



RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD

[Doc. No. 12-002]

Privacy Act of 1974; System of Records

AGENCY: Recovery Accountability and Transparency Board

ACTION: Notice of amendment to existing Privacy Act system of records.

SUMMARY: The Recovery Accountability and Transparency Board (Board) is issuing public notice of its intent to amend a system of records that it maintains subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended; specifically, RATB-11 entitled “RATB Investigative Files” is being amended to reflect legislation expanding the purview of the Board’s responsibilities, *see e.g.*, Consolidated Appropriations Act of 2012, Pub. L. No. 112-74, § 528, 125 Stat. 786, 920 (2011); and Education Jobs Fund, Pub. L. No. 111-226, § 101, 124 Stat. 2389 (2010). Accordingly, the Board is making substantive amendments to its system notice to include: amended categories of individuals covered by the system, amended categories of records in the system, additional authorities for maintenance of the system, amended purposes, a new routine use, and amended record source categories. In addition, the Board is renaming the system as RATB-11-Oversight Support as well as clarifying the security classification, system location, storage, retrievability, safeguards, retention and disposal, and system manager. The amended system of records reads as follows:

RATB – 11

SYSTEM NAME: Oversight Support

SECURITY CLASSIFICATION: The majority of the information in the system is Controlled Unclassified Information.

SYSTEM LOCATION: The principal location of the system is the Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: This system contains records on individuals who relate to official Board efforts undertaken in support of: 1) coordinating and conducting oversight of American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, §§ 1521, 1523(a)(1), 123 Stat. 115, 289-90 (2009) (Recovery Act), and Education Jobs Fund, Pub. L. No. 111-226, § 101, 124 Stat. 2389 (2010), funds to prevent and detect fraud, waste, and abuse; and 2) developing and testing technology resources and oversight mechanisms to detect and remediate fraud, waste, and abuse in federal spending as authorized by the Consolidated Appropriations Act of 2012, Pub. L. No. 112-74, § 528, 125 Stat. 786, 920 (2011) (Appropriations Act). These individuals include:

- (a) Individuals who are or have been the subject of investigations or inquiries identified by or submitted to the Board;
- (b) Individuals who are or have been witnesses, complainants, or informants in investigations or inquiries identified by or submitted to the Board;
- (c) Individuals who are or have been potential subjects or parties to an investigation or inquiry identified by or submitted to the Board; and

- (d) Individuals who are or have been related to entities or individuals that are or have been a subject of, potential subject of, or party to an investigation or inquiry identified by or submitted to the Board.

The system also contains records concerning individuals in their entrepreneurial capacity, corporations, and other business entities. These records are not subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

CATEGORIES OF RECORDS IN THE SYSTEM: Information relating to investigations and inquiries identified by or submitted to the Board, including:

- (a) Letters, memoranda, and other documents describing complaints, derogatory information, or alleged criminal, civil, or administrative misconduct; and
- (b) General intelligence and relevant data, leads for Inspectors General (or other applicable oversight and law enforcement entities), reports of investigations and related exhibits, statements and affidavits, and records obtained during an investigation or inquiry.

AUTHORITY FOR MAINTENANCE OF SYSTEM: The Recovery Act established the Board to coordinate and conduct oversight of Recovery Act funds to prevent fraud, waste, and abuse. Recovery Act, §§ 1521, 1523(a)(1). The Education Jobs Fund requires, among other things, that the funds appropriated thereunder be subject to the same accountability and transparency terms and conditions as Recovery Act funds. Education Jobs Fund, § 101. The Appropriations Act authorizes the Board to develop and test information technology resources and oversight mechanisms to detect and remediate waste, fraud, and abuse in federal spending. Appropriations Act, § 528.

PURPOSE(S): The purpose of this system of records is to enable the Board to carry out its responsibilities under applicable law, including but not necessarily limited to the Recovery Act, the Education Jobs Fund, and the Appropriations Act. Information collected in this system will assist the Board in its effort to coordinate with others and conduct oversight to detect and prevent fraud, waste, and abuse of Recovery Act and Education Jobs Fund funds. In addition, the information collected will assist the Board in developing and testing information technology resources and oversight mechanisms to enhance transparency of and detect and remediate waste, fraud, and abuse in all federal spending for use by the Board and other federal agencies and entities.

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 the Privacy Act (5 U.S.C. 552a(b)), the records or information contained in this system of records may specifically be disclosed outside the Board as a routine use pursuant to the Privacy Act (5 U.S.C. 552a(b)(3)) as follows:

A. To the appropriate federal, state, local, or tribal agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. To any individual or entity when necessary to elicit information that will assist in a Board review or audit.

C. To appropriate officials and employees of a federal agency or entity that require information relevant to a decision concerning the hiring, appointment, or

retention of an individual; the issuance, renewal, suspension, or revocation of a security clearance; or the execution of a security or suitability investigation.

D. To provide responses to queries from federal agencies and entities, including but not limited to regulatory and law enforcement agencies, regarding federal fund recipients, subrecipients, or vendors, or those seeking federal funds, when the information is relevant to a determination related to or arising out of a past, present or prospective i) contract or ii) grant or other benefit.

E. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

F. Information may be disclosed to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body before which the Board is authorized to appear, when:

1. The Board, or any component thereof; or
2. Any employee of the Board in his or her official capacity; or
3. Any employee of the Board in his or her individual capacity where the DOJ or the Board has agreed to represent the employee; or
4. The United States, if the Board determines that litigation is likely to affect the Board or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the Board is deemed by the Board to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Board and who have a need to access the information in the performance of their duties or activities for the Board.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: Not applicable.

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

STORAGE: Information in this system is stored electronically on a digital storage device and as hard copy files within locked containers. All record storage procedures are in accordance with current applicable regulations.

RETRIEVABILITY: Records are retrievable by database management systems software designed to retrieve data elements based upon role-based user access privileges. Records may be retrieved by personal identifiers such as, but not limited to, name, social security number, date of birth, or telephone number. Records may also be retrieved by non-personal information such as file number, entity/institution name, subject matter, agency involved, or other information.

SAFEGUARDS: The Board has minimized the risk of unauthorized access to the system by establishing a secure environment for exchanging electronic information. Physical access uses a defense in-depth approach restricting access at each layer closest to where the actual system resides. The entire complex is patrolled by security during non-business hours. Physical access to the data system housed within the facility is

controlled by a computerized badge-reading system. Multiple levels of security are maintained via dual factor authentication for access using biometrics. The computer system offers a high degree of resistance to tampering and circumvention. This system limits data access to Board and contract staff on a need-to-know basis, and controls individuals' ability to access and alter records within the system. All users of the system of records are given a unique user identification (ID) with personal identifiers, and those user IDs are consistent with the above referenced role-based access privileges to maintain proper security of law enforcement and any other sensitive information. All interactions between the system and the authorized individual users are recorded.

RETENTION AND DISPOSAL: Board personnel will review records on a periodic basis to determine whether they should be retained or modified. Further, the Board will retain and dispose of these records in accordance with Board Records Control Schedules approved by the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS: Michael Wood, Executive Director, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20006.

NOTIFICATION PROCEDURE: Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES: The major part of this system is exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to records contained in this system shall be made in writing, with the envelope and the letter clearly

marked “Privacy Access Request.” Include in the request the full name of the individual involved, his or her current address, date and place of birth, notarized signature (or submitted with date and signature under penalty of perjury), and any other identifying number or information which may be of assistance in locating the record. The requester shall also provide a return address for transmitting the information. Access requests shall be directed to the System Manager listed above.

CONTESTING RECORDS PROCEDURES: Requesters shall direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES: The subjects of investigations and inquiries; individuals and entities with which the subjects of investigations and inquiries are associated; federal, state, local, and foreign law enforcement and non-law enforcement agencies and entities; private citizens; witnesses; informants; and public and/or commercially available source materials.

ADDRESSES: Comments may be submitted:

By Mail or Hand Delivery: Atticus Reaser, Office of General Counsel, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20006;

By Fax: (202) 254-7970; or

By E-mail to the Board: comments@ratb.gov.

All comments on the proposed amended systems of records should be clearly identified as such.

FOR FURTHER INFORMATION CONTACT: Atticus Reaser, Acting General Counsel, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20006, (202) 254-7900.

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on any new routine use of a system of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review. Therefore, please submit any comments by [INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

In accordance with 5 U.S.C. 552a(r), the Board has provided a report to OMB and the Congress on the proposed systems of records.

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