeland Security (DHS).**ACTION:** Notice of Privacy Act System of Records.

**SUMMARY:** This notice addresses the previously established ENFORCE/IDENT Privacy Act system of records. Among other information, ENFORCE/IDENT stores biometric data collected for national security, law enforcement and other mission-related functions of the Department of Homeland Security. The Department proposes to change the categories of individuals from whom biometric information will be obtained in order to cover two new groups: (1) Individuals who apply for any form of automated or other expedited inspection for verifying eligibility to cross the borders into the United States; and (2) individuals who are permitted access to the sterile areas of airports after undergoing screening, including an immigration check, by the Transportation Security Administration. The Department also proposes to change the system manager for this record system.

**DATES:** Written comments must be submitted on or before April 19, 2006.**ADDRESSES:** You may submit comments, identified by DOCKET NUMBER DHS-2005-0055 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: (202) 298-5201.
- Mail: Steve Yonkers, US-VISIT Privacy Officer, 245 Murray Lane, SW., Washington, DC 20538; Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202-4220.

**FOR FURTHER INFORMATION CONTACT:**

Steve Yonkers, US-VISIT Privacy Officer, 245 Murray Lane, SW., Washington, DC 20538, by telephone (202) 298-5200 or by facsimile (202) 298-5201.

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) is publishing a revision in an existing Privacy Act system of records known as Enforcement Operational Immigration Records (ENFORCE/IDENT). The notice

for this system of records was last published in the **Federal Register** on December 12, 2003 (68 FR 69414).

ENFORCE/IDENT is a system of records that existed prior to the creation of DHS. It was part of the systems of records maintained by the Immigration and Naturalization Service when that agency was part of the Department of Justice, and it transferred to DHS with enactment of the Homeland Security Act of 2002, Public Law 107-296, 116 Stat. 2135 (Nov. 25, 2002). Although the system provides biometric identification services for many different types of enforcement operations and biometric screening programs at DHS, management of the system is now the responsibility of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program. The title of the System Manager has been changed in this notice to reflect this responsibility.

Because ENFORCE/IDENT amounts to a legacy system, it maintains functionality beyond the collection of biometric information and many of the categories of records already in the system pertain to law enforcement operations generally. The changes being proposed today, however, are prompted by the proposed collection of biometric data from additional populations. In particular, DHS proposes to add two categories of individuals from whom biometric information will be obtained: (1) Individuals who apply for any form of automated or other expedited inspection for verifying eligibility to cross the borders into the United States; and (2) individuals who are permitted access to the sterile areas of airports and seaports after undergoing screening by the Transportation Security Administration. The screening includes a check of immigration databases for which biometrics will be collected and stored in the IDENT record system.

Addition of the first category is based on the fact that DHS has proposed a consolidation of existing frequent traveler programs to expedite the processing of pre-approved, international, low-risk travelers effectively and efficiently through the border. Participation in the trusted traveler programs is completely voluntary, and the applicants agree to provide personal biographical and biometric data for the purposes of conducting law enforcement based background checks and criminal history checks to determine their "low-risk" status. The biometrics will be stored in ENFORCE/IDENT and will be used to conduct biometric based watchlist checks and to verify identity through biometric matching of an individual

against the biometrics submitted by the individual at a prior encounter.

Addition of the second category of individuals is based on the fact that the ENFORCE/IDENT database will maintain biometrics collected by the Transportation Security Administration, which is conducting immigration status checks for individuals who have unescorted access to the sterile areas of airports and seaports.

In addition to the biometrics collected for these two initiatives, ENFORCE/IDENT will maintain sufficient biographic information to facilitate the identification of the biometric information, and encounter data.

The revisions in this record system will result in additions to the categories of individuals covered by the system, but otherwise there should be no significant change in the system operation. Over time, however, DHS may change the architecture of the ENFORCE/IDENT to more closely align it with operational requirements. Such changes will be documented in privacy impact assessments and in further revisions, as necessary, to this system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system change to the Office of Management and Budget and to Congress.

**DHS/ICE-CBP-CIS-001-03****SYSTEM NAME:**

Enforcement Operational Immigration Records (ENFORCE/IDENT).

**SYSTEM LOCATIONS:**

Department of Homeland Security (DHS) field offices for the Bureau of Immigration and Customs Enforcement (ICE), Bureau of Customs and Border Protection (CBP), and the United States Citizenship and Immigration Services (USCIS); Service Centers; Border Patrol Sectors (including all offices under their jurisdiction); Ports of Entry; and Asylum offices and other offices as published in the **Federal Register** on October 17, 2002 (67 FR 64136) and on the Web page of each bureau (*i.e.*, <http://www.ice.gov>, <http://www.cbp.gov>, and <http://www.uscis.gov>); Transportation Security Administration, 601 S. 12th Street, Arlington, VA 22202-4220.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Categories of individuals covered by this consist of:

A. Individuals or entities who relate in any manner to investigations, inspections, apprehensions, detentions, patrols, removals, examinations, naturalizations, intelligence production, legal proceedings or other operations that implement and enforce the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) and related treaties, statutes, orders and regulations. Individuals who are respondents, representatives, or witnesses in administrative, civil penalty, or forfeiture proceedings, or defendants, representatives or witnesses in criminal prosecution or extradition proceedings.

B. Individuals who are obligors or representatives of obligors of bonds posted.

C. Individuals in distress who are located during search and rescue operations, and other immigration operations.

D. Individuals wanted by other law enforcement agencies, including Federal, state, local, tribal, foreign and international or individuals who are the subject of inquiries, lookouts, or notices by another agency or a foreign government.

E. Individuals who apply for immigration benefits and/or any form of automated or other expedited inspection for verifying eligibility to cross the borders into the United States.

F. Non-United States citizens and Non-Lawful Permanent Residents who present themselves for entry into and/or exit from the United States, including individuals subject to the requirements and processes of US-VISIT. Individuals covered under US-VISIT include those who are not United States citizens or Lawful Permanent Residents at the time of entry or exit or who are United States citizens or Lawful Permanent Residents who have not identified themselves as such at the time of entry or exit.

G. Nationals of countries that threaten to wage war, or are or were at war with the United States, and individuals required to register as agents of foreign governments in the United States.

H. Individuals who are subject to security screening by the Transportation Security Administration, which includes a check of immigration databases, in order to have access to the sterile areas of an airport or seaport.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system come directly from information collected from individuals during a DHS enforcement encounter or biometric identification/screening. Records collected from enforcement encounters generally include biographical data, including but not limited to name, aliases, date of

birth, phone numbers, addresses, nationality; personal descriptive data; biometric identifiers, including but not limited to fingerprints and photographs; any materials, information or data related to the subject individual's case, including but not limited to immigration history, alien registration and other identification or record numbers. Records collected from admission screening generally consist of biographic data, biometric data, and encounter data, including time, place, location, and travel document information.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103; 8 U.S.C. 1225(d)(3); 8 U.S.C. 1324(b)(3); 8 U.S.C. 1357(a); and 8 U.S.C. 1360(b).

#### PURPOSE(S):

This system of records is established and maintained to enable DHS to carry out its assigned national security, law enforcement, immigration control, and other mission-related functions and to provide associated management reporting, planning and analysis. Specifically, this system of records assists in identifying, investigating, apprehending, and/or removing aliens unlawfully entering or present in the United States; preventing the entry of inadmissible aliens into the United States; facilitating the legal entry of individuals into the United States; recording the departure of individuals leaving the United States; maintaining immigration control; preventing aliens from obtaining benefits to which they are not entitled; analyzing information gathered for the purpose of this and other DHS programs; or identifying, investigating, apprehending and prosecuting, or imposing sanctions, fines or civil penalties against individuals or entities who are in violation of INA, or other governing orders, treaties or regulations and assisting other Federal agencies to protect national security and carry out other Federal missions.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the appropriate agency/organization/task force, regardless of whether it is Federal, state, local, foreign, or tribal, charged with the

enforcement (*e.g.*, investigation and prosecution) of a law (criminal or civil), regulation, or treaty, of any record contained in this system of records which indicates either on its face, or in conjunction with other information, a violation or potential violation of that law, regulation, or treaty.

B. To other Federal, state, tribal, and local government law enforcement and regulatory agencies and foreign governments, and individuals and organizations during the course of an investigation or the processing of a matter, or during a proceeding within the purview of the immigration and nationality laws, to elicit information required by DHS to carry out its functions and statutory mandates.

C. To an appropriate Federal, state, local, tribal, international government agency in response to its request, in connection with the hiring or retention by such an agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting a contract, or the issuance of a license, grant, loan, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

D. To an actual or potential party or to his or her attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or discovery proceedings.

E. To a Federal, state, tribal or local government agency to assist such agencies in collecting the repayment or recovery of loans, benefits, grants, fines, bonds, civil penalties, judgments or other debts owed to them or to the United States Government, and/or to obtain information that may assist DHS in collecting debts owed to the United States government.

F. To the news media and the public when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

G. To a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

H. To the National Archives and Records Administration or other Federal

government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906.

I. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

J. To a former employee of the Department for purposes of: responding to an official inquiry by a Federal, state, or local government entity or professional licensing authority, in accordance with applicable department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information can be stored in case file folders, cabinets, safes, or a variety of electronic or computer databases and storage media.

**RETRIEVABILITY:**

Records may be retrieved by name; biometrics; identification numbers (including but not limited to alien number, fingerprint identification number, etc.); case related data and/or combination of other personal identifiers such as date of birth, nationality, etc.

**SAFEGUARDS:**

The system is protected through multi-layer security mechanisms. The protective strategies are physical, technical, administrative and environmental in nature and provide access control to sensitive data, physical access control to DHS facilities, confidentiality of communications, authentication of sending parties, and personnel screening to ensure that all personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

**RETENTION AND DISPOSAL:**

The following proposal for retention and disposal is pending approval with National Archives and Records Administration (NARA):

Records that are stored in an individual's file will be purged according to the retention and disposition guidelines that relate to the individual's file (DHS/ICE/USCIS001A). Electronic records for which the statute of limitations has expired for all criminal violations and that are older than 75 years will be purged. Fingerprint cards, created for the purpose of entering records in the database, will be destroyed after data entry. The I-877, and copies of supporting documentation, which are created for the purpose of special alien registration back-up procedures, will be destroyed after data entry. Work Measurement Reports and Statistical Reports will be maintained within the guidelines set forth in NCI-95-78-5/2 and NCI-85-78-1/2 respectively.

**SYSTEM MANAGER AND ADDRESS:**

Program Manager, IDENT Program Management Office, US-VISIT Program, U.S. Department of Homeland Security, Washington, DC 20528, USA.

**NOTIFICATION PROCEDURE:**

To determine whether this system contains records relating to you, write to the US-VISIT Privacy Officer, US-VISIT Program, Border and Transportation Security, U.S. Department of Homeland Security, 245 Murray Lane, SW., Washington, DC 20528, USA.

**RECORD ACCESS PROCEDURE:**

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access. A determination as to the granting or denial of access shall be made at the time a request is received. Requests for access to records in this system must be in writing, and should be addressed to the System Manager noted above or to the appropriate FOIA/PA Officer. Such request may be submitted either by mail or in person. The envelope and letter shall be clearly marked "Privacy Access Request." To identify a record, the record subject should provide his or her full name, date and place of birth; if appropriate, the date and place of entry into or departure from the United States; verification of identity (in accordance with 8 CFR 103.21(b) and/or pursuant to 28 U.S.C. 1746, make a dated statement under penalty of perjury as a substitute for notarization), and any other identifying information that may be of assistance in locating the record. He or she shall also provide a return address for transmitting the records to be released.

**CONTESTING RECORD PROCEDURES:**

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the granting or denial of a request shall be made at the time a request is received. An individual desiring to request amendment of records maintained in this system should direct his or her request to the System Manager of the appropriate office that maintains the record or (if unknown) to the appropriate FOIA/PA Officer at each bureau. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

**RECORD SOURCE CATEGORIES:**

Basic information contained in this system is supplied by individuals covered by this system, and other Federal, state, local, tribal, or foreign governments; private citizens, public and private organizations.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Secretary of Homeland Security has exempted this system from subsections (c)(3) and (4), (d), (e) (1), (2), and (3), (e)(4)(G) and (H), (e) (5) and (8), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, the Secretary of Homeland Security has exempted portions of this system from subsections (c)(3), (d), (e)(1), (e)(4)(G) and (H) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). These exemptions apply only to the extent that records in the system are subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

Dated: March 10, 2006.

**Maureen Cooney,**

*Acting Chief Privacy Officer, Department of Homeland Security.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Transportation Security Administration**

**Intent to Request Renewal From OMB of One Current Public Collection of Information: Aviation Security Customer Satisfaction Performance Measurement Passenger Survey**

**AGENCY:** Transportation Security Administration (TSA), DHS.