

PRIVACY IMPACT ASSESSMENT

(Rev. 2/2020)

(All Previous Editions Obsolete)

Please submit your responses to your Liaison Privacy Official. *All entries must be Times New Roman, 12pt, and start on the next line.* If you need further assistance, contact your LPO. A listing of the LPOs can be found here:

https://usepa.sharepoint.com/:w:/r/sites/oei_Community/OISP/Privacy/LPODoc/LPO%20Roster.docx

System Name: Employment Law Practice Group Case Management System (ELPG-CMS)	
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Date: September 24, 2020	Phone: 202-564-0335
Reason for Submittal: New PIA _____ Revised PIA _____ Annual Review X_ Rescindment _____	
This system is in the following life cycle stage(s):	
Definition <input type="checkbox"/> Development/Acquisition <input type="checkbox"/> Implementation <input type="checkbox"/>	
Operation & Maintenance <input checked="" type="checkbox"/> Rescindment/Decommissioned <input type="checkbox"/>	
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 <u>OMB Circular A-130, Appendix 1, Section (c) (1) (a-f).</u>	
The PIA must describe the risk associated with that action. For assistance in applying privacy risk see <u>OMB Circular No. A-123, Section VII (A) (pgs. 44-45).</u>	

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 Executive Order(s) 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? Does the system have or will the system be issued an Authorization-to-Operate? When does the ATO expire?

Yes, Yes, May 1st, 2021

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.

No ICR required.

1.4 Will the data be maintained or stored in a Cloud? If so, is the Cloud Service Provider (CSP) FedRamp approved? What type of service (PaaS, IaaS, SaaS, etc.) will the CSP provide?

No.

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).

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, 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, 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 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.

3.1 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 contractors have admin access to the ELPG application to make changes to the application.

3.2 In what policy/procedure are the access controls identified in 3.1, documented?

Access controls are documented through quarterly audits conducted by the system owner.

3.3 Are there other components with assigned roles and responsibilities within the system?

No.

3.4 Who (internal and external parties) will have access to the data/information in the system? If contractors, are the appropriate Federal Acquisition Regulation (FAR) clauses included in the contract?

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.

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

EPA record schedule 1025. This schedule covers records related to providing legal advice and support for the Agency's business. Includes: legal support for EPA's rules and policies, case-by-case decisions (such as permits and response actions), and legislation; legal representation in court challenges to Agency decisions (such as regulations), appeals of enforcement cases, Supreme Court litigation, and cases related to EPA's day-to-day operations, including entering into contracts, awarding grants, managing property and money, and working with EPA employees. It also includes legal advice to EPA and articulation of the Agency's legal positions in the federal courts and before other tribunals and organizations. Records must be transferred to the National Archives 5 years after file closure. Non-electronic records must be transferred to the National Archives 15 years after file closure.

3.6 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 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 4.0 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.

4.1 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 shared for EPA General routine uses A, B, C, E, F, G, H, I, J and K. In addition, the two Routine Uses from M-17-12 also apply to these records.

4.2 Describe how the external sharing is compatible with the original purposes of the collection.

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.

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

4.4 Does the agreement place limitations on re-dissemination?

No agreements are in place.

4.5 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:

EPLG 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 5.0 Auditing and Accountability

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

5.1 How does the system ensure that the information is used as stated in Section 6.1?

Access is limited to EPLG attorneys, staff and contractors for the specific purpose. The system owner conducts new user training to ensure all users use information in accordance with the stated purpose. The system owner will also conduct user refresher training, as needed. The system owner also conducts weekly and quarterly system audits to ensure all users have the appropriate system access and are using their access to collect and review employment related information. Additionally, the system owner generates event logs to identify inappropriate or unusual activity, such as invalid login attempts, blocked login attempts, and failed

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

The agency conducts an annual Information Security and Privacy Awareness training, which is mandatory.

5.3 Privacy Impact Analysis: Related to Auditing and Accountability

Privacy Risk:

The system and its data may be compromised by external hackers.

Mitigation:

To mitigate the privacy risk above, the system owner ensures that access to the system is limited to ELPG attorneys, staff and contractors. The system owner also conducts weekly and quarterly system audits to ensure all users have the appropriate system access and are using their access to collect and review employment related information. Additionally, the system owner generates event logs to identify inappropriate or unusual activity, such as invalid login attempts, blocked login attempts, and failed

Section 6.0 Uses of the Information

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

6.1 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.

6.2 How is the system designed to retrieve information by the user? Will it be retrieved by personal identifier? Yes 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. EPA-76

6.3 What type of evaluation has been conducted on the probable or potential effect of the privacy of individuals whose information is maintained in the system of records?

The privacy controls in Xacta are being followed with respect to PII information i.e., AR, AZ, SE, TR, etc.

6.4 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.

***If no SORN is required, STOP HERE.**

The NPP will determine if a SORN is required. If so, additional sections will be required.

Section 7.0 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.

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

Any individual who wants to know whether this system of records contains a record about him or her, should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave., NW., Washington, D.C. 20460, privacy@epa.gov.

7.2 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?

No opportunities are available.

7.3 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 8.0 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.

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

Individuals seeking access to information in this system of records about themselves 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.

8.2 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 described in EPA's Privacy Act regulations at 40 CFR part 16.

8.3 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:

None. There is appropriate procedure in place related to redress.

Mitigation:

None.