

What is a Privacy Act Statement?

The Privacy Act of 1974, 5 USC 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). Department of Homeland Security (DHS) policy is to provide a Privacy Act Statement regardless of whether the collection is part of a system of records or not. All Privacy Act statements must be reviewed by the Privacy Office or component Privacy Officer.

Drafting a Privacy Act Statement

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.

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.

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.

Submit Privacy Act Statements to the Privacy Office for final review and approval at pia@dhs.gov.

Example of an (e)(3) statement:

Privacy Act Notice

Authority: 49 U.S.C. §114 authorizes the collection of this information.

Purpose: DHS will use this information to conduct a security threat assessment on airport employees and other personnel or applicants who work in or have unescorted access to the Airport Operating Area (AOA), secured area, sterile area, Security Identification Display Area (SIDA), or any area for which the airport has issued a personnel identification media.

Routine Uses: The information will be used by and disclosed to DHS personnel and contractors or other agents who need the information to assist in activities related to aviation security. Additionally, DHS may share the information with facility operators, law enforcement or other government agencies as necessary to respond to potential or actual threats to transportation security, or pursuant to its published Privacy Act system of records notice.

Disclosure: Furnishing this information (including your SSN) is voluntary; however, failure to furnish the requested information may delay or prevent the completion of your security threat assessment, which may prevent your access to the AOA, secured area, sterile area, SIDA, or other area or purpose for which personnel identification media are issued.