



DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS-2013-0073]

Privacy Act of 1974; Department of Homeland Security, Federal Emergency Management Agency, Federal Government- 001 National Defense Executive Reserve System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, “Department of Homeland Security/Federal Emergency Management Agency/Federal Government - 001 National Defense Executive Reserve System of Records.” This system allows the Department of Homeland Security/Federal Emergency Management Agency to collect and maintain records pertaining to applicants for and members of the National Defense Executive Reserve. As a result of the biennial review of this system, this system of records notice has been updated within the (1) categories of records to include the collection of employer and/or supervisor name and title; and (2) routine uses “A,” “C,” and “E”, which have been revised for clarity. Additionally, this notice includes other non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in the Department of Homeland Security’s inventory of record systems.

DATES: Submit comments on or before [insert date (30) days after publication in the FEDERAL REGISTER]. This updated system will be effective [insert date (30)

days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2013-0073 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: (202) 343-4010.

Mail: Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

INSTRUCTIONS: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at <http://www.regulations.gov>, including any personal information provided.

DOCKET: For access to the docket to read background documents or comments received, please visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Eric Leckey, (202) 212-5100, Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, D.C. 20478. For privacy issues, please contact: Karen L. Neuman, (202) 343-1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) proposes to update and reissue a current DHS system of records titled, “DHS/FEMA/GOVT - 001 National Defense Executive Reserve System of Records.”

The National Defense Executive Reserve program is a government-wide program administered by DHS/FEMA that recruits and trains individuals to serve the government in key executive positions during national emergencies. Individuals in the National Defense Executive Reserve voluntarily apply for assignments. Some individuals are federal government employees, and others are private sector or state government employees who would not be considered federal government employees unless asked to perform emergency duties after the President of the United States declares a mobilization. Assignments are made in three year increments and may either be redesignated or terminated. Individuals may voluntarily terminate at any time. This system of records allows DHS/FEMA to collect and maintain records regarding applicants for and members of the National Defense Executive Reserve. The collection and maintenance of this information assists DHS/FEMA in coordinating and administering the National Defense Executive Reserve.

The update reflects the addition of employer and/or supervisor name and title as a category of records. Limited employer or supervisor information is included on National Defense Executive Reserve applications to supplement applicant information and provide information on the applicant's employment history.

This updated notice clarifies three routine uses. The notice updates routine use "A" to apply when DHS employees or former employees are involved in litigation; routine Use "C" to include disclosure to the General Services Administration; and routine use "E" to clarify the language.

Consistent with DHS's information-sharing mission, information stored in the DHS/FEMA/GOVT - 001 National Defense Executive Reserve System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or

other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/FEMA/GOVT - 001 National Defense Executive Reserve System of Records.

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

System of Records

Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA)/Federal Government (GOVT) - 001

System name:

DHS/FEMA/GOVT – 001 National Defense Executive Reserve System.

Security classification:

Unclassified.

System location:

Records are maintained at the FEMA Headquarters in Washington, D.C., field offices, or other designated offices located at the local installation of the department or agency that currently employs the individual.

Categories of individuals covered by the system:

Categories of individuals include applicants for and members of the National Defense Executive Reserve assignments, and the applicants' supervisors.

Categories of records in the system:

Categories of records in this system include:

- Individual's name;
- Social Security number;
- Home mailing address;
- Home telephone number;
- Home e-mail address;
- Date of birth;
- Birthplace;
- Employment experience;
- Employer/supervisor name and title;
- Professional memberships; and
- Other personnel and administrative records, skills inventory, training data, and other related records necessary to coordinate and administer the program.

Authority for maintenance of the system:

Defense Production Act of 1950, Exec. Order 11179, September 22, 1964, as amended by Exec. Order 12148, July 20, 1979; and Exec. Order 9397, November 22, 1943, as amended by Exec. Order 13478, November 18th, 2008.

Purpose(s):

The purpose of this system is to collect and preserve records regarding applicants for and members of the National Defense Executive Reserve. The collection and maintenance of this information assists the federal government and DHS/FEMA in coordinating and administering the National Defense Executive Reserve.

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 of 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 Department of Justice (DOJ), including U.S. Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. 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 about whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the Association of the National Defense Executive Reserve and the National Defense Executive Reserve Conference Association to facilitate training and relevant information dissemination efforts for reservists in the National Defense Executive Reserve.

I. To an appropriate federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit.

J. To an appropriate federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to a DHS decision concerning the hiring or retention of a National Defense Executive Reserve applicant or executive.

K. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

L. To the news media and the public, with the approval of the Chief Privacy Office in consultation with counsel, 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 DHS or is necessary to demonstrate the accountability of DHS'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.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, or digital media.

Retrievability:

Records may be retrieved by individual's name, Social Security number, specific skill area of the applicant, or agency.

Safeguards:

DHS/FEMA safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

Case files on reservists are maintained in accordance with Item 29a, GRS 18, Security and Protective Services Records, and destroyed five years after termination from the National Defense Executive Reserve (NDER) program. Case files on individuals whose applications were rejected or withdrawn are destroyed when five years old in accordance with Item 29b, GRS 18.

System Manager and address:

Associate Director, National Preparedness Directorate, Federal Emergency Management Agency, Washington, D.C. 20472, will maintain a computerized record of all applications and assignments of National Defense Executive Reserve reservists for the Federal Government as well as the personnel files for all individuals assigned to the Federal Emergency Management Agency. The departments and agencies will maintain their own personnel records on those individuals assigned to their respective department or agency.

Notification procedure:

Individuals wishing to inquire whether this system of records contains information about themselves should submit their inquiries to:

- (a) NDER applicants/assignees to DHS/FEMA—Federal Emergency Management Agency, Associate Director, National Preparedness Directorate, Washington, D.C. 20472; or
- (b) FEMA FOIA Office whose contact information can be found at <http://www.dhs.gov/foia> under “Contacts.”

If a NDER applicant believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of

Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0655,
Washington, D.C. 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 C.F.R. Part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you; and
- Specify when you believe the records would have been created.

Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See “Notification procedure” above.

Contesting record procedures:

See “Notification procedure” above.

Record source categories:

Records are obtained from the individuals to whom the record pertains. Prior to being designated as an National Defense Executive Reserve reservist, the applicant must successfully complete a background investigation conducted by the Office of Personnel Management, which may include reference checks of prior employers, educational institutions attended, police records, neighborhoods, and present and past friends and acquaintances.

Exemptions claimed for the system:

None.

Dated: November 6, 2013

Karen L. Neuman

Chief Privacy Officer,

Department of Homeland Security.

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