

## PRIVACY IMPACT ASSESSMENT

Please submit your responses to your Liaison Privacy Official  
[http://intranet.epa.gov/privacy/pdf/lpo\\_roster.pdf](http://intranet.epa.gov/privacy/pdf/lpo_roster.pdf).

If you need further assistance contact Marlyn Aguilar, at [aguilar.marlyn@epa.gov](mailto:aguilar.marlyn@epa.gov) or (202) 566-0012.

**System Name:** Employment Law Practice Group Case Management System (ELPG-CMS)

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**Date:** 3/1/18

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**Reason for Submittal:** New PIA  Revised PIA  Annual Review  Rescindment

**This system is in the following life cycle stage(s):**

Definition

Development/Acquisition

Implementation

Operation & Maintenance

Rescindment/Decommissioned

**Note: Note: New and Existing Systems require a PIA annually, when there is a significant modification to the system or where privacy risk has increased to the system. For examples of significant modifications, see OMB Circular A-130, Appendix 1, Section (c) (1) (a-f).**

**The PIA must describe the risk associated with that action. For assistance in applying privacy risk see OMB Circular No. A-123, Section VII (A) (pgs. 44-45).**

### **Provide a general description/overview and purpose of the system:**

The Employment Law Practice Group Case Management System (ELPG-CMS) will allow ELPG to track case activity, generate mandated and ad hoc reports, and provide access to a centralized case management system to ELPG personnel. These records are maintained in ELPG-CMS to support the Agency's Employment Law Practice Group in its efforts to track, manage, and report on employment matters, including litigation, counseling, disciplinary actions, performance actions, and investigations into allegations of workplace harassment.

### **Section 1.0 Authorities and Other Requirements**

#### **1.1 What specific legal authorities and/or agreements permit and define the collection of information by the system in question?**

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (1964); Equal Pay Act of 1963 (EPA), 29 U.S.C. § 206(d) (1963); Age Discrimination in Employment Act of 1967

(ADEA), 29 U.S.C. § 621-634 (2013); Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101-12213 (2013) (amended 2008); Genetic Information Nondiscrimination Act of 2008 (GINA), Pub. L. No. 110-233, 122 Stat. 881; Sections 501 and 505 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355 (codified as amended in scattered sections of the 29 U.S.C and 31-41c U.S.C.); Uniformed Services Employment and Reemployment Rights of 1994, 38 U.S.C. §4301-4335 (1994); Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111; Occupation Safety and Health Act of 1970, 29 U.S.C. ch. 15, §651 et seq. (1971); Whistleblower Protection Enhancement Act of 2012 (WPEA), Pub. L. No. 112-199

**1.2 Has a system security plan been completed for the information system(s) supporting the system?**

Yes

**1.3 If the information is covered by the Paperwork Reduction Act (PRA), provide the OMB Control number and the agency number for the collection. If there are multiple forms, include a list in an appendix.**

There is no information collected in the ELPG-CMS that is covered by the Paperwork Reduction Act.

## **Section 2.0 Characterization of the Information**

*The following questions are intended to define the scope of the information requested and/or collected, as well as reasons for its collection.*

**2.1 Identify the information the system collects, uses, disseminates, or maintains (e.g., data elements, including name, address, DOB, SSN).**

This system will contain general human resources elements, including First/Middle/Last Name, Appointment Type, Appointment Not-to-Exceed Date (if applicable), Service Computation Date for Leave Accrual Purposes, Service Computation Date for Retirement Eligibility Purposes, Position Title, Pay Plan, Occupational Series, Grade, Step, Supervisory Code, Bargaining Unit Status Code, Organizational Breakdown of Position's Location and Duty Station.

The system will also contain Adverse Action case file information regarding employee counseling for misconduct or poor performance, disciplinary actions, adverse actions, performance-based actions, performance assistance plans, performance improvement plans, reasonable accommodation requests, including medical information.

The system will also contain Office of Inspector General investigatory information regarding allegations of employee misconduct, including Reports of Investigation, Final Summary Reports, Memorandums of Interviews, Memorandum of Activity, and supporting exhibits.

The system will also contain documents created and/or submitted in anticipation of litigation, as well as during the course of litigation, including, but not limited to, Merit

System Protection Board (MSPB) appeals, Equal Employment Opportunity Commission (EEOC) appeals, Department of Labor (DOL) appeals, Unemployment proceedings, Office of Special Counsel complaints, and Federal District Court proceedings.

Documents provided as part of litigation or employment law matters may include various types of information including, but not limited to, names, addresses, social security numbers, medical and/or financial information contained in pleadings, motions, exhibits, and any other documents provided to the Office of General Counsel.

**2.2 What are the sources of the information and how is the information collected for the system?**

Sources include Agency databases, employee personnel files, files maintained by the Office of Administration and Resources Management (OARM) Complainants, Complainant's attorneys or representatives, witnesses, EPA investigators, EPA Office of the Inspector General, other EPA personnel, Department of Justice, EEOC Administrative Judges, MSPB Judges, DOL Administrative Law Judges, and other persons with information relevant to an employment law matter before the Agency for consideration.

**2.3 Does the system use information from commercial sources or publicly available data? If so, explain why and how this information is used.**

No

**2.4 Discuss how accuracy of the data is ensured.**

Currently each attorney maintains their own cases (usually electronically, though we receive a lot of discovery in paper and orders from the court in paper form)—the case management system will centralize everything electronically. All paper documents will be scanned into the system and retained and stored by the individual attorney. Each attorney is responsible for ensuring that the data pertaining to each case is accurate.

**2.5 Privacy Impact Analysis: Related to Characterization of the Information**

*Discuss the privacy risks identified for the specific data elements and for each risk explain how it was mitigated. Specific risks may be inherent in the sources or methods of collection, or the quality or quantity of information included.*

**Privacy Risk:**

Information is collected from various sources. The quality or quantity of information may differ.

**Mitigation:**

Each attorney is responsible for ensuring that the data pertaining to each case is accurate.

## **Section 3.0 Uses of the Information**

*The following questions require a clear description of the system's use of information.*

**3.1 Describe how and why the system uses the information.**

The information will be used by the Agency (1) to manage litigation and track the status of all employment law cases assigned to the ELPG; and (2) to generate reports that will allow the agency to track and evaluate a variety of employment litigation trends such as recurring employee misconduct, imposed disciplinary penalties, discrimination claims, etc.

- 3.2 How is the system designed to retrieve information by the user? Will it be retrieved by personal identifier? Yes X No    . If yes, what identifier(s) will be used.** *(A personal identifier is a name, social security number or other identifying symbol assigned to an individual, i.e. any identifier unique to an individual. Or any identifier that can be linked or is linkable to an individual.)*

The system will retrieve records by employee name.

- 3.3 If the system retrieves information by personal identifier, what types/elements of information about the user are being retrieved?**

This system will retrieve general human resources elements, including First/Middle/Last Name, Appointment Type, Appointment Not-to-Exceed Date (if applicable), Service Computation Date for Leave Accrual Purposes, Service Computation Date for Retirement Eligibility Purposes, Position Title, Pay Plan, Occupational Series, Grade, Step, Supervisory Code, Bargaining Unit Status Code, Organizational Breakdown of Position's Location and Duty Station.

The system will also retrieve Adverse Action case file information regarding employee counseling for misconduct or poor performance, disciplinary actions, adverse actions, performance-based actions, performance assistance plans, performance improvement plans, reasonable accommodation requests, including medical information.

- 3.4 What Privacy Act System of Records Notice(s) (SORN(s)) apply to the information?**

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- 3.5 Does the system use technology to conduct electronic searches, queries, or analyses in an electronic database to discover or locate a predictive pattern or an anomaly? If so, state how EPA plans to use such results.**

No

- 3.6 Privacy Impact Analysis: Related to the Uses of Information**

*Describe any types of controls that may be in place to ensure that information is handled in accordance with the uses described above.*

**Privacy Risk:**

There is a risk that the information collected may not be relevant to the employee's case.

### **Mitigation:**

Each attorney is responsible for maintaining and ensuring that the information is accurate and relevant to each case.

## **Section 4.0 Notice**

*The following questions seek information about the system's notice to the individual about the information collected, the right to consent to uses of information, and the right to decline to provide information.*

### **4.1 How does the system provide individuals notice prior to the collection of information? If notice is not provided, explain why not.**

The information is collected in various forms—primarily it will originate via email and the assigned user will enter the information from the email directly into the database. Case related documents will be uploaded directly by attorney managing case and/or OGC support personnel. A privacy notice will be posted at the point of collection when the system goes live.

### **4.2 What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the collection or sharing of their information?**

The system is used internally by OGC staff and attorneys. The system is used internally by OGC staff and attorneys. Information may be provided directly by the employee, provided by the courts and/or administrative tribunals, or created by the attorneys in the ELPG

### **4.3 Privacy Impact Analysis: Related to Notice**

*Discuss how the notice provided corresponds to the purpose of the project and the stated uses. Discuss how the notice given for the initial collection is consistent with the stated use(s) of the information. Describe how the project has mitigated the risks associated with potentially insufficient notice and opportunity to decline or consent.*

### **Privacy Risk:**

Individuals do not have the notice or opportunity to decline or consent to information provided by the courts and/or administrative tribunals or by the attorneys in the ELPG.

### **Mitigation:**

Individuals must provide as much information pertinent to their case.

## **Section 5.0 Access and Data Retention by the system**

*The following questions are intended to outline the access controls for the system and how long the system retains the information after the initial collection.*

- 5.1 Do the systems have access control levels within the system to prevent authorized users from accessing information they don't have a need to know? If so, what control levels have been put in place? If no controls are in place why have they been omitted?**

There is admin access, editable access and read only access. Users will have User Access privileges (editable access) to the ELPG database/application created for them. They will have access only to the case or file assigned to them. The contracts and OGC/RMO IT will have admin access to the ELPG application to make changes to the application.

- 5.2 Are there other components with assigned roles and responsibilities within the system?**

No

- 5.3 Who (*internal and external parties*) will have access to the data/information in the system? If contractors, are the Federal Acquisition Regulations (FAR) clauses included in the contract (24.104 Contract clauses; 52.224-1 Privacy Act Notification; and 52.224-2 Privacy Act)?**

Very limited and restricted access to OGC office employees. Users will have User Access Role to the ELPG application. Contractors will have access to the ELPG application including the data since they are building the system. Contractors will be hosting the application at Fed RAMP location. FAR clauses have been included in the contract.

- 5.4 What procedures are in place to determine which users may access the information and how does the system determine who has access?**

Access to the information is limited only to the OGC ELPG attorneys, staff and contractors. No other access is given.

- 5.5 Explain how long and for what reason the information is retained. Does the system have an EPA Records Control Schedule? If so, provide the schedule number.**

**5.6 Does a records retention schedule approved by the National Archives and Records Administration (NARA) exist?**

Yes - NARA Disposal Authority: DAA-0412-2013-0016-0001

**5.7 Privacy Impact Analysis: Related to Retention**

*Discuss the risks associated with the length of time data is retained. How were those risks mitigated? The schedule should align with the stated purpose and mission of the system.*

**Privacy Risk:**

There is a risk that data could be retained longer than is needed.

**Mitigation:**

Data is retained until the final action, decision or resolution or completion of the case or program.  
Data is destroyed 10 years after file closure.

## **Section 6.0 Information Sharing**

*The following questions are intended to describe the scope of the system information sharing external to the Agency. External sharing encompasses sharing with other federal, state and local government, and third-party private sector entities.*

**6.1 Is information shared outside of EPA as part of the normal agency operations? If so, identify the organization(s), how the information is accessed and how it is to be used, and any agreements that apply.**

Yes – Information may be share for EPA [General routine uses](#) A, B, C, E, F, G, H, I, J, K and L.

**6.2 Describe how the external sharing noted in 6.1 is compatible with the original purposes of collection in the SORN noted in 3.4.**

The routine uses for this SORN are compatible with the purposes of the collection. The ELPG-CMS will allow the ELPG to manage the flow of labor and employment advice and litigation through the various employment litigation forums.

**6.3 Does the agreement place limitations on re-dissemination?**

No agreements in place.

**6.4 Describe how the system maintains a record of any disclosures outside of the Agency.**

The ELPG will maintain a record of disclosures outside of the agency.

**6.5 How does the system review and approve information sharing agreements, MOUs, new uses of the information, new access to the system by organizations within EPA and outside?**

The ELPG-CMS will only be accessed internally by ELPG attorneys, staff and contractors. It does not allow access to the system by other organizations within EPA and outside.

**6.6 Privacy Impact Analysis: Related to Information Sharing**

*Discuss the privacy risks associated with the sharing of information outside of the agency. How were those risks mitigated?*

**Privacy Risk:**

There is a risk that information may be shared for a different purpose than the purpose it was collected.

**Mitigation:**

ELPG will ensure that the information is only shared to manage the flow of labor and employment advice and litigation through the various employment litigation forums.

## **Section 7.0 Redress**

*The following questions seek information about processes in place for individuals to seek redress which may include access to records about themselves, ensuring the accuracy of the information collected about them, and/or filing complaints.*

**7.1 What are the procedures that allow individuals to access their information?**

Individuals seeking access to information in this system of records about themselves should make a written request to the Freedom of Information Act Office. Requesters are required to provide adequate identification (e.g. driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations



that implement the Privacy Act of 1974, at 40 CFR part 16.

**7.2 What procedures are in place to allow the subject individual to correct inaccurate or erroneous information?**

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in EPA's Privacy Act regulations at 40 CFR Part 16.

**7.3 How does the system notify individuals about the procedures for correcting their information?**

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the EPA National Privacy Program, Attn: Agency Privacy Officer, WJC West, MC 2831T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

**7.4 Privacy Impact Analysis: Related to Redress**

*Discuss what, if any, redress program the project provides beyond the access and correction afforded under the Privacy Act and FOIA.*

**Privacy Risk:**

There are no other methods for access and correction than what is discussed above.

**Mitigation:**

None

## **Section 8.0 Auditing and Accountability**

*The following questions are intended to describe technical and policy based safeguards and security measures.*

**8.1 How does the system ensure that the information is used in accordance with stated practices in this PIA?**

Access is limited to ELPG attorneys, staff and contractors for the specific purpose.

**8.2 Describe what privacy training is provided to users either generally or specifically relevant to the system/collection.**

The agency conducts an annual IT Security Awareness training, which is mandatory.

### **8.3 Privacy Impact Analysis: Related to Auditing and Accountability**

#### **Privacy Risk:**

Information is not used for the stated practices in the PIA.

#### **Mitigation:**

Ensure that access to the system is limited to ELPG attorneys, staff and contractors.