

## USCIS Information Sharing and Privacy-Related Issues

### Background

The USCIS Office of Privacy is responsible for ensuring that personally identifiable information USCIS collects, maintains, and uses is protected and disclosed within the bounds of law, policy, and mission necessity. USCIS receives requests for data from internal and external partners. The Office of Privacy plays a critical role in ensuring the data collected and stored in USCIS systems of records is protected under the Privacy Act of 1974, statutory, regulatory, and DHS policies.

### Current Status

- **USCIS actively shares information with DHS and external partners.** USCIS enters into information sharing agreements with federal and state agencies, federal law enforcement, intelligence, foreign government, and benefit granting agencies. The Office of Privacy supports the development of the agreements and any alterations to the agreement through the lifecycle of the arrangement.

Requests for Information (RFIs) meeting certain criteria established by DHS are processed through the Single Point of Service (SPS) with DHS Office of Intelligence and Analysis (I&A) as the lead and the USCIS Fraud Detection and National Security Directorate (FDNS), Intelligence Division (ID) as the designated data steward. FDNS consults with the Office of Privacy on non-routine requests.

USCIS also shares information through ad-hoc requests made by partners from federal, state, local, tribal, and territorial authorities through our Field Operations. Requests are typically for application status, either directly by the affected individual or by third party representation, to include legal representation.

- **Data sharing needs to continue to increase and evolve.** Protecting the country from ever-evolving, transnational threats requires a strengthened homeland security enterprise that shares information across traditional organizational boundaries. DHS continues to enter into information sharing agreements with

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additional partners to ensure that it uses all available permissible information available for a secure homeland. DHS and DHS Components are expected to reciprocate by making DHS information available to information sharing partners.

## **Challenges**

**Special Protected Classes:** USCIS administers benefits for certain individuals who are afforded additional statutory, regulatory, and policy restrictions on disclosure beyond the Privacy Act of 1974. With the expanding sharing of data through automated methods, USCIS is challenged to develop the appropriate controls and filtering for each data set.

- **Sharing immigration information for purposes beyond the immigration process.** One challenge for the Office of Privacy is ensuring the data collected for immigration purposes is shared appropriately and in compliance with the Privacy Act of 1974.
- **Ensuring that information shared is continually protected by the partner.** Privacy protections must extend to all data sharing partners. While information sharing agreements outline the restrictions on use, without effective auditing of the partner's handling of the data, USCIS cannot guarantee the partner is in compliance. RFI data exchanges rarely include restrictions on use of the data.
- **One DHS Policy:** The DHS Policy for Internal Information Exchange and Sharing, known as "One DHS," presumes that DHS components are considered one agency for purposes of sharing under the Privacy Act. However, given the sensitivity of certain USCIS data and restrictions on sharing, USCIS has adopted a best practice of memorializing certain types of internal sharing through formal information sharing and access agreements even where there is not a specific policy requirement to do so. In doing this, there remains a risk that program personnel may be unaware that such agreements exist and may assume that data can be shared per the "One DHS" rule without restriction.
- **Consent for Third Party Disclosure:** Individuals request for their information to be disclosed to a third party. There is currently no approved form for individuals

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to consent to this sharing (in cases when there is not an applicable Privacy Act exception and the records subject is not available to release the records himself).

**Milestones**

(b)(5) Recent and future milestones related to the information sharing and privacy-related issues include:

Recent creation of Information Sharing Officer position (Completed FY16 Q3);

- Domestic Law Enforcement: transition from direct connection to the Department of Justice's Next Generation Identification (NGI) to going through IDENT to allow more control over data sharing;

