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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice-PCLOB-2013-05; Docket No 2013-0005; Sequence No. 5]

Privacy Act of 1974; Privacy and Civil Liberties Oversight Board; System of Records Notice

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Privacy and Civil Liberties Oversight Board proposes to create a new system of records titled, "PCLOB-1, Freedom of Information Act and Privacy Act Request Files".

DATES: Written comments should be submitted on or before

[INSERT DATE THIRTY DAYS FROM DATE OF PUBLICATION IN THE

FEDERAL REGISTER]. This new system will be effective

[INSERT DATE THIRTY DAYS FROM DATE OF PUBLICATION IN THE

FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Mail: Written comments may be submitted by mail to: Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, 1275 First Street, NE, ATTN: 849C, Washington, D.C. 20417.

To ensure proper handling, please include the docket number on your correspondence. See SUPPLEMENTARY INFORMATION for further information about submitting comments.

FOR FURTHER INFORMATION CONTACT: Diane Janosek, Chief Legal Counsel, Privacy and Civil Liberties Oversight Board, at 202-366-0365.

SUPPLEMENTARY INFORMATION: Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov>. Information made available to the public includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. Additional information about the handling of personally identifiable information submitted for the public record is available in the system of records notice for the federal dockets management system, EPA-GOVT-2, published in the FEDERAL REGISTER at 70 FR 15086 on March 24, 2005.

The Privacy and Civil Liberties Oversight Board (Board) was created as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53. As a federal agency, the Board is subject to the Freedom of Information Act (FOIA), 5 U.S.C. 552, and Privacy Act of 1974 (Privacy

Act), 5 U.S.C. 552a. The Board has published its notice of proposed rulemaking to establish administrative procedures for compliance with these statutes. As part of our compliance requirements, the Board must maintain certain information about FOIA and Privacy Act requests and requesters. As a result, the Board also is publishing this system of records notice to notify the public of and solicit comments about our proposed creation of a system of records for FOIA and Privacy Act case files.

SYSTEM OF RECORDS

PCLOB - 1, Freedom of Information Act and Privacy Act Files.

SYSTEM NAME: Privacy and Civil Liberties Oversight Board - 1, Freedom of Information Act and Privacy Act Files

SECURITY CLASSIFICATION: This system will contain classified and unclassified records.

SYSTEM LOCATION: Records are maintained at the Privacy and Civil Liberties Oversight Board's office in Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit Freedom of Information Act (FOIA) and Privacy Act (PA) requests and administrative appeals to the Privacy and Civil Liberties Oversight Board, including individuals who make requests or appeals on behalf of other

persons or entities; individuals who are the subjects of FOIA or PA requests or appeals; Board employees or Department of Justice litigators assigned to handle requests or appeals.

CATEGORIES OF RECORDS IN THE SYSTEM: Categories of records in the system include: FOIA and PA requests or appeals, including requesters' names, contact (e-mail, street address, telephone number) information, and proof of identification; names and other information about persons who are the subject of FOIA or PA requests; records received, created, or compiled in processing FOIA and PA requests or appeals, including correspondence, intra or inter agency memoranda, notes, and other documentation; copies of requested records; requesters names, contact (e-mail, street address, telephone number) information, and proof of identification; names, addresses, and telephone numbers of submitters of requested records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 5 U.S.C. 552; 5 U.S.C. 552a; 44 U.S.C. 3101

PURPOSE: The purpose of this system is to process FOIA and PA requests and appeals, and to carry out other Board obligations under the FOIA and PA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: In

addition to those disclosures permitted under 5 U.S.C. § 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed by the Board as a routine use pursuant to 5 U.S.C. § 552a(b) (3) as follows:

A. To the Department of Justice (including U.S. Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to or has an interest in the litigation:

1. The Board;
2. Any Board member or employee in his/her official capacity;
3. Any Board member or employee in his/her individual capacity if DOJ or the Board has agreed to represent the member or employee;
4. The United States or any agency thereof if the Board determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Board collected the records.

B. To a congressional office, provided that the individual who is the subject of the record at issue

authorized the congressional office to request the record on his or her behalf.

C. To the National Archives and Record Administration or other federal agency pursuant to records management inspections conducted under 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations authorized by law, but only to the extent necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. The Board suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Board determines that because of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Board or other agency or entity), or harm to individuals that rely on compromised information; and

3. Disclosure is necessary to assist with the Board's efforts to respond to the suspected or confirmed compromise, and prevent, minimize, or remedy such harm.

F. To contractors and their agents; grantees; experts; consultants; and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Board, when necessary to accomplish a Board function related to this system of records.

G. To an appropriate federal, state, tribal, local, international, or foreign agency, including law enforcement, or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the individual making the disclosure.

H. To a federal, state, territorial, tribal, local, international, or foreign agency or other entity for the purpose of consulting with that agency or entity:

1. To assist in making a determination regarding the disclosure of, access to, or amendment of information;
or

2. To verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

I. To a federal agency for the purpose of referring the request to that agency for processing or consulting with that agency regarding the appropriate handling of the request.

J. To the Office of Government Information Services (OGIS) for the purposes of resolving disputes between the Board and FOIA requesters or for OGIS' review of Board policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

K. To the Office of Management and Budget or the Department of Justice when necessary to obtain advice regarding statutory or other requirements under the FOIA or PA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: No.

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

STORAGE: Records in this system are stored electronically and/or on paper in secure facilities. Electronic records may be stored on magnetic disc, tape, digital media, and CD-ROM.

RETRIEVABILITY: Records may be retrieved by individual's name or by case tracking or control number.

SAFEGUARDS: Records in this system are safeguarded in accordance with applicable rules and policies, including automated systems security and access policies. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL: FOIA and PA records are retained in accordance with National Archives and Records Administration's General Records Schedule 14.

SYSTEM MANAGER AND ADDRESS: Chief FOIA Officer and Chief Privacy Officer, Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, 1275 First Street, NE, ATTN: 849C, Washington, D.C. 20417.

NOTIFICATION PROCEDURE: Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Privacy Officer at the address provided for the System Manager, above. When seeking records about yourself from this system of records your request must comply with the Board's Privacy Act

regulations and must include sufficient information to permit us to identify potentially responsive records. In addition, you must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. § 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her consent to your access to his/her records. Without this information, we may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES: See "Notification procedure" above.

CONTESTING RECORD PROCEDURES: See "Notification procedure" above.

RECORD SOURCE CATEGORIES: Records are obtained from individuals who submit FOIA and PA requests or appeals; the records searched and identified as responsive in the process of responding to such requests and appeals; Board personnel assigned to handle such requests and appeals; other agencies that have referred FOIA or PA requests to the Board for consultation or response; submitters or

subjects of records or information that have provided assistance to the Board in making access or amendment determinations.

EXEMPTIONS CLAIMED FOR THE SYSTEM: None.

Dated: June 24, 2013.

Diane Janosek,
Chief Legal Counsel,
Privacy and Civil Liberties Oversight Board.

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