

to make an informed decision on whether or not to respond.⁶⁰

The Privacy Act statement shall include a plain-language description of:

- (1) the authority (whether granted by statute or executive order) that authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;
- (2) the principal purpose(s) for which the information is intended to be used;
- (3) the published routine uses to which the information is subject;⁶¹
- (4) the effects on the individual, if any, of not providing all or any part of the requested information; and
- (5) an appropriate citation (and, if practicable, a link) to the relevant SORN(s).

7. Reporting Systems of Records to OMB and Congress

- a. **General.** The Privacy Act requires each agency that proposes to establish or significantly modify a system of records to provide adequate advance notice of any such proposal to OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.⁶² This advance notice is separate from the public comment period for new or modified routine uses required by subsection (e)(11) of the Privacy Act and discussed in section 6 of this Circular. Agencies provide advance notice to OMB and the committees of jurisdiction in Congress in order to permit an evaluation of the probable or potential effect of such a proposal on the privacy or other rights of individuals.⁶³
- b. **Advance Notice of a New or Modified System of Records.** Agencies shall report to OMB and Congress any proposal to establish or significantly modify a system of records at least 30 days prior to the submission of the notice to the *Federal Register* for publication. OMB will have 30 days to review the proposal and provide any comments to the agency. The 30-day review period is separate from – and may not run concurrently with – the publication period in the *Federal Register*. Only significant changes to a system of records that require a

⁶⁰ See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,961 (July 9, 1975), available at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf.

⁶¹ When describing the routine uses in the Privacy Act statement, agencies shall tailor the scope and content of the description in order to provide the most effective notice to the public. Agencies generally need not restate the full text of the published routine uses or provide a lengthy list of routine uses to which the information is subject. Rather, agencies may provide a plain-language summary of the routine uses and provide a link to the website where the full list of routine uses is available. See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,961-62 (July 9, 1975), available at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf.

⁶² See 5 U.S.C. § 552a(r).

⁶³ See *id.*

revision to the SORN, as described in section 6 of this Circular, need to be reported to OMB and Congress; changes that are not significant do not need to be reported.

Advance notice to OMB and Congress is required by subsection (r) of the Privacy Act. The purpose of the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals.⁶⁴ Although the review period will generally require no more than 30 days, OMB has the discretion to extend the 30-day review period based on the specific circumstances of the proposal. If an agency has questions about the timing of the review, the agency shall consult with OIRA.

In circumstances where it is not feasible for the agency to wait until the 30-day review period for OMB and Congress has expired to publish the notice in the *Federal Register*, the agency may submit a formal written request from the Senior Agency Official for Privacy to OIRA for an expedited advance review period (see section 7(d) of this Circular for information about expedited review requests).

*Illustration of Standard Review Process for Systems of Records*⁶⁵

Agency Action	Explanation	Timing
The agency submits report to OMB and Congress at least 30 days before publication of the notice in the <i>Federal Register</i> .	OMB and Congress have the opportunity to evaluate the probable or potential effect of such a proposal on the privacy or other rights of individuals.	Day 1
After incorporating any comments from OMB – and unless OMB provides instructions to the contrary – the agency may publish the notice in the <i>Federal Register</i> and solicit comments from the public.	Notices published in the <i>Federal Register</i> after review by OMB and Congress are effective upon publication, with the exception of any new or modified routine uses. New or modified routine uses require a minimum of 30 days after publication in the <i>Federal Register</i> before they can become effective.	Day 31
The 30-day public comment period closes and the agency reviews and considers any comments received. If no changes to the notice are necessary, the notice remains effective and any new or modified routine uses become effective.	If the agency receives public comments, the agency shall review the comments to determine whether any changes to the notice are necessary. If the agency determines that significant changes are necessary, the agency will need to begin the review process again.	Day 61

⁶⁴ See Privacy Act Implementation: Guidelines and Responsibilities, 40 Fed. Reg. 28,948, 28,977 (July 9, 1975), available at http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/implementation_guidelines.pdf.

⁶⁵ OMB is providing this table to illustrate the steps of the standard review process. The actual timing of the process will depend on the specific circumstances of the proposal, the agency's internal review and clearance procedures, the review process for any Privacy Act exemption rules, and the logistics of *Federal Register* publication.

c. ***Instructions for Reporting a New or Modified System of Records.*** Agencies are required to report to OMB and Congress any proposal to establish or significantly modify a system of records. Agencies shall report proposals to the committees of jurisdiction in Congress by messenger or by mailing the reports to the addresses provided below. Agencies shall report proposals to OMB using OMB's specific web-based portal, as described below. Agencies shall not mail or messenger paper versions of the report to OMB. Submission of the report to OMB will officially start the 30-day advance review period.

(1) *House of Representatives.* Agencies shall submit reports to the chair of the House Committee on Oversight and Government Reform, 2157 Rayburn House Office Building, Washington, DC 20515.

(2) *Senate.* Agencies shall submit reports to the chair of the Senate Committee on Homeland Security and Governmental Affairs, 340 Dirksen Senate Office Building, Washington, DC 20510.

(3) *OMB.* Agencies shall submit reports to OMB using the web-based portal jointly developed by OIRA and the General Services Administration's (GSA) Regulatory Information Service Center (RISC). This web-based portal, the RISC/OIRA Consolidated Information System (ROCIS), was developed to facilitate the submission and review of regulations and other agency materials.⁶⁶ For detailed instructions on how to use ROCIS to submit reports to OMB, agencies shall consult the user manuals available on the ROCIS website or register for the training classes conducted by RISC at GSA headquarters.⁶⁷

d. ***Request for Expedited Review of a New or Modified System of Records.*** Although agencies are required to provide adequate advance notice of any proposal to establish or significantly modify a system of records, there may be circumstances where it is not feasible for the agency to wait until the 30-day review period has expired to publish a notice in the *Federal Register*. In such cases, the agency may submit a formal written request from the Senior Agency Official for Privacy to OIRA for an expedited OMB review period. The request shall be included in the transmittal letter that the agency submits to OIRA in ROCIS. The request shall demonstrate the agency's specific and compelling need for the expedited review, indicate why the agency cannot meet the established review period, and explain the consequences if the request is not granted.

When OIRA grants an agency's request for expedited review, the agency will be allowed to publish the notice in the *Federal Register* after the expedited OMB review period. When OIRA does not grant an agency's request for expedited review, the normal OMB review process will proceed. Agencies shall note that OMB may not waive the explicit requirement

⁶⁶ See RISC/OIRA Consolidated Information System (ROCIS), available at <https://www.rocis.gov/>.

⁶⁷ All ROCIS user manuals and training information are available on the ROCIS website at <https://www.rocis.gov/rocis/login.do>.

in the Privacy Act for a 30-day *Federal Register* public notice before the adoption of a new or modified routine use,⁶⁸ nor may OMB waive the adequate advance notice that is required to Congress.⁶⁹

- e. ***Content of the Report of a New or Modified System of Records.*** The report of a new or significantly modified system of records includes a transmittal letter, a narrative statement, a draft *Federal Register* notice, any Privacy Act exemption rules, and any supplementary documents.

(1) *Transmittal Letter.* The transmittal letter serves as a brief cover letter accompanying the report. The transmittal letter shall:

- (A) Be signed by the Senior Agency Official for Privacy.
- (B) Contain the name, email address, and telephone number of the individual who can best answer questions about the proposed system of records.
- (C) Contain the agency's assurance that the proposed system of records fully complies with the Privacy Act and OMB policies.
- (D) Contain the agency's assurance that the proposed system of records does not duplicate any existing agency or government-wide systems of records.

(2) *Narrative Statement.* The narrative statement provides a brief overview of the proposed system of records making reference to the other materials in the report without simply restating information provided in those materials. The narrative statement shall:

- (A) Describe the purpose(s) for which the agency is establishing or modifying the system of records and explain how the scope of the system is commensurate with the purpose(s) of the system.
- (B) Identify the specific authority (statute or executive order) under which the system of records will be maintained. The agency shall avoid citing authority that is overly general; rather, the agency shall cite the specific programmatic authority for collecting, maintaining, using, and disseminating the information.
- (C) An evaluation of the probable or potential effect of the proposal on the privacy of individuals whose information will be maintained in the system of records.⁷⁰ If the agency has conducted one or more privacy impact assessment(s) with respect to information technology that will be used to

⁶⁸ See 5 U.S.C. § 552a(e)(11).

⁶⁹ See *id.* § 552a(r).

⁷⁰ 5 U.S.C. § 552a(r) provides that agencies report a proposal to OMB and Congress in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

collect, maintain, or disseminate the information in the system of records, the privacy impact assessment(s) will likely provide the information necessary to meet this requirement, and may be submitted in lieu of drafting a separate evaluation.

- (D) Explain how each new or modified routine use satisfies the compatibility requirement of the Privacy Act.⁷¹
 - (E) Identify any information collections approved by OMB or submitted to OMB for approval that will be used to collect information that will be maintained in the system of records, and provide the relevant names, OMB control numbers, and expiration dates. If the request for OMB approval of an information collection is pending, the agency may simply state the name of the collection and the date it was submitted to OMB for review.
- (3) *Federal Register Notice*. The draft new or revised notice in the format prescribed by the Office of the Federal Register SORN templates, which are provided in the appendices to this Circular.
- (4) *Exemption Rule*. Any new Privacy Act exemption rules or changes to published exemption rules in *Federal Register* format that the agency proposes to issue that will apply to records in the new or significantly modified system of records.
- (5) *Supplementary Documents*. The supplementary documents include:
- (A) For significantly modified systems, the agency shall include a list of the substantive changes to the previously published version of the notice and/or a version of the previously published notice that has been marked up to show the changes that are being proposed.
 - (B) The agency shall include any other supplementary documents requested by OMB.
- f. ***Reporting General Changes to Multiple Systems of Records***. When an agency makes a general change to agency programs or information technology that applies in a similar way to multiple systems of records (*e.g.*, enabling remote access to systems, moving systems from a conventional data center to a cloud-based storage environment, adding a routine use to all systems of records), the agency may submit a single, consolidated report to OMB and Congress describing the changes. However, the agency shall ensure that any changes are properly reflected in all published SORNs.

⁷¹ See 5 U.S.C. § 552a(a)(7).