

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

IARMM TRANSMITTAL SHEET

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| DOCUMENT IDENTIFICATION NUMBER | SUBJECT | ACTION |
| Chapter 1, Section 1.2 | GENERAL POLICIES AND OBJECTIVES, PRIVACY ACT | REPLACE |
| FOR FURTHER INFORMATION | | ISSUANCE DATE |
| Office of Trust Records 505-816-1607 | | 03/06/2009 |

This release prescribes guidance on safeguarding the Privacy Act systems of records created and maintained by the Office of the Special Trustee for American Indians (OST) in the course of conducting business on behalf of Indian tribes, Alaska Natives, and individual Indians. This release replaces the former version of "Privacy Act" that was issued 12/08/03. The section number is changed from 3.5 to 1.2.



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FILING INSTRUCTIONS:

Insert: On the Trust Portal in the Trust Library under Program Offices, OCIO, Office of Trust Records, Manual.

Effective Date: March 6, 2009

Chapter: 1.0 General Policies and Objectives

Section: 1.2 Privacy Act

Originating Office: Office of Trust Records

1.2.1 Purpose.

This chapter establishes policy and procedures for safeguarding the Privacy Act systems of records created and maintained by the Office of the Special Trustee for American Indians (OST) and Indian Affairs in the course of conducting business on behalf of Indian tribes, Alaska Natives, and individual Indians. Indian Affairs, as used in this manual, refers to program offices in the Bureau of Indian Affairs (BIA), the Office of Justice Services, and the Bureau of Indian Education.

1.2.2 Authorities.

A. 5 U.S.C. § 552a, Federal Regulations.

B. 43 CFR, Part 2, Subpart D, Department of the Interior (DOI) Regulations.

C. 383 DM 1-13, Privacy Act Section.

D. OMB Circular A-130, Appendix I for Implementing the Privacy Act and Transmittal Memorandum.

E. OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002.

1.2.3 Policy.

It is the policy of OST and Indian Affairs to implement the provisions of the Privacy Act, subject to the procedures and guidelines established in the DOI regulations contained in 43 CFR Part 2, Subpart D and in 383 DM.

1.2.4 Objective.

The objective of this section is to establish adequate internal controls within OST and Indian Affairs to ensure protection and safeguard of Indian records.

1.2.5 Responsibilities.

It is the responsibility of OST and Indian Affairs program offices to utilize the procedures in this chapter in order to safeguard and maintain the Privacy Act systems of records and to insure the integrity of records.

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1.2.6 General Information.

The purpose of the Privacy Act of 1974, 5 U.S.C. § 552a is “to balance the government’s need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy stemming from federal agencies’ collection, maintenance, use, and disclosure of personal information about individuals. The Act is applicable to all systems of records containing information about individuals from which information is retrieved by individual name or by an identifying number, symbol or other personal identifier.”

1.2.7 Procedures.

A. Conduct of Employees Handling Privacy Act System of Records. Both OST and Indian Affairs shall ensure that all employees with access to a system of records are aware of the requirements of the Act.

1. OST and Indian Affairs employees must be aware of DOI’s regulations concerning the handling, disclosure, and alteration of such records and the possibility of criminal penalties for improper disclosure. These requirements are:

a. Employees whose duties require handling of Privacy Act records shall protect the integrity, security, and confidentiality of records at all times.

b. The system of records manager is responsible for providing guidance to employees on Privacy Act issues when unusual circumstances arise outside the employee’s normal activities.

2. OST and Indian Affairs employees shall not disclose any record(s) which is contained in a system of records by any means of communication to any person (other than the individual to whom the record pertains), or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains.

a. Any officer or employee of OST and Indian Affairs who knowingly and willfully discloses prohibited, individual, identifiable information may be subject to criminal penalties as set forth in 5 U.S.C. § 552a (i)(1).

b. The Privacy Act permits disclosure without the written consent of the named individual for OST and Indian Affairs employees who have a legitimate need for the record in the performance of their duties.

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c. If the Freedom of Information Act (FOIA) is used to request access to agency records, the request must be processed in accordance with the provisions of FOIA regulations.

B. Identification of Privacy Act Systems of Records. Upon the creation or receipt of a record, OST or Indian Affairs will review and determine if the record contains Privacy Act information. Any information that contains personal identifiers such as names, numbers, symbols, or other means of identifying a particular individual is considered to be Privacy Act information.

1. Some of the examples of the types of Privacy Act Systems of Records in OST or Indian Affairs include:

- a. Individual Indian Money (IIM) Trust Funds.
- b. Indian Social Services Case Files.
- c. Indian Land Leases.
- d. Investigative Records.
- e. Indian Housing Improvement Program.

C. Maintenance of Privacy Act Records. OST or Indian Affairs will develop security controls for maintaining each of its system of records with appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records.

1. Privacy Act system of records shall be maintained in locked filing cabinets or in a secured, locked room with access by authorized personnel only.

2. Keys to the locked filing cabinets or locked room(s) are the responsibility of each system of records manager or custodian for security purposes.

3. The location of the system of records locked filing cabinets or locked room should be in close proximity to the system manager's working area.

4. Privacy Act Systems Notices shall be posted on each locked file cabinet for all systems of records under OST's or Indian Affairs' jurisdiction. Any OST or Indian Affairs employee who maintains a system of records without the required system notice may be subject to criminal penalties as set forth in 5 U.S.C. § 552a (i) (2).

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5. It is recommended that file folder labels not contain more than one (1) personal identifier.

D. Disposition of Privacy Act Records. OST or Indian Affairs offices shall dispose of records that contain Privacy Act information in accordance with IARMM Chapter 2.4.2 and the disposition instructions in the appropriate and approved records schedules.

1.2.8 Appendix.

A. Privacy Act Notice.

NOTICE

1. **ACCESS TO THESE RECORDS IS LIMITED TO:**

AUTHORIZED PERSONS ONLY

2. **INFORMATION MAY NOT BE DISCLOSED FROM THIS FILE UNLESS PERMITTED PURSUANT TO 43 C.F.R. 2.56.**
3. **THESE RECORDS MAY NOT BE ALTERED OR DESTROYED EXCEPT AS AUTHORIZED BY 43 C.F.R. 2.5.2.**
4. **THE PRIVACY ACT CONTAINS PROVISIONS FOR CRIMINAL PENALTIES FOR KNOWINGLY AND WILLFULLY DISCLOSING INFORMATION FROM THIS FILE UNLESS PROPERLY AUTHORIZED.**