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DEPARTMENT OF VETERAN AFFAIRS

Privacy Act Of 1974; System of Records

AGENCY: Department of Veteran Affairs (VA)

ACTION: Notice of Amendment to System of Records

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a(e) (4)) all agencies are required to publish in the Federal Register a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled "Freedom of Information Act (FOIA) Records-VA" 119VA005R1C.

DATES: Comments on the amendment of this system of records must be received no later than **[INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If no public comment is received, the new system will become effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments may be submitted through www.Regulations.gov by mail or hand-delivery to the Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B,

between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at www.Regulations.gov.

FOR FURTHER INFORMATION CONTACT: Director VA FOIA Service (005R1C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 632-7453.

SUPPLEMENTARY INFORMATION:

As required by the Privacy Act of 1974 (5 U.S.C. 552a(e) (4), (11)), notice is hereby given that the Department of Veterans Affairs (VA) is amending an existing system of records entitled "Freedom of Information Act (FOIA) Records-VA" (119VA005R1C). The amended system of records is adding a Routine Use number 12, amending Categories of Individuals Covered by the System, Categories of Records in the System and Exemptions Claimed for the System.

The notice of intent to publish, and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

SIGNING AUTHORITY

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, approved this document on October 15, 2015, for publication.

Dated: October 21, 2015.

Kathleen M. Manwell,
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VA Privacy Service,
Office of Privacy and Records Management,
Department of Veterans Affairs.

119VA005R1C

SYSTEM NAME: Freedom of Information Act (FOIA) Records-VA

SYSTEM LOCATION:

Records are maintained at the VA Central Office FOIA Offices, 810 Vermont Avenue, NW, Washington, DC 20420; AINS, Inc., 1355 Piccard Drive, Rockville, MD 20850, and all VA field facilities. A list of the field facilities may be found at the following Internet address: <http://www2.va.gov/directory/guide/home.asp>.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with VA:

- a. Requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests.
- b. Requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves where the FOIA is also relied upon to process the request and which then meet the Department of Justice's (DOJ) standard for required reporting in the Annual FOIA Report to the Attorney General of the United States.
- c. All persons who have requested records from VA under the provisions of the Freedom of Information Act (FOIA); all persons whose requests for records have been referred to VA by other Federal agencies; and all

persons who have submitted appeals to the Secretary of VA under the provisions of the FOIA.

- d. All persons about whom information has been requested under the provisions of the FOIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by individuals to VA for:

- a. Information under the provisions of the Freedom of Information Act (5 U.S.C 552), including requests for review of initial denials of such requests.
- b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under VA's Privacy Act regulations regarding requests for records about themselves where the FOIA is also relied upon to process the request and which then meet the Department of Justice's (DOJ) standard for required reporting in the Annual FOIA Report to the Attorney General of the United States.
- c. Name, home address, telephone number, e-mail address, FOIA case numbers assigned to individual cases, and appeals, FOIA requests and appeals, responses to requests (including unredacted and redacted responsive records), determinations of appeals, correspondence with requesters and with other persons who have contacted VA in connection with requests or appeals other than requesters or other memoranda and correspondence in connection with requests or appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the following with any revisions and amendments:

The Privacy Act of 1974 (5 U.S.C. 552a); the Freedom of Information Act, as amended (5 U.S.C. 552); 5 U.S.C. 301; and 38 U.S.C. 501.

PURPOSE(S):

The system is maintained for the purpose of processing an individual's record request made under the provisions of the Freedom of Information and Privacy Acts. These records are also used by VA to prepare reports required by the Freedom of Information and Privacy Acts to the Office of Management and Budget and the Department of Justice. The proposed system of records will assist the Department of Veterans Affairs in carrying out its responsibilities under the Freedom of Information and Privacy Acts. The records maintained in the proposed system can originate in both paper and electronic format.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

System information may be accessed and used by authorized VA employees, with a legitimate need to know, to conduct duties associated with the management and operation of the FOIA-PA program. Information may also be disclosed as a routine use for the following purposes:

1. VA may disclose information from this system of records to the Office of Management and Budget (OMB) for the performance of its statutory responsibilities for evaluating Federal programs.
2. VA may disclose information from this system of records to the Department of Justice (DOJ), either on VA's initiative or in response to DOJ's request for the information, after either VA or DOJ determines that such information is relevant to DOJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DOJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.
3. VA may disclose information from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.
4. VA may disclose information from this system to the National Archives and Records Administration (NARA) and General Services Administration

(GSA) in records management inspections conducted under Title 44 U.S.C.

5. VA may disclose information from this system of records to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has a contract or agreement to perform services under the contract or agreement.
6. VA may, on its own initiative, disclose information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On its own initiative, VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

7. VA may disclose information from this system to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.
8. VA may disclose information from this system to the Merit Systems Protection Board (MSPB), or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.
9. VA may disclose information from this system to the Federal Labor Relations Authority (FLRA), including its General Counsel, information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; for it to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.
10. VA may, on its own initiative, disclose information from this system to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system

of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

11. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.
12. To the National Archives and Records Administration Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(b), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,
RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

STORAGE:

Electronic data are maintained on Direct Access Storage Devices at AINS Inc., 1355 Piccard Drive, Rockville, Maryland. AINS Inc. stores registry tapes for disaster back up at the storage location. Registry tapes for disaster back up are also maintained at an off-site location. VA Central Office and VA field facilities also maintain paper reports and electronic data.

RETRIEVABILITY:

Records are indexed by name of requester, date and any other identifier deemed appropriate.

SAFEGUARDS:

This list of safeguards furnished in this System of Records is not an exclusive list of measures that has been, or will be, taken to protect individually-identifiable information.

All records are maintained in compliance with applicable VA security policy directives that specify the standards that will be applied to protect sensitive personal information, including protection from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who have a need-to-know, using locks and password protection identification features.

Authorized personnel are required to take annual VA mandatory data privacy and security training. Access to data storage areas is restricted to authorized VA employees or contract staff who have been cleared to work by the VA Office of Security and Law Enforcement. File areas are locked after normal duty hours. VA facilities are protected from outside access by the Federal Protective Service and/or other security personnel. Security complies with applicable Federal Information Processing Standards (FIPS) issued by the National Institute of Standards and Technology (NIST). Contractors and their subcontractors who access the data are required to maintain the same level of security as VA staff. Access to electronic files is controlled by using an individually unique password entered in combination with an individually unique user identification code.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States. Routine records will be disposed of when the agency determines they are no longer needed for administrative, legal, audit or other operational purposes. These retention and disposal statements are pursuant to the National Archives and Records Administration (NARA) General Record Schedules GRS-20, item 1c and GRS 24, item 6a.

SYSTEM MANAGER(S) AND ADDRESS:

Director, FOIA Service (005R1C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, D.C. 20420

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personnel identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA facility where the request or appeal was submitted or to the Director, FOIA Service (005R1C), 810 Vermont Avenue, NW, Washington, DC 20420. Such requests must contain a reasonable description of the records requested. Inquires should also include the following:

- a. Name
- b. Telephone Number and Return Address
- c. Date of Request or Appeal

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records maintained under his or her name may write or visit the nearest VA facility or write to their regional VA Public Liaison/FOIA officer listed at http://www.foia.va.gov/FOIA_Contacts.asp.

CONTESTING RECORDS PROCEDURES:

(See "Record Access Procedures above.")

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the following: requests and administrative appeals submitted by individuals and organizations pursuant to the FOIA and Privacy Acts; VA personnel assigned to handle such requests and appeals; Agency records searched and identified as responsive to such requests and appeals; and requests referred by Agencies or other entities concerning VA records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

During the course of a FOIA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this FOIA case record, VA hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records of which they are a part.

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