

# **The Privacy Act of 1974**

The Privacy Act of 1974, 5 U.S.C. §552a, governs an agency's collection, storage, and use of information about an individual. The Privacy Act protects the privacy of individuals by establishing fair information practices for the collection, maintenance, use, and dissemination of information by federal agencies.

## **Frequently Asked Questions**

### **Who is an individual for the purposes of the Privacy Act?**

A (living) citizen of the United States or an alien lawfully admitted for permanent legal residence.

- Deceased individuals are not covered by the Privacy Act, and their executors or next-of-kin can not pursue a Privacy Act claim on their behalf.
- Corporations and organizations are not covered by the Privacy Act.

### **What kind of information is covered by the Privacy Act?**

- The Privacy Act allows an agency to maintain information about an individual that is relevant and necessary to the purpose of the agency as required by statute or by Executive Order of the President.
- Any grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph is considered a record for the purposes of the Privacy Act.

### **Where records collected under the Privacy Act be stored?**

Information collected under the Privacy Act must be stored in a Privacy Act System of Records. The Privacy Act requires agencies to publish in the Federal Register and report to Congress when a new system of records is proposed or significant changes are made to a previously established system.

- DOE's Privacy Act Systems of Records are compiled in the Federal Register, 73 Fed. Reg. 64, 18043 (April 2, 2008).

### **How can the Agency use information collected under the Privacy Act?**

*No disclosure without consent rule* – Under the Privacy Act, with limited exceptions, no agency or person shall disclose any record which is contained in a system of records by any means of

communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

- An individual has a right of access to his or her own records - An individual is allowed to gain access to his record or to any information pertaining to him which is contained in the system. Such a request for access must be in writing and signed and addressed to the appropriated DOE activity maintaining the information.

## **Potential Liability Under the Privacy Act**

Non-compliance with the Privacy Act carries criminal and civil penalties. You may be liable if you knowingly and willfully (1) obtain or request records under false pretenses, (2) disclose privacy data to any person not entitled to access, or (3) maintain a “system of records” without meeting Federal Register notice requirements.