Privacy Impact Assessment Update
for the

United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT)

Inclusion of Form I-94 Data in the

Arrival and Departure Information System (ADIS)

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Abstract

This Privacy Impact Assessment (PIA) update for the Arrival and Departure Information System (ADIS) is necessary to 1) clarify that I-94 data from land points of entry (POEs) is stored in ADIS and not just in the Treasury Enforcement Communications System (TECS); and 2) notify the public of the extension of the collection and processing of Form I-94 data in ADIS to include air and sea POEs.

Introduction

The United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT) is a Department of Homeland Security (DHS) integrated, automated biometric entry-exit system that records the arrival and departure of certain aliens ("alien" is defined as any person not a citizen or national of the United States (U.S.)); conducts certain immigrations violation, criminal, and terrorist checks on aliens; and compares biometric identifiers to those collected on previous encounters to verify identity. The Arrival and Departure Information System (ADIS) is owned by US-VISIT although the data stored in the system is owned by the organization that collected it; ADIS simply houses the information for the owner. US-VISIT has published a number of privacy impact assessments (PIAs) that describe how US-VISIT operates and detail any privacy impacts and mitigations.[1] This PIA update 1) clarifies that I-94 data from land POEs is stored in ADIS and not just in the Treasury Enforcement Communications System (TECS); and 2) extends the collection and processing of Form I-94 data in ADIS to include air and sea POEs.

The above changes are the focus of this update. Details appearing in the September 14, 2005 PIA will not be repeated unnecessarily.

Reasons for the PIA Update

As part of an extension of US-VISIT functionality to process aliens through the land POEs, the Form I-94, Arrival/Departure Record, or Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Record[2], is completed by foreign visitors upon entry to the U.S. The arrival portion of the Form I-94 is retained by the Customs and Border Protection (CBP) officer and the departure portion of the Form I-94 is given to the visitor who keeps it until he or she departs from the U.S.

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[1] US-VISIT PIA, Increment 1, December 18, 2003 (69 FR 2608, January 4, 2004); US-VISIT PIA, Increment 2, September 14, 2004 (69 FR 57036, September 26, 2004); US-VISIT PIA, International Live Test, June 15, 2005 (70 FR 35110, June 16, 2005); US-VISIT PIA, Exit, July 1, 2005 (70 FR 39300, July 7, 2005); US-VISIT PIA, Update, December 22, 2005 (71 FR 3873, January 24, 2006); US-VISIT PIA, Update, March 14, 2006; US-VISIT PIA, Update, July, 12, 2006 (71 FR 4263, July 27, 2006); US-VISIT PIA, E-Passport Program, August 18, 2006. All PIAs are available from the DHS Privacy Office website, www.dhs.gov/us-visit.

[2] In addition to the regular Form I-94 Arrival/Departure Record there are two variants. Form I-94W, the Nonimmigrant Visa Waiver Arrival/Departure Form is completed by every nonimmigrant visitor not in possession of a visitor's visa, who is a national of a Visa Waiver Program country as enumerated in 8 CFR 217. Prior to August 2003 when the U.S. government suspended the Transit Without Visa program (for national security reasons), Form I-94T was used for persons in the Transit Without Visa program for travel through the U.S. to a non-U.S. destination with less than eight hours in the U.S.

I-94 Storage in ADIS

The September 2005 US-VISIT PIA Update stated that the Form I-94 data was collected and submitted to TECS and to the Nonimmigrant Information System (NIIS)[3] and the departure portion of the Form I-94 was automatically printed. The September 2005 PIA also stated that the Form I-94 data was not captured or used for US-VISIT purposes. However, after a regular system review, this was discovered to be incorrect. The Form I-94 data from the land POEs was, and is, transmitted and stored in ADIS and is used to help validate whether a nonimmigrant visitor has possibly remained beyond his or her authorized period of stay.

Air and Sea POEs

As part of the ongoing process to improve the reliability of the system to credibly identify nonimmigrant overstays, US-VISIT will begin to collect the data from all Form I-94s. This includes Form I-94 data CBP currently provides to US-VISIT from land POEs and expanding to Form I-94 data processed at air and sea POEs as well as Form I-94 additions, deletions, and updates related to normal Form I-94 processing.

Privacy Impact Analysis

Data Collection and Use

I-94 Storage in ADIS

The change necessitating this PIA is the retention of a copy of the Form I-94 data in ADIS. The Form I-94 data is collected and maintained in TECS to support the normal business process of documenting certain nonimmigrant visitors' lawful admission into and departure from the U.S. US-VISIT is not collecting additional types of data from individuals. All of the data elements, with the exception of the admission number, on the Form I-94 are currently collected through electronic carrier manifests and by CBP officers at the ports of entry and are already available in ADIS. These existing sources do not always capture all arrivals and departures, and in some cases, the data that is captured may not be as reliable as the data on the Form I-94. Because ADIS does not have access to complete arrival and departure data it is difficult to determine,with a high rate of confidence, whether a particular individual who is identified in the system has overstayed his or her visit. Using this data will reduce the number of erroneous system-identified overstays and will benefit most nonimmigrant visitors, because it will improve the system's ability to identify more reliably their immigration status. In many cases this additional data will provide the missing data that will clearly establish that they have not overstayed their visit.

Additionally, the process of capturing much of the Form I-94 data electronically and allowing the visitor the opportunity to correct the data means that that data does not have to be manually entered. This enhances the integrity of the data by reducing the opportunity for data entry errors.

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[3] NIIS data and functionality have been migrated and are now completely maintained within TECS.

Air and Sea POEs

The collection of data from air and sea POEs will involve an expanded population base and therefore more data flowing into ADIS. This expansion will increase the accuracy of information and overall data integrity of ADIS because some visitors enter via land border and leave by air or sea or vice versa. As stated below in the Security analysis, ADIS is capable of taking on additional information with the current safeguards and security measures. User access and transmission encryption, among other security measures, help to mitigate risks associated with expanded collection.

Data Disclosure

The Form I-94 data, as collected by CBP and provided to US-VISIT for storage in ADIS, is principally shared with CBP, Immigration and Customs Enforcement (ICE), and United States Citizenship and Immigration Service (USCIS). Information may also be shared with other organizations for purposes as described in the ADIS system of records notice (SORN)[4] including national security, law enforcement, immigration control, and other mission-related functions. While any sharing of data increases the potential for compromising that data and creates new opportunities for misuse, US-VISIT has mitigated these vulnerabilities by working closely with CBP, ICE, and USCIS to develop secure standard operating procedures for sharing this data. Only those individuals with both the authority and need to know are provided access. Furthermore, the data and access is limited using role-based access controls or a limited technical interface. In all cases of data sharing, organizations are required to comply with the Department's security policies and procedures so as to augment data safeguarding and privacy risk mitigations.

Notice

Notice of the collection of Form I-94 data is given by CBP and Department of State (DOS) web-sites. Notice that the Form I-94 will be stored and used in ADIS is provided by means of the publication of this PIA on the DHS web site and with an announcement of the PIA publication in the Federal Register. ADIS is covered by System of Records Notice, DHS/ICE-CBP-001, 68 FR 69412-69414 (December 2003).

Informed Consent

As described in previous PIAs and the SORNs, the collected data is used only for national security, law enforcement, immigration control, and other mission-related functions. Individuals have no opportunity to consent to or refuse the use of their data for any of these purposes, as this collection is mandated by law.

Redress

The data on the Form I-94 is either directly collected from the visitor who manually fills out the form or the Form I-94 data is printed from data captured on entry. Individuals are given the opportunity to correct the form if the data has been electronically captured at the time of collection. Because the original Form I-94 data is maintained by CBP in TECS and only a copy of the data is maintained in ADIS, once the data has been captured individuals may request access to their data through the CBP redress process.

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[4] 68 FR 69412, ADIS System of Records Notice, December 12, 2003.

The Department of Homeland Security's Travel Redress Inquiry Program (DHS TRIP) is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs--like airports and train stations--or crossing U.S. borders, including: denied or delayed airline boarding , denied or delayed entry into and exit from the U.S. at a port of entry or border checkpoint, or continuously referred to additional (secondary) screening. DHS TRIP is a central gateway to address: watch list misidentification issues, situations where travelers believe they have faced screening problems at ports of entry, and situations where travelers believe they have been unfairly or incorrectly delayed, denied boarding or identified for additional screening at our nation's transportation hubs.

DHS TRIP is part of an effort by the State Department and Homeland Security to welcome legitimate travelers while still securing our country from those who want to do us harm. Redress requests may be filed online through the TRIP website (www.dhs.gov/trip).

Security

ADIS operates in a secured environment and only a limited number of individuals have access to the system. Even when the Form I-94 data is shared with ICE, CBP, or USCIS it has extremely limited distribution. ADIS has gone through the Certification and Accreditation process and is operating under an authority to operate that was issued in October 2006 and expires October 2009. With the amount of data being captured by ADIS, US-VISIT reviewed its existing security controls and determined that these sufficiently and appropriately handled the increased personally identifiable information. In addition, US-VISIT uses a privacy risk management process based on information life cycle analysis and fair information principles. US-VISIT continues to employ all security controls, as described in early PIAs, including such things as access controls, system user education and training, transmission encryption.

Conclusion

The addition of the Form I-94 data into ADIS for the purpose of improving the capability of the system to more reliably identify nonimmigrant visitors' immigration status, including whether a nonimmigrant visitor has remained in the U.S. beyond his or her authorized stay, creates no significant privacy risks. In fact, the addition of this data will improve data integrity and allow for more accurate determinations of nonimmigrant visitors' immigration status, thereby reducing the potential for incorrect decisions being made on erroneously identified overstays.

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Approval Signature Page

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